REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA *EB* NO. 3140** (CTA Case No. 10688)
	Present:
-versus-	**RINGPIS-LIBAN,** *PJ,* **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.*
FIRST TELECOM PHILIPPINES, INC., Respondent.	Promulgated: MAR 1 1 2026 3:25

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a *Petition for Review*, filed on May 22, 2025, with respondent's *Comment (on Respondent's* [sic] *Petition for Review dated May 22, 2025*, filed on August 6, 2025, assailing the Decision, dated December 17, 2024, and Resolution, dated April 15, 2025, both rendered by this Court's First Division ("Court in Division") in CTA Case No. 10688.

The Parties[1]

Petitioner Commissioner of Internal Revenue ("CIR") is the chief of the Bureau of Internal Revenue ("BIR") which has the authority to administer and enforce internal revenue taxes.

Respondent First Telecom Philippines, Inc. is a domestic corporation duly organized and existing under Philippine laws.

The Facts

On February 9, 2015, petitioner issued Letter of Authority ("LOA") No. AUDM50/005009/2015/ SN: eLA201200042160, authorizing Revenue Officers ("RO") Arnaldo Ancheta and Tito Monforte and Group Supervisor ("GS") Allan Maniego to examine respondent's accounting records for taxable year ("TY") 2012. This was followed by a Reassignment Notice, received by respondent on June 13, 2016, assigning ROs Jennifer L. Almedilla, Vivien C. Guillermo, and Ferly Ann P. Montalban, and GS Marivic P. Bautista to continue the examination of respondent's accounting records for TY 2012.[2]

During the examination, respondent executed three separate Waivers of the Defense of Prescription Under the Statute of Limitations of the National Internal Revenue Code on October 22, 2015, August 22, 2016, and May 22, 2017, respectively, ultimately extending the prescriptive period for assessment to December 31, 2017.[3]

Petitioner then issued a Preliminary Assessment Notice ("PAN") against respondent on December 7, 2017, which respondent received on even date. It filed a Reply to the same on December 22, 2017.[4]

On December 28, 2017, petitioner issued a Formal Letter of Demand and Final Assessment Notice ("FLD/FAN"), which respondent received on even date. Respondent replied with a Protest on January 26, 2018.[5]

Almost three years later, petitioner issued his Final Decision on Disputed Assessment on October 29, 2021. Respondent received this on even date and filed a Motion for Reconsideration to the FDDA on November 12, 2021.[6]

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1 Decision, dated December 17, 2024, pp. 1-2, *Rollo*, pp. 38-39.
2 Decision, dated December 17, 2024, p. 2, *id.* at 39.
3 *Id.*
4 Decision, dated December 17, 2024, p. 3, *id.* at 40.
5 *Id.*
6 Decision, dated December 17, 2024, pp. 3-4, *id.* at 40-41.

Aggrieved, respondent filed a Petition for Review (with Urgent Motion to Suspend the Collection of Tax and Dispense with Payment of Bond) before the Court in Division on November 29, 2021. A few months later, on January 5, 2022, respondent received petitioner's Letter Reply, which denied its Motion for Reconsideration.[7]

After hearing and the submission of evidence, the Court in Division partially granted petitioner's Urgent Motion on July 25, 2022. Petitioner, unsatisfied with this result, filed a Motion for Partial Reconsideration on August 10, 2022, which the Court granted on September 20, 2022. Respondent, aggrieved, filed a Motion for Reconsideration against this new ruling on October 11, 2022, but the Court in Division denied this on February 10, 2023.[8]

Meanwhile, in the main case, and after a failed attempt at mediation between the parties, Pre-Trial was terminated on January 10, 2023, and the Court in Division issued a Pre-Trial Order on January 31, 2023.[9]

After trial, the presentation of evidence, and the filing of respondent's Memorandum,[10] the Court in Division promulgated the assailed Decision on December 17, 2024, granting the Petition with the following disposition:

> **WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **GRANTED**. Accordingly, the Formal Letter of Demand with Final Assessment Notices dated December 28, 2017, are **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated October 29, 2021, assessing petitioner First Telecom Philippines, Inc. for deficiency income tax, value-added tax, expanded withholding tax, improperly accumulated earnings tax, penalties, and interest for taxable year 2012, is **REVERSED** and **SET ASIDE**.
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> Furthermore, respondent is **ENJOINED** and **PROHIBITED** from enforcing the collection of the subject deficiency taxes against petitioner.
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> **SO ORDERED.**

In brief, after finding that it had jurisdiction over the case,[11] the Court in Division declared the assessment void as petitioner had violated respondent's due process rights.[12] This ruling was based on the findings that (1) the ROs and GS that examined respondent's accounting records lacked the authority to do so as they were assigned by a Reassignment Notice and lacked

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[7] Decision, dated December 17, 2024, p. 4, *id.* at 41.
[8] Decision, dated December 17, 2024, pp. 4-5, *id.* at 41-42.
[9] Decision, dated December 17, 2024, p. 5, *id.* at 42.
[10] Decision, dated December 17, 2024, pp. 5-6, *id.* at 42-43.
[11] Decision, dated December 17, 2024, pp. 10-11, *id.* at 47-48.
[12] Decision, dated December 17, 2024, pp. 11-12, *id.* at 48-49.

an actual LOA in their name;[13] and (2) petitioner, in his FLD/FAN, failed to consider and address respondents arguments against the PAN.[14]

Aggrieved, petitioner filed a Motion for Reconsideration (Re: Decision dated December 17, 2024) on January 17, 2025, to which respondent filed a Comment (on Respondent's Motion for Reconsideration dated January 17, 2025), filed on February 7, 2025.[15]

In the assailed Resolution, dated April 2025, the Court in Division *dismissed* the Motion for Reconsideration for being filed late. Petitioner had reckoned the 15-day period for filing a motion for reconsideration from the BIR's receipt of the assailed Decision on January 2, 2025. However, the Court in Division found that the Office of the Solicitor General ("OSG") received the assailed Decision on December 23, 2024. The Court in Division reckoned the 15-day period from the OSG's receipt of the assailed Decision and consequently found that the Motion for Reconsideration was filed late.[16]

Petitioner then filed a Motion for Extension of Time to File Petition for Review on May 6, 2025, and the instant Petition for Review on May 22, 2025, while respondent filed its Comment on August 6, 2025.

After another failed attempt at mediation by the parties,[17] this Court *En Banc* submitted this case for decision through a Minute Resolution, dated January 7, 2026.[18]

Hence, this Decision.

The Assigned Errors[19]

Petitioner holds that the Court in Division erred in:

(1) Reckoning the period of appeal from the date of the OSG's receipt of the assailed Decision rather than from that of the BIR;

(2) Ruling that the Revenue Officers who continued the audit lacked the requisite authority; and

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[13] Decision, dated December 17, 2024, pp. 12-18, *id.* at 49-55.
[14] Decision, dated December 17, 2024, pp. 18-24, *id.* at 55-61.
[15] Resolution, dated April 15, 2025, p. 1, *id.* at 65.
[16] Resolution, dated April 15, 2025, pp. 2-3, *id.* at 66-67.
[17] Philippine Mediation Center – Court of Tax Appeals Form 6 – No Agreement to Mediate, dated November 17, 2025, *id.* at 96.
[18] *Id.* at 97.
[19] Petition for Review, p. 4, *id.* at 12.

(3) Ruling that petitioner violated respondent's due process rights.

The Arguments

Against the Court in Division's dismissal of the Motion for Reconsideration, petitioner argues that while the OSG is his statutory counsel, said office deputized the BIR's legal officers. It is the latter who are the actual handling lawyers for petitioner's cases before the Court of Tax Appeals ("CTA"). As such, the period for the filing of the Motion for Reconsideration should be reckoned from the BIR's receipt of the Decision, so that the lawyers who actually prepare the Motion can use the full prescriptive period instituted for such purpose.[20]

Furthermore, petitioner observes, jurisprudence is replete with cases where the Supreme Court held that "technicalities must yield to substantial justice".[21]

As to the ruling in the assailed Decision, petitioner challenges this by insisting that he did not violate respondent's due process rights. He contends that respondent was "clearly informed of the identity of the revenue offices" that continued the audit of its accounting records[22] and was given a full opportunity to protest the assessment and defend its case.[23]

Respondent does not agree. Citing jurisprudence, it holds that the OSG is still petitioner's principal counsel and, by law, retains control.[24]

Against petitioner's defense of the ROs, respondent insists that (1) the BIR's practices notwithstanding, a LOA is "jurisdictional and indispensable";[25] (2) respondent's opportunities to refute the assessment "does not validate an assessment made without proper authority";[26] and (3) merely informing the taxpayer of the identities of the ROs assigned to audit it does not substantially comply with the LOA requirement.[27]

Respondent also echoes the Court in Division's finding that petitioner failed to state why it rejected respondent's arguments against the PAN, thereby violating the latter's due process rights.[28]

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20 Petition for Review, pp. 5-8, *id.* at 13-16.
21 Petition for Review, pp. 8-11, *id.* at 16-20.
22 Petition for Review, pp. 13-16, *id.* at 22-25.
23 Petition for Review, pp. 11-12 & 16-19, *id.* at 20-21 & 25-28.
24 Comment, pp. 3-7, *id.* at 72-76.
25 Comment, pp. 8-12, *id.* at 77-81.
26 Comment, pp. 12-13, *id.* at 81-82.
27 Comment, pp. 13-15, *id.* at 82-84.
28 Comment, pp. 15-19, *id.* at 84-88.

Finally, respondent notes that the lifeblood doctrine, invoked by petitioner, cannot be used to excuse a violation of due process rights.[29]

The Ruling of the Court

The petition lacks merit

The Court En Banc has jurisdiction over this case

Under *Rule 4, Section 2(a)(1) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), this Court *En Banc* can take cognizance of appeals from rulings of the Court in Division on cases arising from administrative agencies like the BIR. *Rule 8, Section 3(b) of the RRCTA* adds the requirement that a Petition for Review from such a ruling be filed before the Court *En Banc* within 15 days from receipt of the questioned issuance.

The instant Petition for Review assails the ruling of the Court in Division in a case stemming from an assailed assessment rendered by petition. Its subject matter thus falls squarely within Our jurisdiction.

As for timeliness, the BIR received the assailed Resolution on April 22, 2025, the exact same day as the OSG.[30] This gave petitioner until May 7, 2025 within which to file a Petition. He instead filed his Motion for Extension of Time on May 6, 2025, which is allowed under the aforementioned *Rule 8, Section 3(b) of the RRCTA*. This was granted by the Court *En Banc*,[31] giving the CIR until May 22, 2025 within which to file his Petition. Since he filed the instant Petition on that date, the Petition for Review was filed on time.

From the foregoing, this Court *En Banc* has jurisdiction over the present case.

The Court in Division correctly reckoned the prescriptive period from the OSG's receipt of the assailed Decision

Petitioner, to recall, points out that it is the BIR's legal officers who prepare his pleadings to the CTA. This is what they were deputized to do. As such, the time for preparing an appeal against a decision should be granted to

[29] Comment, pp. 19-20, *id.* at 88-89.
[30] Notice of Resolution, Division Docket Vol. 9, p. 4239.
[31] Minute Resolution, dated May 8, 2025, *Rollo*, at 8.

them, and the period for filing a Motion for Reconsideration should be reckoned from their receipt of the ruling, not the OSG's.

We disagree.

Rule 9, Section 10 of the RRCTA allows the OSG to deputize officials from the BIR:

> SEC. 10. Solicitor General as counsel for the People and government officials sued in their official capacity. — The Solicitor General shall represent the People of the Philippines and *government officials sued in their official capacity* ***in all cases brought to the Court in the exercise of its appellate jurisdiction***. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, ***such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.***
> (Emphasis and italics supplied.)

This provision appears under *Rule 9 of the RRCTA*, which governs "Procedure in Criminal Cases". However, the Court finds it applicable even here, as a Civil case, as (1) it covers "*all* cases brought to the Court in the exercise of its appellate jurisdiction", such as appeals from disputed assessments rendered by the CIR; (2) it covers cases where "government officials [are] sued in their official capacity", such as protests against the CIR's ruling on disputed assessments; and (3) no part of *Rule 8*, which governs "Procedure in Civil Cases", covers the deputization of bureau officials by the OSG, so *Rule 9, Section 10 of the RRCTA* may be applied suppletorily. In any event, petitioner cites this provision himself, so the Court must tackle its application here.

Relevantly, the rule includes the proviso that deputized officers "remain at all times under the direct control and supervision of the Solicitor General". The OSG thus remained petitioner's principal counsel, as respondent observed, regardless of whoever "actually" prepared his motions, pleadings, and other submissions to the Court in Division. As principal counsel, then, it is the OSG's receipt of the assailed Decision that is controlling, not that of the BIR.

As such, the *RRCTA* alone is enough to refute petitioner's defense of his late filing. Said defense, however, does not pass muster with the relevant jurisprudence either.

That deputized counsel remains under the supervision of the OSG as principal counsel was already pronounced by the Supreme Court in the landmark case of *National Power Corporation v. National Labor Relations Commission*[32] ("*NAPOCOR*") promulgated as early as in 1997. This was later cited in *Commissioner of Customs v. Court of Tax Appeals*[33] ("*Commissioner of Customs*") as follows:

> First. Petitioner was represented in the CTA by the Office of the Solicitor General which deputized lawyers in the Legal Service Division of the Bureau of Customs to serve as collaborating counsels. In accordance with this arrangement, lawyers in both offices (Bureau of Customs and the OSG) were served copies of decisions of the CTA. The lawyers at the Bureau received a copy of the decision of the CTA on May 30, 1997, while the OSG received its own on June 5, 1997. As earlier stated, the OSG filed its motion for reconsideration on June 20, 1997. Counted from this date, the motion was seasonably filed, but if the period for appealing or filing a motion for reconsideration were reckoned from the date of receipt of the decision by the lawyers of the Bureau of Customs, then the motion was filed five days late. The Court of Appeals ruled that service of the copy of the CTA decision on the lawyers of the Bureau of Customs was equivalent to service on the OSG, and, therefore, the motion for reconsideration was filed late.
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> This is error. *In National Power Corp. v. NLRC, it was already settled that although the OSG may have deputized the lawyers in a government agency represented by it,* ***the OSG continues to be the principal counsel, and, therefore, service on it of legal processes****, and not that on the deputized lawyers,* ***is decisive****. . . .*
> (Emphasis and italics supplied.)

This was later affirmed in *Baldovino-Torres v. Torres*[34] ("*Baldovino-Torres*"):

> The Court finds no merit in the contention that the OSG filed its Motion for Reconsideration out of time in the RTC. Admittedly, the public prosecutor in charge of the case, who was deputized by the OSG to appear on its behalf, received a copy of the RTC Decision on March 20, 2017. On the other hand, the OSG received its copy only on April 4, 2017.
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> In the case of National Power Corporation v. National Labor Relations Commission (NAPOCOR), the Court held that *the proper basis for computing the reglementary period to file an appeal and in determining whether a decision had attained finality is service on the OSG.* In holding so, the Court emphasized that *the lawyer deputized by the OSG is considered as a mere representative of the latter who retains supervision and control over the deputized lawyer.* As a consequence, copies of orders and decisions served on the deputized counsel, acting as agent or representative of the Solicitor General, are not binding until they are actually received by the latter.

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[32] G.R. Nos. 90933-61, May 29, 1997.
[33] G.R. No. 132929. March 27, 2000.
[34] G.R. No. 248675. July 20, 2022.

> The NAPOCOR case was cited in the subsequent case of Commissioner of Customs v. Court of Tax Appeals, where it was reiterated that *although the OSG may have deputized the lawyers in a government agency represented by it, the OSG continues to be the principal counsel and, therefore,* ***service on it of legal processes, and not that on the deputized lawyers, is decisive.***
> (Emphasis and italics supplied.)

From the above, jurisprudence agrees with the ruling of the Court in Division. This Court *En Banc* must consequently do so as well.

Petitioner's main defenses of his late filing of the Motion for Reconsideration are practical in nature. He claims that "[i]t is not desirable for the OSG to attend to each and every case that [is] filed against the government". He also stresses that the BIR's legal officers are the ones who actually prepare his submissions to the Court.

These, however, cannot withstand the force of jurisprudence and the *RRCTA*. That the OSG remains as petitioner's principal counsel may not be "desirable" for him or the OSG, but that is what the law and jurisprudence require. The law may be harsh, but it is the law. Between the pronouncements of the Supreme Court and the preferences of a litigant, the former must prevail over the latter.

As for the deputization of the BIR's legal officers, the above still applies. Law and jurisprudence lay down certain rules with which litigants must comply, even if these rules do not perfectly align with said litigants' practices. Here, the fact that the BIR's legal officers prepare petitioner's motions without the involvement of the OSG does not affect the quoted rule and jurisprudence. No consideration was given by the Supreme Court as to who "actually" prepared the motions and submissions, as to who was the "handling lawyer", so it is irrelevant in the determination of a litigant's principal counsel. If the two are inconsistent with one another, then it is petitioner's workflow, *not* the ruling of the Courts, which must yield.

In fact, strictly speaking, an arrangement whereby the BIR's legal officers handle every aspect of the case without the OSG's supervision *violates* the quoted rule from the *RRCTA*. Said legal officers are required to "remain at all times under the direct control and supervision of the Solicitor General". By not involving the OSG in the preparation of the Motion for Reconsideration, petitioner technically failed to comply with *Rule 9, Section 10 of the RRCTA*. The BIR's legal officers did not remain under the direct control and supervision of the OSG. Obviously, non-compliance with procedural rules cannot be excused by a different act of non-compliance with procedural rules. Petitioner's argument consequently undermines his own case.

Finally, the Memorandum of Agreement through which the OSG deputized the BIR's legal officers cannot save petitioner's case, for much the same reasons as those stated above. Again, *NAPOCOR*, *Commissioner of Customs*, *Baldovino-Torres*, and even the *RRCTA* do not invoke who prepares a litigant's submission when determining who is said litigant's principal counsel or whose receipt tolls the running of a prescriptive period. That the Memorandum of Agreement gives the BIR officials the responsibility "[t]o prepare all pleadings, motions, orders, decisions, resolutions, communications and other papers/documents in connection with the case" is consequently of no moment.

We therefore find no error in the Court in Division's finding that the Motion for Reconsideration was filed late. To reckon the prescriptive period for filing the same from the OSG's receipt of the assailed Decision agrees with the rules and jurisprudence; to reckon said period from the BIR's receipt does not. The present Petition must therefore be denied.

Petitioner's arguments against the assailed Decision lack merit as well

Since the assailed Resolution still stands, the assailed Decision has attained finality and can no longer be questioned. There is thus no pressing need to discuss petitioner's arguments regarding his violation of respondent's due process rights. It shall suffice to say that (1) the Supreme Court has consistently rejected petitioner's position that a Memorandum of Assignment or similar is sufficient to replace a LOA since at least *Commissioner of Internal Revenue v. McDonald's Philippines Realty Corp.*,[35] which was cited in the assailed Decision but not addressed by petitioner; (2) petitioner's disagreement with *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*[36] cannot overturn said ruling's doctrines, which can only be abandoned by the Supreme Court itself; and (3) following *Prime Steel Mill, Incorporated v. Commissioner of Internal Revenue*,[37] that a taxpayer is able to file a protest to an assessment does not excuse any violation by the CIR of said taxpayer's due process rights.

In other words, even if this Court *En Banc* or the Court in Division turned a blind eye to the late filing of petitioner's Motion for Reconsideration, the assailed Decision's ruling against him would still stand.

The preceding also undermines petitioner's contention that technical rules cannot obstruct substantial justice. Even if procedural rules were ignored, the assailed Decision would remain correct and just. If a case fails

[35] G.R. No. 242670, May 10, 2021.
[36] G.R. Nos. 201398-99 & 201418-19, October 3, 2018.
[37] G.R. No. 249153, September 12, 2022.

from both a technical and a substantial point of view, then it fails unconditionally.

This Court *En Banc* therefore sees no error to correct in the Court in Division's ruling.

ACCORDINGLY, the *Petition for Review*, filed on May 22, 2025, is hereby **DENIED** for lack of merit. The assailed Resolution, dated April 15, 2025, rendered by this Court's First Division in CTA Case No. 10688 is **AFFIRMED**.

We do not explicitly affirm the assailed Decision, dated December 17, 2024, as it has already become final and executory. It consequently can no longer be affirmed, modified, or set aside.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution*, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice