REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

YOKOHAMA TIRE SALES PHILIPPINES, INC.
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 3078
(CTA Case No. 11590)

Present:

Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:
OCT 24 2025 11:50am

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DECISION

RINGPIS-LIBAN, *J.*:

This is a Petition for Review[1] filed on February 6, 2025 under Sections 3(b) and 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) in relation to Section 18 of Republic Act (RA) No. 1125, as amended, seeking the reversal and setting aside of the Resolution[2] dated October 3, 2024 and the Resolution[3] dated January 17, 2025 ("Assailed Resolutions"), both promulgated by the Court of Tax Appeals Third Division (Court in Division) in CTA Case No. 11590.

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[1] Court *En Banc* Docket, pp. 1-41.
[2] *Id.*, pp. 51-54.
[3] *Id.*, pp. 56-59.

The respective dispositive portions of the Assailed Resolutions are quoted hereunder:

Resolution dated October 3, 2024:

> "**WHEREFORE**, the Court resolves to **DENY** petitioner's Motion for Extension of Time to File Petition for Review filed on August 13, 2024.
>
> Accordingly, the **Petition for Review (with Motion for Suspension of Collection of Tax)** filed on August 29, 2024 is hereby **EXPUNGED** from the records of this case.
>
> **SO ORDERED.**"

Resolution January 17, 2025:

> "**WHEREFORE**, in light of the foregoing considerations, the *Motion for Reconsideration* filed by petitioner on October 11, 2024 is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

On July 15, 2024, petitioner Yokohama Tire Sales Philippines, Inc. received the Final Decision on Disputed Assessment (FDDA) issued by the respondent Commissioner of Internal Revenue (CIR).[4]

On August 13, 2024, petitioner filed a Motion for Extension of Time to File Petition for Review (the "Motion") praying for an additional period of fifteen (15) days from August 14, 2024 or until August 29, 2024 within which to file its Petition for Review.[5] Petitioner alleged in its Motion that it needed more time to prepare the petition for the following reasons:[6]

1. The reconciliation income was not attached to or shown in the Preliminary Assessment Notice, Final Assessment Notice, nor in the FDDA. There is a need to review voluminous company records from calendar year 2019 in order to resolve the discrepancies in the reconciliation and the FDDA;

2. The certified true copy of the FDDA is not yet available; and

[4] *Id.*, p. 5.
[5] *Id.*, pp. 6-7.
[6] *Id.*, p. 51.

3. Counsel is burdened by the demands of other equally important and urgent matters.

On August 29, 2024, petitioner filed its Petition for Review (with Motion for Suspension of Collection of Tax) docketed as CTA Case No. 11590.[7]

In the first Assailed Resolution dated October 3, 2024, the Court in Division denied petitioner's Motion for Extension of Time to File Petition for Review and expunged the Petition for Review (with Motion for Suspension of Collection of Tax) filed on August 29, 2024 from the records of the case.

On October 11, 2024, petitioner filed via e-mail its Motion for Reconsideration which the Court in Division denied in the second Assailed Resolution dated January 17, 2025.

Unperturbed, the petitioner filed the present Petition for Review on February 6, 2025.

In a Minute Resolution dated March 24, 2025,[8] the Court *En Banc* noted that while the pleading is captioned "Petition for Review (with Motion for Suspension of Collection of Tax)," the same contains no such motion. In the same Minute Resolution, the Court *En Banc* ordered the respondent to file his Comment on the Petition for Review within ten (10) days from notice.

On April 14, 2025, respondent filed his Comment Ad Cautelam (Re: Petition for Review dated February 05, 2025).

In a Minute Resolution dated April 30, 2025,[9] the Court *En Banc* noted respondent's Comment Ad Cautelam (Re: Petition for Review dated February 05, 2025). In the same Minute Resolution, the Court *En Banc* submitted the present Petition for Review for decision.

THE ISSUES

In its Petition for Review, petitioner has raised the following issues for the Court *En Banc*'s decision, to wit:[10]

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[7] *Id.*, p. 9.
[8] *Id.*, p. 63.
[9] *Id.*, p. 79.
[10] *Id.*, pp. 10-11.

"I. Whether the Honorable Third Division erred in holding that YTSPI failed to timely perfect an appeal on the FDDA in accordance with substantive and procedural law.

A. Harmonious interpretation of two substantive laws: the Tax Code and RA 9282.

B. If the law does not distinguish, the courts should also not distinguish.

C. The statute of later date must prevail being a later expression of legislative will.

D. YTSPI timely invoked the Honorable Court's exclusive appellate jurisdiction to review the adverse ruling by the CIR.

II. Whether the grant of an additional period to file the Petition for Review, subject to compliance with the pre-requisites, is permitted by law and implementing rules and regulations.

III. Whether the Honorable Third Division erred in holding that the FDDA had become final and executory, and therefore the Court lacks jurisdiction over the Motion for Extension of Time to File Petition for Review of the FDDA."

In its Petition for Review, petitioner asserts that the Court in Division erred in holding that it failed to timely perfect an appeal on the FDDA in accordance with substantive and procedural law. More particularly, petitioner insists that:

1. Section 11 of RA 9282 and Section 228 of the National Internal Revenue Code of 1997, as amended (1997 NIRC), are *in pari materia* and, as such, there is a need to construe and harmonize them together. Section 11 explicitly provides that an appeal to this Court of the adverse decision of the CIR is through a Petition for Review analogous to that provided under Rule 42 of the Rules of Court.

2. If the Supreme Court confirmed in *SM Land, Inc., et al. v. City of Manila*[11] and *City of Manila, et al. v. Coca-Cola Bottlers*[12] that the CTA is vested by RA 9282 with statutory authority to grant a motion for extension of time to file petition for review from an adverse Regional Trial Court (RTC) decision under the procedure analogous to Rule 42, it stands to reason that this Court is vested with equal authority to allow motions for extension of time to file petition for review from an adverse decision by the CIR because the mode of appeal prescribed by Section

[11] G.R. No. 197151, October 22, 2012.
[12] G.R. No. 181845, August 4, 2009.

11 is under the identical procedure analogous to Rule 42. *If the law does not distinguish, courts should also not distinguish.*

3. Assuming that Section 11 of RA 9282 and Section 228 of the 1997 NIRC are irreconcilable concerning the allowable extension to file the appeal before the CTA, Section 228 of the Tax Code must yield to Section 11 of RA 9282, the latter being a later expression of legislative will.

4. Petitioner timely invoked the Court's exclusive appellate jurisdiction to review the adverse ruling by the CIR.

Petitioner also claims that the the grant of an additional period to file the Petition for Review, subject to compliance with the pre-requisites, is permitted by law and implementing rules and regulations.

Finally, petitioner contends that it was compelled to request an additional period of 15 days to file the petition for review due to exigent circumstances. Respondent belatedly provided petitioner with the reconciliation showing the breakdown of disallowed expenses due to non-withholding, without which petitioner could not fully litigate and defend itself against the assessments.

THE COURT *EN BANC*'S RULING

The Petition for Review lacks merit.

After careful review of the factual antecedents, the arguments raised, and the laws, rules, and jurisprudence material to this case, the Court *En Banc* upholds the denial of petitioner's Motion for Extension of Time to File Petition for Review.

In the first Assailed Resolution dated October 3, 2024, the Court in Division denied petitioner's Motion on the basis of both Section 11 of RA 9282 and Section 228 of the 1997 NIRC. In the second Assailed Resolution dated January 17, 2025, it was clarified that the denial of petitioner's Motion was based on Section 228 of the 1997 NIRC. The Court in Division held that the present case involves an appeal from an FDDA which has a definite and distinct prescriptive period. Section 228 of the 1997 NIRC clearly states that an appeal to this Court must be made within 30 days from receipt of the decision, and the failure to file such appeal within said period renders the assessment final, executory, and demandable.

Indeed, the denial of petitioner's Motion is justified, not because the 30-day period under Section 11 of RA 1125, as amended, is mandatory, jurisdictional, and non-extendible—for it is not, as will be explained below—but because of the mandatory and jurisdictional nature of the 30-day period under Section 228 of the 1997 NIRC.

Petitioner received a copy of the FDDA on July 15, 2024. Counting 30 days from this date, petitioner had until August 14, 2024 within which to file its Petition for Review before this Court. Instead of doing so, however, petitioner filed a Motion for Extension of Time to File Petition for Review on August 13, 2024 praying for an additional period of 15 days or until August 29, 2024 within which to file its Petition for Review. Verily, this Court cannot grant the additional period prayed for as the same already falls outside the 30-day period mandated by Section 228 of the 1997 NIRC.

In the present Petition for Review, petitioner asserts that it has the right to seek extension of the period for filing its appeal before the Court in Division. To support its position, petitioner cited a number of Supreme Court cases wherein it was ruled that by virtue of Rule 42 of the Rules of Court, the 30-day period to appeal to this Court under Section 11 of RA 1125, as amended, is extendible.

Petitioner's position is untenable.

As plainly worded, Section 11 of RA 1125, as amended, *generally* applies to cases enumerated under Section 7(a) thereof. In *The City of Manila, et. al. v. Coca-Cola Bottlers Philippines, Inc.*,[13] the Supreme Court, in a case involving an appeal to this Court of a local tax case originating from the RTC, categorically held that the 30-day period under Section 11 of RA 1125, as amended, is extendible as construed in relation to Rule 42 of the Rules of Court, to wit:

> "The period to appeal the decision or ruling of the RTC to the CTA *via* a Petition for Review is specifically governed by Section 11 of Republic Act No. 9282, and Section 3(a), Rule 8 of the Revised Rules of the CTA.
>
> xxx xxx xxx
>
> It is crystal clear from the afore-quoted provisions that to appeal an adverse decision or ruling of the RTC to the CTA, the taxpayer must file a **Petition for Review** with the CTA **within 30 days** from receipt of said adverse decision or ruling of the RTC.
>
> It is also true that the same provisions are silent as to whether such 30-day period can be extended or not. However, Section 11 of Republic Act No. 9282 does state that the Petition for Review shall be filed with the CTA **following the procedure analogous to Rule 42 of**

[13] G.R. No. 181845, August 4, 2009.

> **the Revised Rules of Civil Procedure**. Section 1, Rule 42 of the Revised Rules of Civil Procedure provides that the Petition for Review of an adverse judgment or final order of the RTC must be filed with the Court of Appeals within: (1) the original 15-day period from receipt of the judgment or final order to be appealed; (2) an extended period of 15 days from the lapse of the original period; and (3) only **for the most compelling reasons**, another extended period not to exceed 15 days from the lapse of the first extended period.
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> Following by analogy Section 1, Rule 42 of the Revised Rules of Civil Procedure, the **30-day** original period for filing a Petition for Review with the CTA under Section 11 of Republic Act No. 9282, as implemented by Section 3(a), Rule 8 of the Revised Rules of the CTA, may be extended for a period of **15 days.** No further extension shall be allowed thereafter, except only for the most compelling reasons, in which case the extended period shall not exceed **15 days.**"

The above quoted ruling was reiterated and applied in *SM Land, Inc. v. City of Manila*[14] and *Metro Manila Shopping Mecca Corp., et. al. v. Toledo.*[15] In *SM Land*, the Supreme Court even ruled that prior cases wherein it ruled that the 30-day period for filing an appeal with this Court is jurisdictional had been superseded by its ruling in *Coca-Cola.*

Nevertheless, the 30-day period under Section 11 of RA 1125, as amended, must not be confused with the 30-day period under Section 228 of the 1997 NIRC. They are not exactly the same. Accordingly, the Supreme Court's ruling in *Coca-Cola*, *SM Land* and *Metro Manila Shopping Mecca* holding that the 30-day period under Section 11 of RA 1125, as amended, is subject to extension finds no relevance whatsoever with respect to the 30-day period under Section 228 of the 1997 NIRC.

It is true that both reglementary periods involve similar number of days and substantially similar reckoning point, *i.e.*, from the receipt of the adverse decision. Their similarities, however, end there. Aside from their different statutory origins, these periods also differ in terms of scope of application. The 30-day period under Section 11 of RA 1125, as amended, applies to the following cases:

1. Appeals of decisions (or inaction) of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, as well as other matters arising under the 1997 NIRC or other laws administered by the Bureau of Internal Revenue;

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[14] G.R. No. 197151, October 22, 2012.
[15] G.R. No. 190818, June 5, 2013 ("*Metro Manila Shopping Mecca*").

2. Appeals of decisions of Commissioner of Customs (COC) in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs.

3. Appeals of decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals.

4. Appeals of the decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the COC which are adverse to the Government under Section 2315 of the Tariff and Customs Code.

5. Appeals of the decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under RA 8800, where either party may appeal the decision to impose or not to impose said duties.

In contrast, the 30-day period under Section 228 of 1997 NIRC has a much narrower scope of application since it **solely** applies to the filing of appeals before this Court in cases involving the denial of (or inaction on) protests on assessments by the CIR.

The 30-day period to file an appeal of the adverse decision or inaction of the CIR in assessment cases is mandatory and jurisdictional. In *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*,[16] the Supreme Court held:

> "As provided in Section 228, the failure of a taxpayer to appeal from an assessment on time rendered the assessment final, executory and demandable. Consequently, petitioner is precluded from disputing the correctness of the assessment.
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> In *Ker & Company, Ltd. v. Court of Tax Appeals*, the Court held that **while the right to appeal a decision of the Commissioner to the Court of Tax Appeals is merely a statutory remedy, nevertheless the requirement that it must be brought within 30 days is jurisdictional. If a statutory remedy provides as a condition precedent that the action to enforce it must be commenced within a prescribed time, such requirement is jurisdictional and failure to comply therewith may be raised in a motion to dismiss.**

[16] G.R. No. 168498, June 16, 2006.

In fine, the failure to comply with the 30-day statutory period would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the correctness of the assessment." *(Emphasis supplied)*

Given that the Supreme Court has already spoken on this matter, this Court has no other option but to strictly uphold and apply the same. Until and unless such doctrine is subsequently modified or reversed by the Supreme Court *En Banc*, the same remains to be binding.

In *Vinzons-Chato v. Fortune Tobacco Corporation*,[17] the Supreme Court discussed the difference between a special law and a general law as follows:

> "A general statute is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class. A special statute, as the term is generally understood, is one which relates to particular persons or things of a class or to a particular portion or section of the state only.
>
> A general law and a special law on the same subject are statutes *in pari materia* and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.
>
> The circumstance that the special law is passed before or after the general act does not change the principle. Where the special law is later, it will be regarded as an exception to, or a qualification of, the prior general act; and where the general act is later, the special statute will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication."

Using the above standards, Section 11 of RA 1125, as amended, must be deemed as the *general law* governing the time, mode, and manner of appeals before the CTA. On the other hand, Section 228 of the 1997 NIRC serves as a *special law* specifically prescribing the applicable reglementary period for filing appeals to the CTA of the CIR's adverse decisions on protests involving disputed assessments. Hence, in so far as the period for filing appeals of the CIR's adverse decisions on protests involving disputed assessments is concerned, Section 228 of the NIRC of 1997, as amended, and not Section 11 of RA No. 1125, as amended, shall apply. In this way, these two statutory provisions may be

[17] G.R. No. 141309, June 19, 2007.

reasonably reconciled and harmonized with each other. To be sure, Congress had not intended to defeat compliance with the mandatory and jurisdictional nature of the reglementary period under Section 228 of the 1997 NIRC by the invocation of Section 11 of RA 1125, as amended. As the Supreme Court had aptly explained in *Asturias Sugar Central, Inc. v. Commissioner of Customs and Court of Tax Appeals*,[18] to wit:

> "A construction of a statute which creates an inconsistency should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of Congress.
>
> In the construction of statutes, the courts start with the assumption that the legislature intended to enact an effective law, and the legislature is not to be presumed to have done a vain thing in the enactment of a statute. Hence, it is a general principle, embodied in the maxim, *"ut res magis valeat quam pereat"*, that the courts should, if reasonably possible to do so without violence to the spirit and language of an act, so interpret the statute to give it efficient operation and effect as a whole. An interpretation should, if possible, be avoided under which a statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory."

Rule 42 of the Rules of Court cannot be used as basis for extending the mandatory 30-day period set by Section 228 of the 1997 NIRC. Bearing in mind the Supreme Court's dictum that the 30-day period under Section 228 of the 1997 NIRC is both mandatory and jurisdictional, the Court *En Banc* holds that a mere procedural rule such as Rule 42 of the Rules of Court cannot prevail over a substantive law such as Section 228 of the 1997 NIRC. In *Treyes v. Larlar,*[19] the Supreme Court *En Banc* emphatically held that:

> "x x x [R]ules of procedure must always yield to substantive law. The Rules are not meant to subvert or override substantive law. On the contrary, procedural rules are meant to operationalize and effectuate substantive law."

Section 228 of the 1997 NIRC is a substantive law as it is the very provision that creates and gives the taxpayer affected the right to file an appeal before this Court of the adverse decision rendered by the CIR in disputed assessment cases. This is consistent with the definition of a substantive law provided by the Supreme Court in *Bernabe v. Alejo*[20] as follows:

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[18] G.R. No. L-19337, September 30, 1969 citing 50 Am. Jur. 358-359.
[19] G.R. No. 232579, September 8, 2020.
[20] G.R. No. 140500, January 21, 2002 citing *Bustos v. Lucero*, 81 Phil. 648, March 8, 1949.

> "x x x Substantive law creates substantive rights and the two terms in this respect may be said to be synonymous. Substantive rights is a term which includes those rights which one enjoys under the legal system prior to the disturbance of normal relations. Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the rights and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtains redress for their invasion."

The right to appeal is a mere statutory privilege that requires strict compliance with the conditions attached by the statute for its exercise.[21] Petitioner lost its right to appeal the denial of its protest on the disputed assessment due to its own failure to observe the mandatory prescriptive period. Resort to a liberal application, or suspension of the application of procedural rules, may not be simply be invoked to disregard the jurisdictional and mandatory period of appeal.

ACCORDINGLY, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

With Separate Opinion
CATHERINE T. MANAHAN
Associate Justice

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[21] *Hedcor, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207575, July 15, 2015.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Inhibited
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

With due respect, I join Justice Manahan's Separate Opinion
CORAZON G. FERRER-FLORES
Associate Justice

With Separate Concurring Opinion
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
Acting Presiding Justice

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REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
OCT 24 2025 11:50 am

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SEPARATE OPINION

MANAHAN, J.:

I agree with the result reached in the *ponencia* denying the Petition for Review, for lack of merit.

With due respect, however, I proffer a different view regarding the applicability of the reglementary periods respectively enunciated in Section 11 of Republic Act (RA) No. 1125, as amended, and Section 228 of the 1997 national Internal Revenue Code (NIRC), as amended.

Both provisions provide a thirty (30)-day period to file an appeal of the Commissioner of Internal Revenue (CIR)'s adverse decision before the Court of Tax Appeals (CTA), as follows:

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or

inaction of the Commissioner of Internal Revenue, xxx, may file an appeal with the CTA within thirty (30) days after the receipt of such decision xxx"

"SEC. 228. *Protesting of Assessment.* – xxx

xxx xxx xxx

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable."

Relevant thereto, the *ponencia* states that:

"Using the above standards, Section 11 of RA 1125, as amended, must be deemed as the *general law* governing the time, mode, and manner of appeals before the CTA. On the other hand, Section 228 of the 1997 NIRC serves as a *special law* specifically prescribing the applicable reglementary period for filing appeals to the CTA of the CIR's adverse decisions on protests involving disputed assessments. Hence, in so far as the period for filing appeals of the CIR's adverse decisions on protests involving disputed assessments is concerned, Section 228 of the NIRC of 1997, as amended, and not Section 11 of RA No. 1125, as amended shall apply. xxx"

On this score, it is my humble view that Section 11 of RA No. 1125, as amended, falls within the ambit of a special law, considering that it particularly deals with the jurisdiction of the CTA. However, said provision merely lays down the *procedural rules* for filing an appeal before the CTA, in harmony with the 30-day prescriptive period, which is *substantive in nature*, provided for under Section 228 of the 1997 NIRC, as amended.

In other words, the 30-day prescriptive period provided for under Section 228 of the 1997 NIRC, as amended, is substantive in nature because it particularly prescribes the prescriptive period for filing an appeal before the CTA. In fact, Section 228 categorically states that failure to timely appeal the CIR's adverse decision will render the same final, executory, and demandable.

On the other hand, Section 11 of RA No. 1125, as amended, merely provides for the procedural rules as to how a party affected by the CIR's adverse decision may appeal the same. In contrast with Section 228 of the 1997 NIRC, nothing in Section 11 mentions about the potential effects of failure to timely file an appeal before the CTA, precisely because it is merely procedural and not substantive in nature.

Hence, I agree with the findings in the *ponencia* that petitioner failed to timely perfect an appeal under Section 228 of the 1997 NIRC, as amended, albeit on a different line of reasoning.

For these reasons, I vote to **DENY** the Petition for Review, for lack of merit.

CATHERINE T. MANAHAN
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

YOKOHAMA TIRE SALES, PHILIPPINES INC., *Petitioner,*	**CTA EB NO. 3078** (CTA Case No. 11590)
	Present:
- *versus* -	**RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
THE COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: OCT 24 2025 11:50am

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SEPARATE CONCURRING OPINION

ANGELES, *J.*:

I concur with the Decision **denying** petitioner's *Petition for Review (with Motion for Suspension of Collection of Tax)* filed on February 6, 2025,[1] which seeks to reverse the Resolutions dated October 3, 2024, and January 17, 2025. While I join the *ponencia's* ruling, I am compelled to articulate a different legal basis for my concurrence, which I respectfully set forth below.

As astutely explained by the *ponencia*, the 30-day period to file an appeal of the adverse decision or inaction of the Commissioner of Internal Revenue (CIR) in assessment cases under Section 228 of the National Internal Revenue Code of 1997 (Tax Code), as amended, is mandatory and jurisdictional. Thus, petitioner's failure to timely file

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[1] *En Banc Docket*, pp.1-43.

an appeal with this Court rendered the assessment final, executory and demandable. The *ponencia* also made a discussion on the difference of the thirty (30)-day period under Section 228 of the Tax Code and the thirty (30)-day period under Section 11 of Republic Act (R.A.) No. 1125, as amended. It also stated that Section 11 R.A. No. 1125, as amended, is the general law while Section 228 of the Tax Code is the special law. Thus, Section 228 of the Tax Code shall prevail.

I respectfully opine that the 30-day period under Section 228 of the Tax Code, is the same period provided for under Section 11 of R.A. No. 1125, as amended.

Section 228 of the Tax Code, provides that:

> **Section 228. *Protesting of Assessment.*** – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings
>
> xxx xxx xxx
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable**. (Emphasis supplied)

The above cited provision specifically requires the taxpayer to file an appeal with the Court of Tax Appeals (CTA) within thirty (30) days from receipt of the decision of the CIR or from the inaction of the CIR in assessment cases. Otherwise, the decision will become final, executory, and demandable.

On the other hand, Section 11 of R.A. No. 1125, as amended, reaffirms the thirty (30)-day period provided for under Section 228 of the Tax Code. In particular, Section 11 provides that:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.

> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: *Provided, however,* That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*. xxx

While the Supreme Court has held in numerous cases that the thirty (30)-day period under Section 11 of R.A. No. 1125, as amended, may be extended as construed in relation to Rule 42 of the Rules of Court,[2] it must be noted that the grant of an extension under Rule 42 of the Rules of Court is discretionary. Therefore, the thirty (30)-day period under Section 11 of R.A. No. 1125, as amended, is still the general period to appeal. Notably, the cases where the Supreme Court held that the 30-day period under Section 11 of R.A. No. 1125, as amended, were all cases appealed to the CTA from Regional Trial Courts (RTC).

It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, *"interpretare et concordare legibus est optimus interpretandi,"* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence.[3]

Consequently, harmonizing Section 228 of the NIRC and Section 11 or R.A. No. 1125, as amended, leads to the conclusion that the determination as to whether the thirty (30)-day period under Section 11 R.A. No. 1125, as amended, is extendible or not depends on the subject matter being appealed.

If the subject matter being appealed to the CTA is the CIR's decision or inaction in assessment cases, the thirty (30)-day period is non-extendible by virtue of Section 228 of the Tax Code. However, if the decision being appealed to the CTA is a decision of the RTC, then the Court may grant an extension of time to file the Petition for Review.

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[2] *The City of Manila, et. al v. Coca-Cola Bottlers Philippines, Inc.*, G.R. No. 181845, August 4, 2009; *SM Land, Inc. v. City of Manila*, G.R. No. 197151, October 22, 2012; *Metro Manila Shopping Mecca Corp., et. al. v. Toledo*, G.R. No. 190818, June 5, 2013.
[3] *The Office of the Solicitor General v. Court of Appeals*, G.R. No. 199027, June 9, 2014.

Based on the foregoing, in assessment cases, the 30-day period under Section 228 of the Tax Code is the same 30-day period provided for under Section 11 of R.A. No. 1125, as amended. In the present case, petitioner received a Final Decision on Disputed Assessment (FDDA) on July 15, 2024.[4] Therefore, based on Section 228 of the NIRC, it had thirty (30) days or until August 14, 2024 to file its Petition for Review. On August 13, 2024, it filed a Motion for Extension of Time to File Petition for Review.[5] Subsequently, it filed its Petition for Review on August 29, 2024.[6] Accordingly, the FDDA became final, executory, and demandable due to the taxpayer's failure to file a timely appeal.

For these reasons, I vote to **DENY** the Petition for Review, for lack of merit.

HENRY S. ANGELES
Associate Justice

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[4] *En Banc* Docket, p.5.
[5] *Id.*, p.6.
[6] *Id.*, p.9.