CTA Form No. 8 (For DCC)

22-000459-0066

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10985

IBMS TECHNOLOGY PHILS. CORPORATION,
Petitioner,

- versus -

NOTICE OF RESOLUTION

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
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252 Sen. Gil Puyat Avenue
Makati City 1230

GREETINGS:

You are hereby notified by these presents that on **June 25, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 29, 2026.**

Atty. Mary Grace S. Ringpis
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

IBMS TECHNOLOGY PHILS. CORPORATION,
Petitioner,

CTA Case No. **10985**

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

- versus -

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 25 2026 ; 4:20PM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner IBMS Technology Phils. Corporation's (**petitioner**'s) "Motion for Reconsideration"[1] (**MR**) filed on 18 December 2025, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment/Opposition (to the Motion for Reconsideration dated December 15, 2025)"[2] (**Comment**) filed on 27 January 2026.

At the outset, the Court notes that while respondent personally filed his or her Comment on 27 January 2026, it was electronically mailed to the Court only on 29 January 2026,[3] which was beyond the twenty-four (24)-hour period prescribed in the Court of Tax Appeals

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1 Division Docket, Volume II, pp. 705-719.
2 Id., pp. 724-730.
3 See printout of respondent's electronic mail, id., p. 733.

(CTA) *En Banc* Resolution Nos. 8-2024[4] and 1-2025.[5] Thus, respondent's failure to transmit the required soft copy of the Comment within the prescribed period renders the filing of said pleading procedurally defective. Pursuant to *En Banc* Resolution Nos. 8-2024 and 1-2025, the Comment is deemed not filed and cannot be given legal recognition.

The MR assails the Court's Decision[6] promulgated on 01 December 2025 (**Decision**), which dismissed the present Petition for Review for having been filed out of time. The relevant portion of the Decision reads:

> ...
>
> With the tenor of the Protest, petitioner's intention to provide further supporting documents is unequivocal. Thus, We deem it proper to treat the petitioner's Protest to the FLD/FAN as a request for reinvestigation *not* a request for reconsideration. With this, petitioner had 60 days from the submission of its Protest or until 13 February 2022 to submit additional documents. However, as early as 24 January 2022, the Office of the Regional Director of Revenue Region No. 8A – Makati City issued the FDDA which petitioner received the next day.
>
> With the foregoing, the Court is then constrained to count the 180-day period from the expiration of the 60-day period on 13 February 2022 (since petitioner was not given the full 60-day period due to the premature issuance of the FDDA on 24 January 2022). Counting 180 days from 13 February 2022, the CIR and his or her authorized representative had until 12 August 2022 to decide on the protest and request for reconsideration, respectively.
>
> For its part, petitioner had two options: *first*, appeal to the CTA within 30 days from the expiration of the 180-day period (*i.e.*, 11 September 2022) and *second*, await the CIR's decision on its

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4 Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals Pursuant to A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC.

Section 2, paragraph 2 of En Banc Resolution No. 8-2024 provides:

...

2. Manner of transmittal. — The PDF copies must be transmitted by litigants and court users to the official e-mail addresses:

...

When the primary manner of filing is through personal filing, by registered mail, or by accredited courier, in accordance with Rule 13, Section 3 (a), 3 (b), or 3 (c) of the 2019 Amendments to the 1997 Rules of Civil Procedure, ten (10) paper copies for En Banc cases, and six (6) paper copies for initiatory pleadings or four (4) paper copies for subsequent pleadings for Division cases, shall be filed. The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; otherwise, the pleading or court submission shall be deemed as not filed.

5 Interim Guidelines on the Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals.

6 Id., pp. 680-700.

Administrative Appeal and appeal therefrom within 30 days from receipt.

Unfortunately, without awaiting the CIR's decision on its Administrative Appeal, petitioner filed the present Petition for Review on 20 September 2022. As petitioner opted for the *first* option, its case was then filed out of time since it only has until 11 September 2022 to file the petition under the first option. Consequently, the Court failed to acquire jurisdiction over it.

...

In seeking reconsideration, petitioner invokes the case of *Light Rail Transit Authority v. Bureau of Internal Revenue, et al.*[7] (**Light Rail**) and argues that it may appeal to the CTA within thirty (30) days from the lapse of the 180-day period (counted from the filing of its Administrative Appeal to the CIR). According to petitioner, the present Petition filed on 20 September 2022 was filed within 30 days from the 180-day period, which lapsed on 23 August 2022. Petitioner likewise claims that it did not opt for the first option (*i.e.*, 180-day inaction), instead it opted for the second option (*i.e.*, await the CIR's final decision or inaction).

In addition, petitioner avers that pursuant to the case of *Commissioner of Internal Revenue v. Court of Tax Appeals and QL Development, Inc.*[8] (**QL Development**), the appellate jurisdiction of the CTA is not limited to cases involving decision of the CIR or other matters relating to assessments or refunds, but also includes issues of prescription, violation of due process, and other legal defects, as these are covered by the term "other matters" over which the CTA has jurisdiction. Since the premature issuance of the Final Decision on Disputed Assessment (**FDDA**) constitutes a violation of petitioner's right to due process, then the Court can take cognizance of the case pursuant to its "other matters" jurisdiction. The lapse of the 30-day appeal period does not validate a void assessment, such as the void FDDA in the instant case.

Lastly, petitioner argues that Republic Act (**RA**) No. 9282 is a remedial legislation intended to expand and centralize tax dispute resolution in the CTA. As such, doubts in its application, especially regarding reckoning of appeal periods where the taxpayer has been

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7 G.R. No. 231238, 20 June 2022.

8 G.R. No. 258947, 29 March 2022.

active and in good faith, should, consistent with long-standing doctrine, be resolved in favor of allowing judicial review.

The Court is not convinced.

Petitioner argues that the filing of the present petition on 20 September 2022 was well-within 30 days from the CIR's 180-day period to decide, which lapsed on 23 August 2022 (counted from petitioner's filing of its Administrative Appeal with the CIR on 23 February 2022). However, as discussed in the Decision, there is only one 180-day period given to the CIR and his or her authorized representative to decide the protest.[9] There is no fresh 180-day period when the taxpayer administratively appeals the FDDA to the CIR.[10] Thus, the 180-day period started to run on 13 February 2022 (*i.e.*, the lapse of the sixty (60)-day period to submit additional supporting documents to petitioner's Protest to the FLD/FAN) and lapsed on 12 August 2022. Thereafter, petitioner had 30 days therefrom or until 11 September 2022 to appeal to the CTA. Consequently, the present petition filed on 20 September 2022 was filed out of time.

The *Light Rail* case is not on all fours with the case at bar. In *Light Rail*, the Supreme Court ruled that petitioner therein, Light Rail Transit Authority (**LRTA**), opted to await the CIR's decision in good faith. LRTA's appeal to the CTA was prompted by the CIR's collection effort despite the pendency of the taxpayer's appeal before the CIR.

In contrast, herein petitioner explicitly declared in its Petition for Review[11] that it is filing the petition within 30 days from the expiration of the CIR's 180-day period to decide:

> ...
>
> II. MATERIAL DATES
>
> 1. On January 25, 2020, petitioner received a Final Decision on Disputed Assessment (FDDA) dated January 24, 2022 for the Taxable Period 2019;

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9 *Nueva Ecija II Electric Cooperative, Inc. Area II v. Commissioner of Internal Revenue*, G.R. No. 258101 (Notice), 19 April 2022.

10 Id.

11 Division Docket, Volume I, pp. 7-8; Emphases supplied.

2. On February 23, 2022, petitioner filed a Request for Reconsideration or Appeal to the Commissioner of Internal Revenue (CIR);

3. Under RMO No. 26-2016 or Sec. 228 of the National Internal Revenue Code (NIRC), **respondent has within one hundred eighty (180) days thereof, or until August 23, 2022 within which to render a decision. But petitioner has not received any decision involving the same;**

4. **Under Section 3, Rule 8 of the RRCTA, petitioner has within thirty (30) days from the lapse of the said period or until September 22, 2022 within which to file the instant petition, hence duly filed on time.**

...

When petitioner chose to appeal to the CTA due to the CIR's inaction for 180 days, it had also decided to forego its option to wait for the CIR's decision. As discussed in *Rizal Commercial Banking Corp. v. Commissioner of Internal Revenue*,[12] these options are mutually exclusive, and resort to one bars the application of the other:

> ...
>
> In case the Commissioner failed to act on the disputed assessment within the 180-day period from date of submission of documents, a taxpayer can either: 1) file a petition for review with the Court of Tax Appeals within 30 days after the expiration of the 180-day period; or 2) await the final decision of the Commissioner on the disputed assessments and appeal such final decision to the Court of Tax Appeals within 30 days after receipt of a copy of such decision. However, **these options are mutually exclusive, and resort to one bars the application of the other.**
>
> In the instant case, the Commissioner failed to act on the disputed assessment within 180 days from date of submission of documents. Thus, petitioner opted to file a petition for review before the Court of Tax Appeals. **Unfortunately, the petition for review was filed out of time, *i.e.*, it was filed more than 30 days after the lapse of the 180-day period.** Consequently, it was dismissed by the Court of Tax Appeals for late filing. Petitioner did not file a motion for reconsideration or make an appeal; hence, the disputed assessment became final, demandable and executory.
>
> Based on the foregoing, petitioner can not now claim that the disputed assessment is not yet final as it remained unacted upon by the Commissioner; that it can still await the final decision of the

12 G.R. No. 168498 (Resolution), 24 April 2007; Emphases supplied.

> Commissioner and thereafter appeal the same to the Court of Tax Appeals. This legal maneuver cannot be countenanced. **After availing the first option, *i.e.*, filing a petition for review which was however filed out of time, petitioner can not successfully resort to the second option, *i.e.*, awaiting the final decision of the Commissioner and appealing the same to the Court of Tax Appeals, on the pretext that there is yet no final decision on the disputed assessment because of the Commissioner's inaction.**
>
> ...

Petitioner's reliance on *QL Development*[13] is also misplaced. The issue involved therein was the prescription of the CIR's right to collect. Citing *Commissioner of Internal Revenue v. Hambrecht & Quist Philippines, Inc.*[14] (**Hambrecht**), the Supreme Court ruled that "right to collect taxes is covered by the term "other matters" over which the CTA has appellate jurisdiction". The CIR's prescriptive period to collect is not at issue here. More importantly, the Court notes that in *Hambrecht*, the taxpayer therein appealed to the CTA within 30 days from its receipt of the assailed CIR decision. At the risk of repetition, the present petition was filed beyond the 30-day jurisdictional period to appeal.

Finally, the Court reiterates that if the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case, and it has no power to decide the case on the merits.[15]

WHEREFORE, in view of the foregoing, petitioner's Motion for Reconsideration, filed on 18 December 2025, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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13 Supra at note 8.
14 G.R. No. 169225, 17 November 2010.
15 Id.

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice