REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ORICA PHILIPPINES, INC., Petitioner,	**CTA EB NO. 3006** (CTA Case No. 10152)
- versus -	*Present*: **RINGPIS-LIBAN,** *P.J.*, **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 13 2026 2:50

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DECISION

BACORRO-VILLENA, J.:

Before the Court *En Banc* is a Petition for Review[1] filed by petitioner Orica Philippines, Inc. (**petitioner/OPI**), pursuant to Rule 43[2] of the Rules of Court (**ROC**), as amended,[3] in accordance with Rule

[1] Filed on 14 October 2024 and emailed on 15 October 2024, *rollo*, pp. 1-64, with annexes.
[2] *Appeals from the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals.*
[3] A.M. No. 19-10-20-SC, otherwise known as the 2019 Amendments to the 1997 Rules of Civil Procedure.

8,[4] Sections 3(b)[5] and 4(b)[6] of the Revised Rules of the Court of Tax Appeals (**RRCTA**). It seeks the reversal and setting aside of the Decision dated 08 May 2024[7] (**assailed Decision**) and Resolution dated 26 September 2024[8] (**assailed Resolution**) of the Court's Third Division,[9] in CTA Case No. 10152, entitled *Orica Philippines, Inc. v. Commissioner of Internal Revenue*. The Third Division dismissed the case for lack of jurisdiction on the ground that the judicial claim for refund was filed out of time.

PARTIES TO THE CASE

Petitioner is a corporation duly registered with the Philippine Securities and Exchange Commission (**SEC**).[10] It is also registered with the Bureau of Internal Revenue (**BIR**) as a value-added tax (**VAT**) taxpayer with Certificate of Registration (**COR**) No. OCN 8RC0000911345E[11] issued by the Large Taxpayers Service, Revenue District Office (**RDO**) No. 121 – Excise LT Division I. It was also assigned with Taxpayer Identification Number (**TIN**) 000-059-661-00000. It maintains its registered address at 11/F Tower 2, Rockwell Business Center, Ortigas Avenue, Ugong, City of Pasig.[12]

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4 *Procedure in Civil Cases.*

5 **SEC. 3.** *Who may appeal; period to file petition.* —

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a **petition for review** within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

6 **SEC. 4.** *Where to appeal; mode of appeal.* —

...

(c) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by **petition for review as provided in Rule 43 of the Rules of Court**. The Court *en banc* shall act on the appeal. (Emphasis supplied)

7 Division Docket, Volume III, pp. 1166-1179. Penned by Associate Justice Catherine T. Manahan (Ret.) with Associate Justice Marian Ivy F. Reyes-Fajardo and Associate Justice Henry S. Angeles, concurring.

8 Id., pp. 1205-1207.

9 The Third Division is composed of Associate Justice Catherine T. Manahan (Ret.), as Chairperson, Associate Justice Marian Ivy F. Reyes-Fajardo and Associate Justice Henry S. Angeles, as Members.

10 Paragraph 1(a), I. Stipulation of Facts, Joint Stipulation of Facts and Issues (**JSFI**), Division Docket, Volume I, p. 222; Exhibits "P-1" and "P-2", Division Docket, Volume II, pp. 665 and 667-677, respectively.

11 Par. 1(c), I. Stipulation of Facts, JSFI, id., Volume I, p. 222; Exhibit "P-3", id., Volume II, pp. 678-679.

12 Id.

Respondent, on the other hand, is the duly-appointed Commissioner of Internal Revenue (**respondent/CIR**) empowered to perform the duties of said office including, among others, the power to decide, approve, and grant tax refunds or tax credits as provided for by law, with office address at BIR National Office Building, Agham Road (now, Senator Miriam P. Defensor-Santiago Avenue), Diliman, Quezon City.[13]

FACTS OF THE CASE

On 20 March 2019, petitioner filed its administrative claim with the BIR VAT Credit Audit Division (**VCAD**), consisting of an "Application for Tax Credits/Refunds (BIR Form No. 1914)."[14] It also filed a Letter dated 29 March 2019,[15] requesting for a refund of excess and unutilized input VAT in the aggregate amount of ₱27,185,243.95 for the period covering 01 January 2017 to 30 September 2017 or the second (2nd) to fourth (4th) quarters of the fiscal year (**FY**) ended 30 September 2017.

On 17 July 2019, petitioner received a VAT Refund Notice dated 10 June 2019[16] (**VAT Refund Notice**) from respondent, through Officer-In-Charge Assistant Commissioner for Assessment Service Maria Luisa I. Belen (**OIC-ACIR Belen**), partially granting its administrative claim. Of petitioner's total refund claim of ₱27,185,243.95, respondent disallowed ₱26,673,728.51, leaving ₱511,515.44 as the refundable amount, computed as follows:

	Local	Importation	Total
Amount of Claim	**₱22,769,847.94**	**₱4,415,396.01**	**₱27,185,243.95**
Disallowances *per* VCAD Verification			
Disallowed input tax due to violation on invoicing requirements	(₱5,949,273.25)	(₱4,031,282.00)	(₱9,980,555.25)
Disallowed input tax *per* Integrated Tax System (**ITS**) verification	(5,749.92)	-	(5,749.92)
Discrepancy of input tax *per* schedule submitted as against Quarterly VAT Return	(1,439,549.45)	(384,114.01)	(1,823,663.46)
Total Disallowances *per* Verification	**(₱7,394,572.62)**	**(₱4,415,396.01)**	**(₱11,809,968.63)**
Disallowances *per* TARD Review			

[13] Par. 1(b), I. Stipulation of Facts, JSFI, id., Volume I, p. 222.
[14] Exhibit "P-21", id., Volume II, p. 725.
[15] Exhibit "P-20", id., pp. 721-724.
[16] Exhibit "P-23", id., pp. 728-729, with Annex "A".

	Local	Importation	Total
Disallowed input tax due to noncompliance with the invoicing requirements - big ticket suppliers	(₱1,733,061.13)	-	(₱1,733,061.13)
Disallowed input tax *per* ITS verification	(1,366,097.13)	-	(1,366,097.13)
Disallowed input tax on capital goods exceeding ₱1 million	(1,093,033.25)	-	(1,093,033.25)
Disallowed input tax on importations	(37,613.00)	-	(37,613.00)
Output VAT assessed on other income	(227,675.10)	-	(227,675.10)
Additional output VAT on disposal of assets	(36,126.69)	-	(36,126.69)
Output VAT on credit memos considered as taxable sales	(893,548.27)	-	(893,548.27)
Input tax allocation on unsupported zero-rated sales considered as exempt	(9,476,605.30)	-	(9,476,605.30)
Discrepancy *per* amount of claim against available input tax	(0.01)	-	(0.01)
Total Disallowances *per* Review	**(14,863,759.88)**	-	**(14,863,759.88)**
Total Disallowances	**(₱22,258,332.50)**	**(₱4,415,396.01)**	**(₱26,673,728.51)**
AMOUNT APPROVED FOR VAT REFUND	**₱511,515.44**	**₱-**	**₱511,515.44**

PROCEEDINGS BEFORE THE FIRST DIVISION

On 16 August 2019, and within thirty (30) days from receipt of the VAT Refund Notice,[17] petitioner filed its prior Petition for Review[18] before the Court in Division to appeal the denied portion of its administrative claim for refund. The same was raffled to the First Division and docketed as CTA Case No. 10152.[19] Petitioner assailed the disallowance of its refund claim to the extent of ₱26,673,728.51 and maintained that it is entitled to the full amount of refund sought.

On 10 September 2019, the First Division issued Summons[20] ordering respondent to file an Answer within fifteen (15) days from service. Respondent received the said Summons on 16 September 2019.[21]

After the First Division granted an extension of time,[22] respondent filed an Answer[23] on 30 October 2019. In said Answer, respondent asserted that the First Division should deny the judicial claim on the

17 Exhibit "P-23", supra at note 16.
18 Id., pp. 10-53, with annexes.
19 The First Division was then composed of Presiding Justice Roman G. Del Rosario (Ret.), as Chairperson, Associate Justice Esperanza R. Fabon-Victorino (Ret.) and Associate Justice Catherine T. Manahan (Ret.), as Members.
20 Division Docket, Volume I, p. 54.
21 Id.
22 See Order dated 07 October 2019, id., p. 61.
23 Id., pp. 64-73.

ground that petitioner failed to sufficiently substantiate its claim for refund at the administrative level.

On 07 November 2019, the First Division set the case for Pre-Trial Conference on 23 January 2020.[24] On 12 December 2019, respondent filed a Pre-Trial Brief,[25] while petitioner submitted its Pre-Trial Brief[26] on 17 January 2020.

On 25 November 2019, respondent transmitted to the First Division the entire BIR Records.[27] The First Division noted the filing of the same in a Minute Resolution dated 29 November 2019.[28]

During the Pre-Trial Conference on 23 January 2020, the First Division granted the parties a 15-day period to file their Joint Stipulation of Facts and Issues (**JSFI**).[29] Accordingly, on 05 February 2020, the parties filed their JSFI.[30] The First Division approved said JSFI in its Resolution dated 11 February 2020[31] and, thereafter, deemed the pre-trial terminated in its Pre-Trial Order dated 18 February 2020.[32]

Earlier, on 17 January 2020, petitioner filed a "Motion for Commissioning of Independent Certified Public Accountant [(**ICPA**)]",[33] requesting the appointment of Krista V. Bambao (**Bambao**) as the ICPA for this case. During the 27 February 2020 hearing,[34] the First Division commissioned Bambao and directed her to submit her report by 30 March 2020.

After the First Division granted an extension of time,[35] on 20 July 2020, ICPA Bambao filed her Initial Report.[36] Subsequently, on 12 October 2020, ICPA Bambao later filed her Final Report,[37] with one

24 See Notice of Pre-Trial Conference dated 07 November 2019, id., pp. 75-76.
25 Id., pp. 104-107.
26 Id., pp. 111-119.
27 See Compliance dated 25 November 2019, id., pp. 79-81.
28 Id., p. 83.
29 See Minutes of the Hearing and Order, both dated 23 January 2020, id., pp. 215-216 and 218-221, respectively.
30 Id., pp. 222-229.
31 Id., p. 232.
32 Id., pp. 235-242.
33 Id., pp. 201-214, with annexes.
34 See Minutes of the Hearing and Order, both dated 27 February 2020, id., pp. 257-259 and 261-262.
35 See Resolution dated 25 June 2020, id., p. 285.
36 Id., pp. 287-426.
37 Exhibit "P-26", id., pp. 487-588.

(1) USB.[38] The First Division noted said submissions in its Minute Resolutions dated 24 August 2020[39] and 15 October 2020,[40] respectively.

In the trial that ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Maria Teresa S. Gonzales (**Gonzales**), petitioner's Tax Specialist; and (2) ICPA Bambao.

During the hearing on 20 February 2020,[41] Gonzales testified to the following: (1) petitioner is an entity duly registered with the SEC; (2) petitioner is a registered with the BIR as a VAT taxpayer; (3) for the 2nd to 4th quarters of FY ended 30 September 2017 ("**covered period**"),, petitioner's revenues were derived from both domestic and (direct and constructive) export sales; (4) petitioner incurred, paid, and remitted the input VAT from its local and foreign purchases of goods and services; (5) for VAT purposes, petitioner timely and properly reported its sales and purchases for the covered period; (6) during the covered period, petitioner's output VAT liabilities are less than the input VAT credits from its local and foreign purchases; (7) the amount applied for refund was not applied against any output VAT liabilities for the succeeding taxable periods; and (8) petitioner filed its administrative and judicial claims for refund.[42] Respondent did not conduct any cross-examination.[43]

On 17 November 2020[44], petitioner presented ICPA Bambao as witness. ICPA Bambao testified that: (1) she was commissioned to examine and verify voluminous accounting records, supporting documents, and schedules submitted in support of claim for refund; (2) her report summarizes the findings and observations arising from the procedures she performed to determine petitioner's compliance with the requisites for refund of excess and unutilized input VAT attributable to zero-rated and/or effectively zero-rated sales; and (3) her examination confirmed that (a) petitioner is a VAT-registered entity, (b) petitioner filed its administrative and judicial claims for

38 Exhibit "P-28".
39 Id., p. 430.
40 Id., Volume II, p. 589.
41 See Minutes of the Hearing and Order, both dated 20 February 2020, id., Volume I, pp. 248-250 and 251-252, respectively.
42 See Judicial Affidavit of Maria Teresa S. Gonzales, Exhibit "P-24", id., pp. 123-200, with attached exhibits.
43 See Minutes of the Hearing and Order, both dated 20 February 2020, supra at note 41.
44 See Order dated 17 November 2020, Division Docket, Volume II, pp. 640-641.

refund within the prescriptive period provided by law, (**c**) petitioner engages in zero-rated and/or effectively zero-rated sales paid for in acceptable foreign currency and duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (**BSP**), (**d**) input VAT arising from domestic and foreign purchases of goods and services attributable to petitioner's zero-rated and/or effectively zero-rated sales are supported by valid purchase documents, and (**e**) the total amount of input VAT subject of the refund claim was not applied against any output VAT in the succeeding taxable periods.[45] ICPA Bambao was subjected to cross-examination and redirect examination, after which her testimony was deemed complete and terminated.[46]

On 07 December 2020, after completing the presentation of its testimonial evidence, petitioner filed its "Formal Offer of Evidence"[47] (**FOE**), consisting of Exhibits "P-1" to "P-4359", inclusive of sub-markings. Respondent failed to file a comment thereto despite due notice.[48]

In the Resolution dated 22 February 2021[49] (**FOE Resolution**), the First Division acted upon petitioner's FOE, admitting some of its offered exhibits and denying several exhibits either for failure to present the originals for comparison or for not being found in the case records.

On 17 March 2021, petitioner filed a "Motion for Reconsideration with Leave of Court to Allow the ICPA to Submit and Amend ICPA Report"[50] (**MR on the FOE Resolution**). Respondent again failed to file a comment thereto despite due notice.[51]

In the Resolution dated 17 November 2021[52], the First Division partially granted petitioner's MR, admitting most of the previously denied exhibits and maintaining denial only with respect to Exhibit "P-319",[53] for failure to present the original for comparison, and Exhibit

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45 See Amended Judicial Affidavit of Krista V. Bambao, Exhibit "P-25", id., pp. 594-638.
46 See Order dated 17 November 2020, supra at note 44.
47 Division Docket, Volume II, pp. 646-664.
48 See Records Verification dated 05 January 2021, id., p. 730.
49 Id., pp. 736-739.
50 Id., pp. 742-751.
51 See Records Verification dated 18 June 2021, id., p. 757.
52 Id., pp. 763-767.
53 One of the exhibits described in Petitioner's Formal Offer of Evidence (**FOE**) as "Export sale of goods supported by zero-rated invoices, export declaration and bill of lading but delivered to an

"P-2662",[54] for not being found in the case records. In the same Resolution, the presentation of respondent's evidence, particularly the testimony of Revenue Officers (**ROs**) Norine L. Cruz (**Cruz**) and Lovely L. Glemao-Mallari (**Glemao-Mallari**), was also scheduled for 27 January 2022.

On 06 December 2021, ICPA Bambao submitted an Amended Report,[55] which the First Division noted in the Order dated 09 February 2022.[56]

On 15 February 2022, petitioner filed a "Motion with Leave of Court to Reopen the Case for Presentation of Additional Evidence with Motion for Leave to Allow Conditional Recall of [ICPA]"[57] (**First Motion to Reopen**). Respondent filed his or her Opposition[58] thereto on 14 March 2022. However, the First Division denied petitioner's First Motion to Reopen for lack of merit.[59]

In view of the denial of petitioner's First Motion to Reopen, the First Division proceeded with trial and scheduled the presentation of respondent's evidence on 14 June 2022 for the testimonies of ROs Cruz and Glemao-Mallari.[60]

During the hearing on 14 June 2022,[61] respondent presented the testimony of his or her witnesses, ROs Cruz and Glemao-Mallari.

On the witness stand, RO Cruz testified as follows: (1) she held the position of RO III, designated as Group Supervisor (**GS**), and was then assigned to the VCAD; (2) she conducts audits or verification of VAT credit or refund claims filed by direct exporters and prepares evaluation reports, including a narrative memorandum report reflecting the results of the field audit or verification; (3) she was tasked to audit and verify

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address different from the buyer's registered address as indicated in the purchase orders issued by Orica International Pte. Ltd."

54 One of the exhibits described in Petitioner's FOE as "Purchases supported by VAT-registered sales invoices or VAT-registered O.R. with incorrect business styles."

55 Division Docket, Volume II, pp. 768-829.

56 Id., p. 832.

57 Id., pp. 836-1045, with attachments.

58 Id., pp. 1048-1050.

59 See Resolution dated 24 March 2022, id., pp. 1054-1055.

60 Id., p. 1056.

61 See Minutes of the Hearing and Order, both dated 14 June 2022, id., pp. 1058-1058-C and 1059-1060, respectively.

petitioner's claim for refund or issuance of a tax credit certificate (**TCC**) for alleged excess and unutilized input VAT for FY ended 30 September 2017 in the aggregate amount of ₱27,185,243.95; (4) the BIR authorized her, together with RO Kristine M. Albano (**Albano**), to evaluate petitioner's refund claim through Tax Verification Notice (**TVN**) No. 201800083078 dated 29 March 2019[62] (with attached Revised Checklist of Mandatory Requirements for Claims for VAT Refund[63]), which the BIR served on petitioner; (5) after conducting audit and verification, her team issued an Audit Memorandum Report dated 21 May 2019[64] recommending that petitioner's claim for refund be reduced by ₱15,375,275.32; (6) said Audit Memorandum Report detailed findings of disallowances, namely — (**a**) disallowed input tax due to violation of invoicing requirements in the amount of ₱9,980,555.25, (**b**) disallowed input tax *per* ITS verification in the amount of ₱5,749.92, and (**c**) discrepancy between input tax *per* schedule submitted and input tax reflected in the Quarterly VAT Return in the amount of ₱1,823,663.46; and (7) on 22 May 2019, the VCAD forwarded the case to the Tax Audit Review Division (**TARD**) pursuant to Section II (II)(D) of Revenue Administrative Order (**RAO**) No. 6-2017,[65] which mandates automatic review by the TARD of findings made by VCAD examiners.[66] After her cross-examination, the First Division deemed RO Cruz's testimony complete and terminated.[67]

Next to testify was RO Glemao-Mallari. On the witness stand, she declared that: (1) she held the position of RO I and was then assigned at the TARD; (2) her duties included reviewing and evaluating reports on claims for excess and unutilized input tax credits in accordance with the authority granted under applicable revenue issuances; (3) in the performance of her duties, she reviewed and evaluated petitioner's claim for refund or issuance of a TCC for alleged excess and unutilized input VAT for FY ended 30 September 2017 in the aggregate amount of ₱27,185,243.95; (4) pursuant to Section II (II)(D) of RAO No. 6-2017, findings of VCAD examiners automatically undergo review by the TARD; (5) the TARD received the entire tax docket pertaining to petitioner's claim on 22 May 2019 for final review; (6) after completing

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62 Exhibit "R-1", BIR Records, p. 9.
63 Exhibit "R-2", id., p. 7.
64 Exhibit "R-3", id., pp. 53-55.
65 AMENDMENT OF REVENUE ADMINISTRATIVE ORDER (RAO) NO. 2-2014 DATED AUGUST 7, 2014 RELATIVE TO THE ORGANIZATION AND FUNCTIONS OF THE OPERATIONS GROUP, INCLUDING THE SERVICES, DIVISIONS AND SECTIONS UNDER IT.
66 See Judicial Affidavit of Revenue Officer Norine L. Cruz, Exhibit "R-6", Division Docket, Volume I, pp. 99-103.
67 See Minutes of the Hearing and Order, both dated 14 June 2022, supra at note 61.

such review, she recommended through a Memorandum Report dated 10 June 2019[68] that petitioner's refund claim be reduced to ₱511,515.44; (7) said Memorandum Report detailed several disallowances and adjustments, particularly — (**a**) disallowed input tax due to noncompliance with the invoicing requirements in the amount of ₱1,733,061.13, (**b**) disallowed input tax *per* ITS verification in the amount of ₱1,366,097.13, (**c**) disallowed input tax on capital goods exceeding ₱1 million in the amount of ₱1,093,033.25, (**d**) disallowed input tax on importations in the amount of ₱37,316.00, (**e**) output VAT assessed on other income in the amount of ₱227,675.10, (**f**) additional output VAT on disposal of assets in the amount of ₱36,126.69, (**g**) output VAT on credit memos considered as taxable sales in the amount of ₱893,548.27, (**h**) input tax allocation on unsupported zero-rated sales considered as exempt in the amount of ₱9,476,605.30, and (**i**) discrepancy *per* amount of claim against available input tax in the amount of ₱0.01; and (**8**) thereafter, the BIR issued a VAT Refund Notice informing petitioner of the reduction of its claim for refund.[69] After her cross-examination, redirect examination and re-cross examination, the First Division deemed RO Cruz's testimony complete and terminated.[70]

On 15 June 2022, respondent filed his or her FOE,[71] consisting of Exhibits "R-1" to "R-5." Petitioner filed its Comment[72] thereto on 23 June 2022. Subsequently, in a Resolution dated 04 August 2022,[73] the First Division admitted respondent's offered exhibits, *except* Exhibit "R-5", for failure to submit the duly marked exhibit.

In compliance with the Court's directive, on 30 August 2022, respondent filed his or her Memorandum,[74] while petitioner filed its "Memorandum with Motion for Leave of Court to Reopen the Case for Presentation of Additional Evidence [**Second Motion to Reopen**]"[75] on 08 September 2022. Respondent failed to file a comment on petitioner's Second Motion to Reopen despite due notice.[76]

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68 Exhibit "R-4", BIR Records, pp. 64-67.
69 See Judicial Affidavit of Revenue Officer Lovely L. Glemao, Exhibit "R-7", Division Docket, Volume I, pp. 89-94.
70 See Minutes of the Hearing and Order, both dated 14 June 2022, supra at note 61.
71 Division Docket, Volume II, pp. 1063-1066.
72 Id., pp. 1068-1070.
73 Id., pp. 1072-1073.
74 Division Docket, Volume II, pp. 1074-1080.
75 Id., pp. 1082-1128, with attached Exhibit "P-4360".
76 See Records Verification dated 10 November 2022, id., p. 1132.

In the Resolution dated 06 January 2023,[77] the First Division partially granted petitioner's Second Motion to Reopen[78] in the interest of justice and scheduled the hearing for the presentation of petitioner's additional evidence on 14 March 2023.

During the hearing on 14 March 2023,[79] petitioner again presented ICPA Bambao as a witness. She testified on the correctness of the original computer printout of Exhibit "P-6", which was remarked during the Commissioner's Hearing as Exhibit "P-4360" (Electronic Filing and Payment System [**eFPS**] Reference No. 101800024844709)[80] and which formed part of her ICPA Report on petitioner's Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th Quarter of FY ended 30 September 2017. Respondent opted not to conduct cross-examination.[81]

On 14 March 2023, petitioner filed its Supplemental FOE with attached original computer printout of Exhibit "P-6" (eFPS Reference No. 101900029712698).[82] Respondent again failed to file a comment thereto despite due notice.[83]

Subsequently, in view of the reorganization of the Court's three (3) divisions, this case was transferred to the Third Division[84] in accordance with Administrative Circular No. 01-2023 dated 23 May 2023.[85]

<u>PROCEEDINGS BEFORE THE THIRD DIVISION</u>

In the Resolution dated 06 June 2023,[86] the Third Division admitted Exhibits "P-6" and "P-4360" and submitted the case for decision, the parties having already filed their respective memoranda.

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77 Id., pp. 1138-1140.
78 Supra at note 75.
79 See Minutes of the Hearing and Order, both dated 14 March 2023, Division Docket, Volume II, pp. 1141-1142 and 1143-1144, respectively.
80 Amended Quarterly VAT Return (BIR Form No. 2550Q) for the 4th Quarter of FY ended 30 September 2017, id., pp. 684-685.
81 See Minutes of the Hearing and Order, both dated 14 March 2023, supra at note 79.
82 Division Docket, Volume II, pp. 1149-1153, with attached Exhibit "P-6."
83 See Records Verification dated 22 March 2023, id., p. 1154.
84 The Third Division was then composed of Associate Justice Catherine T. Manahan (Ret.), as Chairperson, and Associate Justice Marian Ivy F. Reyes-Fajardo, as Member.
85 See Notice dated 01 June 2023, Division Docket, Volume III, p. 1157.
86 Id., p. 1159.

In the now assailed Decision of 08 May 2024,[87] the Third Division dismissed petitioner's original Petition for Review. The dispositive portion thereof reads:

> ...
>
> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**
>
> ...

In dismissing the original Petition for Review, the Third Division concluded that the judicial claim for refund was filed beyond the 90+30-day reglementary period prescribed under Section 112(C)[88] of the National Internal Revenue Code (**NIRC**) of 1997, as amended by Republic Act (**RA**) No. 10963 or the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law. It reckoned the 30-day period to appeal from the lapse of the ninety (90)-day period granted to respondent to act on the administrative claim for refund filed on 20 March 2019. Consequently, the 90-day period expired on 18 June 2019, meaning the 30-day window for the judicial claim lapsed on 18 July 2019. On that basis, the Third Division declared that petitioner's filing on 16 August 2019 was belated.

Relying on the well-settled doctrine that compliance with the 30-day appeal period under Section 112(C) of the NIRC of 1997, as amended, is mandatory and jurisdictional, the Third Division dismissed the case *outright* for lack of jurisdiction.

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87 Supra at note 7.

88 SEC. 112. *Refunds or Tax Credits of Input Tax.* —

...

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes **within ninety (90) days** from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, **within thirty (30) days** from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however,* That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code. (Emphasis supplied)

On 24 June 2024, petitioner filed a "Motion for Reconsideration"[89] (**MR**). Respondent filed his or her Opposition[90] thereto on 10 July 2024. In the similarly assailed Resolution of 26 September 2024,[91] the Third Division denied petitioner's MR for being filed out of time.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Following petitioner's receipt of a copy of the assailed Resolution on 07 October 2024,[92] it filed the present Petition for Review[93] with the Court *En Banc* on 14 October 2024. Petitioner sought the reversal of the Third Division's assailed Decision[94] and Resolution[95], respectively.

In compliance with the Court *En Banc*'s directive,[96] on 20 December 2024, petitioner filed its "Compliance with Submission"[97] (therein attaching a Verified Declaration pursuant to CTA *En Banc* Resolution No. 8-2024[98]), which the Court *En Banc* noted in a Minute Resolution dated 03 January 2025.[99]

Subsequently, on 23 January 2025, respondent filed a Comment[100] on the present Petition for Review. However, before admitting the pleading, the Court *En Banc* directed petitioner to resubmit the email transmittal with the correct case title in the subject line within five (5) days from notice.[101] In compliance with this directive, petitioner resubmitted the required email transmittal on 19 February 2025.[102]

Accordingly, in a Minute Resolution dated 13 March 2025,[103] the Court *En Banc* submitted the case for decision.

89 Division Docket, Volume III, pp. 1180-1192.
90 Id., pp. 1196-1202.
91 Supra at note 8.
92 See Notice of Resolution dated 27 September 2024, Annex "E" to the Petition for Review, supra at note 1, p. 45.
93 Supra at note 1.
94 Supra at note 7.
95 Supra at note 8.
96 See Minute Resolution dated 09 December 2024, *rollo*, p. 65.
97 Id., pp. 67-71, with Annex "A."
98 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.
99 *Rollo*, p. 72.
100 Id., pp. 74-80.
101 See Minute Resolution dated 17 February 2025, id., p. 85.
102 Id., p. 86.
103 Id., p. 87.

ISSUE

In the present Petition for Review[104] before the Court *En Banc*, petitioner assigns a lone issue for Our resolution —

> WHETHER THE COURT OF TAX APPEALS (CTA) - THIRD DIVISION ERRED IN DISMISSING PETITIONER ORICA PHILIPPINES, INC.'S CLAIM FOR REFUND OF EXCESS AND UNUTILIZED INPUT VALUE-ADDED TAX (VAT) IN THE AGGREGATE AMOUNT OF ₱27,185,243.95 FOR THE PERIOD COVERING 01 JANUARY 2017 TO 30 SEPTEMBER 2017, OR THE SECOND (2ND) TO FOURTH (4TH) QUARTERS OF THE FISCAL YEAR (FY) ENDED 30 SEPTEMBER 2017, ON THE GROUNDS OF LACK OF JURISDICTION AND LACK OF MERIT.

ARGUMENTS

In its bid to set aside the Third Division's assailed Decision[105] and Resolution,[106] petitioner argues that the date of mailing indicated in the registry receipt should be deemed the date of filing of the subject MR[107] (of the assailed Decision). Petitioner likewise contends that Section 112(C)[108] of the NIRC of 1997, as amended by RA 10963, otherwise known as the TRAIN Law, constitutes the applicable law governing both the administrative and judicial claims for refund filed in this case. Consequently, petitioner maintains that the jurisprudence relied upon by the Third Division does not squarely apply to the present controversy.

Petitioner further asserts that construing respondent's inaction on the administrative claim as a deemed denial runs contrary to the intent of lawmakers in deleting the "deemed denied" provision under Section 112 of the NIRC of 1997 through the TRAIN Law. Finally, petitioner argues that Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law, being a special provision governing VAT refund claims, should

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[104] Supra at note 1.
[105] Supra at note 7.
[106] Supra at note 8.
[107] Supra at note 89.
[108] Supra at note 88.

prevail over Section 7(a)(2) of RA 1125,[109] as amended by RA 9282,[110] which is a general law.

On the other hand, after citing the Third Division's ruling in the assailed Decision[111] and the Special First Division's ruling in *Citco International Support Services Limited – Philippines ROHQ v. Commissioner of Internal Revenue*,[112] respondent contends that claims for tax refund partake of the nature of tax exemptions and must therefore be strictly construed against the claimant. Respondent maintains that such claims cannot prosper unless the law grants them in clear, explicit, and categorical terms.

Respondent further argues that tax refund claims, being in the nature of tax exemptions, are regarded as in derogation of the sovereign taxing authority and must therefore be construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority. Consequently, respondent asserts that courts view claims for refund with disfavor and may grant them only upon strict compliance with all legal requirements.

RULING OF THE COURT *EN BANC*

Before addressing the merits of this case, We shall first resolve petitioner's claim that it timely filed its MR[113] of the assailed Decision[114] that dismissed the case for lack of jurisdiction.

Petitioner alleges that, in the assailed Resolution,[115] the Third Division ruled that its MR (of the assailed Decision), which was served *via* Grab on 24 June 2024, was filed out of time, *viz*:[116]

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109 AN ACT CREATING THE COURT OF TAX APPEALS.

110 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

111 Supra at note 7.

112 CTA Case No. 10258, 05 October 2023.

113 Supra at note 89.

114 Supra at note 7.

115 Supra at note 8.

116 Par. 24, VI. Discussion and Arguments, Petition for Review, supra at note 1, p. 7.

> ...
>
> Based on the records of the case, this Court received the instant motion on June 24, 2024. It appears from the accompanying envelope and the notation made by the Judicial Records Division that the motion was served '*via* Grab.'
>
> Thus, the filing of Petitioner's Motion for Reconsideration *(Re: Decision on the Petition for Review dated 8 May 2024)* on June 24, 2024 was beyond the prescriptive period.
>
> ...

Disagreeing with the foregoing ruling, petitioner insists that the Third Division should have reckoned the date of filing from the MR's date of mailing or on 30 May 2024. Petitioner asserts that, pursuant to Section 3(b),[117] Rule 13[118] of the ROC, as amended, the date of mailing — evidenced by the post office stamp on the envelope or the registry receipt — constitutes the date of filing, payment, or deposit in court for motions, pleadings, other court submissions, and payments or deposits made through registered mail.

Moreover, petitioner cites the Supreme Court's ruling in *Vitarich Corporation v. Femina R. Dagmil,*[119] which states that "if a pleading is filed by registered mail, then the date of mailing shall be considered as the date of filing. It does not matter when the court actually receives the mailed pleading."[120] Petitioner further argues that the registry receipt in this case bears the Pasig Central Post Office stamp dated 30 May 2024. Petitioner maintains that, since the ROC, as amended, treats the date of mailing as the date of filing, the filing of its MR[121] before the Third Division occurred on 30 May 2024. This date falls within the reglementary period of 15 days from receipt of the assailed Decision on 15 May 2024; thus, the filing of the MR was timely.[122]

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117 Section 3. *Manner of filing*. – The filing of pleadings and other court submissions shall be made by:

...

(b) **Sending them by registered mail[.]**

...

In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. **In the second and third cases, <u>the date of the mailing of motions</u>, pleadings, [and other court submissions, and] payments or deposits, <u>as shown by the post office stamp on the envelope or the registry receipt</u>, shall be considered as <u>the date of their filing</u>, payment, or deposit <u>in court</u>. The envelope shall be attached to the record of the case.** In the fourth case, the date of electronic transmission shall be considered as the date of filing. (Emphasis and underscoring supplied)

118 FILING AND SERVICE OF PLEADINGS. JUDGMENTS AND OTHER PAPERS.

119 G.R. No. 217138, 27 August 2020, citing *Alma B. Russel v. Teofista Ebasan and Agapito Austria,* G.R. No. 184542, 23 April 2010.

120 Par. 26, VI. Discussion and Arguments, Petition for Review, supra at note 1, pp. 7-8.

121 Supra at note 89.

122 Par. 27, VI. Discussion and Arguments, Petition for Review, supra at note 1, p. 8.

We are not convinced.

Section 18 of RA 1125,[123] as amended by RA 9282,[124] implicitly requires the filing of a prior MR before a party may elevate a case on appeal to the Court *En Banc*, as follows:

> ...
>
> Section 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions this Act.
>
> A party adversely affected by a resolution of a Division of the CTA on **motion for reconsideration** or new trial, may file a petition for review with the CTA *en banc*.[125]
>
> ...

Section 2(a)(1), Rule 4 of the RRCTA[126] pertinently provides that the Court *En Banc* shall exercise exclusive appellate jurisdiction to review by appeal the decisions or resolutions on motions for reconsideration or new trial issued by the Court in Divisions when such Divisions act in the exercise of exclusive appellate jurisdiction over cases arising from administrative agencies, such as the BIR, to wit:

> ...
>
> Sec. 2. *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise **exclusive appellate jurisdiction to review by appeal** the following:
>
> (a) **Decisions** or resolutions on motions for reconsideration or new trial **of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over**:
>
> (1) **Cases arising from administrative agencies — Bureau of Internal Revenue**, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.][127]
>
> ...

[123] Supra at note 109.
[124] Supra at note 110.
[125] Emphasis supplied and italics in the original text.
[126] A.M. No. 05-11-07-CTA.
[127] Emphasis supplied and italics in the original text.

Relative thereto, Section 1, Rule 8 of the RRCTA provides as follows:

> ...
>
> SEC. 1. *Review of cases in the Court en banc.* — In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division **must** be preceded by the filing of a timely motion for reconsideration or new trial with the Division.[128]
>
> ...

In *City of Manila and Office of the City Treasurer of Manila v. Cosmos Bottling Corporation*,[129] the Supreme Court clarified the scope and application of the foregoing provisions, explaining in this wise:

> ...
>
> Clear it is from the cited rule that **the filing of a motion for reconsideration** or new trial **is mandatory** — not merely directory — **as indicated by the word 'must.'**
>
> Thus, in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue (Asiatrust)*, we declared that a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution in order for the CTA En Banc to take cognizance of an appeal via a petition for review. **Failure to do so is a ground for the dismissal of the appeal as the word 'must' indicates that the filing of a prior motion is mandatory, and not merely directory.** In *Commissioner of Customs v. Marina Sales, Inc. (Marina Sales)*, which was cited in *Asiatrust*, we held:
>
>> The rules are clear. **Before the CTA En Banc could take cognizance of the petition for review concerning a case falling under its exclusive appellate jurisdiction, the litigant must sufficiently show that it sought prior reconsideration** or moved for a new trial **with the concerned CTA division.** Procedural rules are not to be trifled with or be excused simply because their noncompliance may have resulted in prejudicing a party's substantive rights. Rules are meant to be followed. They may be relaxed only for very exigent and persuasive reasons to relieve a litigant of an injustice not commensurate to his careless non-observance of the prescribed rules.
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> ...

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128 Emphasis supplied and italics in the original text.

129 G.R. No. 196681, 27 June 2018; Citations omitted, emphasis supplied and italics in the original text..

The foregoing disquisition thus establishes that a party must first file an MR or motion for new trial (**MNT**) before filing a Petition for Review with the Court *En Banc* to assail a ruling issued by the Court in Division. Without such prior motion, the Court *En Banc* cannot properly exercise its appellate jurisdiction. Consequently, the petition becomes dismissible for failure to comply with this procedural requirement.

Sections 3 and 16, Rule 13 of the ROC, as amended, respectively prescribe the manner of filing pleadings and other court submissions and the proof required to establish such filing, to wit:

> ...
> Section 3. *Manner of filing.* — The filing of pleadings and other court submissions shall be made by:
>
> (a) Submitting personally the original thereof, plainly indicated as such, to the court;
>
> (b) **Sending them by registered mail**;
>
> (c) Sending them by accredited courier; or
>
> (d) Transmitting them by electronic mail or other electronic means as may be authorized by the Court in places where the court is electronically equipped.
>
> In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. **In the second and third cases, the date of the mailing of motions, pleadings, and other court submissions, and payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case.** In the fourth case, the date of electronic transmission shall be considered as the date of filing.
>
> Section 16. *Proof of filing.* — **The filing of a pleading or any other court submission shall be <u>proved by its existence in the record of the case</u>.**
>
> (a) If the pleading or any other court submission is not in the record, but is claimed to have been filed personally, the filing shall be proven by the written or stamped acknowledgment of its filing by the clerk of court on a copy of the pleading or court submission;
>
> (b) **If the pleading or any other court submission was filed by registered mail, the filing shall be proven by the registry**

> **receipt and by the affidavit of the person who mailed it, containing a full statement of the date and place of deposit of the mail in the post office** in a sealed envelope addressed to the court, with postage fully prepaid, and with instructions to the postmaster to return the mail to the sender after ten (10) calendar days if not delivered.[130]
>
> ...

In this case, petitioner seeks to establish that it filed the MR[131] of the assailed Decision[132] before the Third Division *via* registered mail on 30 May 2024, prior to the filing of the present Petition for Review.[133] To support this claim, petitioner alleges the following:[134]

> ...
>
> 19.1. Copy of the Registry Receipt stamped by Pasig Central [O]ffice dated 30 May 2024 is attached herewith as **Annex 'F'** and made integral part hereof.
>
> 19.2. Certification from the post office was already requested on 3 October 2024. Petitioner undertakes to submit the same to this Honorable Court – *En Banc* as soon as it becomes available.
>
> 19.[3]. Copy of the Affidavit of Service by Mr. Homer Juan V. Lopez, Cabrera & Company's liaison officer, is attached herewith as **Annex 'G'** and made integral part hereof.
>
> ...

In the Affidavit of Service dated 30 May 2024[135] executed by Homer Juan V. Lopez (**Lopez**), Lopez states that he "personally served through registered mail" "[s]even (7) copies of the [MR] dated 30 May 2024 filed by [petitioner] for the case entitled **'Orica Philippines Inc. vs. Commissioner of Internal Revenue.'** docketed as **CTA Case No. 10152**." Lopez further states that he sent the said copies to the following offices: the Court of Tax Appeals (**CTA**), the Office of the Solicitor General (**OSG**), and the CIR. The affidavit likewise bears handwritten registry receipt numbers beside the names of these offices and indicates a handwritten date appearing below the registry receipt number corresponding to the CTA, *viz:*

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130 Italics in the original text, emphasis and underscoring supplied.
131 Supra at note 89.
132 Supra at note 7.
133 Supra at note 1.
134 Pars. 19.1 to 19.3, IV. Statement of Facts, Petition for Review, supra at note 1, p. 6.
135 Division Docket, Volume III, p. 1193; Annex "G" to the Petition for Review, supra at note 1, p. 63.

Court of Tax Appeals Agham Road, Diliman, Quezon City	RE 857 226 581 ZZ 30 May 2024
Office of the Solicitor General 134 Amorsolo St., Legaspi Village, Makati City	RE 857 226 604 ZZ
The Commissioner of Internal Revenue Bureau of Internal Revenue, Room 703, Litigation Division, BIR National Office Building, BIR Road, Diliman Quezon City	RE 857 226 595 ZZ

Unfortunately, these pieces of evidence on record do not sufficiently establish that petitioner filed the subject MR[136] (of the assailed Decision[137]) before the Third Division *via* registered mail on 30 May 2024.

First, the Court *En Banc* notes that the photocopy of the subject MR (of the assailed Decision), attached as Annex "F"[138] to the present Petition for Review, bears a stamped Registry Receipt No. "**RE 857 226 581 ZZ**" dated "**30 MAY 2024**", appearing on the upper right portion of the first page thereof. However, petitioner did not attach the original of this registry receipt to the original copy of the MR filed before the Third Division. Instead, petitioner attached only the original registry receipts corresponding to service upon the OSG and the CIR to the said original MR.

Second, notwithstanding petitioner's undertaking to provide the Court *En Banc* with a certification from the post office confirming that the subject MR was sent through registered mail on 30 May 2024,[139] petitioner has not submitted any such certification in this case — from the filing of the present Petition for Review up to the promulgation of this Decision. Moreover, even assuming that the said certification remains unavailable, petitioner failed to present any other pertinent document issued or executed with the intervention of the post office that could establish the fact of mailing and sending of the subject MR.

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136 Supra at note 89.
137 Supra at note 7.
138 Supra at note 1, pp. 50-62.
139 Par. 19.2, IV. Statement of Facts, Petition for Review, supra at note 1, p. 6.

Third, Section 16,[140] Rule 13 of the ROC, as amended, clearly mandates that the filing of a pleading or any other court submission must be proved by its existence in the records of the case. Here, although the brown envelope[141] containing the original MR[142] (of the assailed Decision[143]) appears in the records of the case, and the said envelope bears a PhilPost sticker with the number "**RE 857 226 581 ZZ**" — which matches the handwritten registry receipt number corresponding to service upon the CTA indicated in Lopez's Affidavit of Service[144] — the envelope does not bear any post office date stamp.

Finally, as correctly observed by the Third Division in the assailed Resolution,[145] the "accompanying envelope and the notation made by the Judicial Records Division [**JRD**]" in the subject MR (of the assailed Decision) show that the Court received the same on 24 June 2024 "*via* Grab", and not through registered mail, contrary to petitioner's claim.

Additionally, delivery *via* Grab, a private courier or rider service, is not among the modes of filing provided under Section 3,[146] Rule 13 of the ROC, as amended. Since Grab does not fall within the mode of filing by registered mail, the Court treats such delivery as personal filing through a messenger or courier.

Considering that the records of the case show that petitioner sent the subject MR (of the assailed Decision) through a private courier, and not through registered mail or an accredited courier, the date of actual receipt of the MR by the Third Division constitutes the date of filing.[147] Accordingly, the Third Division correctly treated the MR as filed only on 24 June 2024, when the JRD received the same. This date already falls beyond the 15-day reglementary period for filing an MR.

As to why the brown envelope containing the original MR[148] (of the assailed Decision[149]) bears a PhilPost registry receipt number, while

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140 Supra at p. 19.
141 Division Docket, Volume III, p. 1194.
142 Supra at note 89.
143 Supra at note 7.
144 Supra at note 135.
145 Supra at note 8, p. 1206.
146 Supra at p. 19.
147 See *Heirs of Numeriano Miranda, Sr., et al. v. Pablo R. Miranda*, G.R. No. 179638, 08 July 2013.
148 Supra at note 89.
149 Supra at note 7.

the records show that Grab — not PhilPost — actually delivered the envelope to the Court, the reason remains unclear. The records do not establish, as a matter of fact, the circumstances surrounding this discrepancy. At most, one may surmise (however unlikely) that PhilPost might have resorted to delivery through Grab. However, absent the actual envelope originating from PhilPost or, at the very least, the aforementioned certification from the post office, such possibility cannot be established with certainty. Notably, petitioner bears responsibility for this uncertainty, as it failed to explain or account for the discrepancy and did not present any competent evidence clarifying the circumstances surrounding the alleged mailing of the MR.

It bears stressing that Section 3(e),[150] Rule 131[151] of the Revised Rules on Evidence (**RRE**), as amended,[152] provides that the willful suppression of evidence gives rise to the presumption that such evidence would be adverse if produced. Petitioner's failure to present a clear and satisfactory explanation, despite having the opportunity to do so, therefore operates against its claim that it filed the subject MR (of the assailed Decision) through registered mail on 30 May 2024.

In view of the foregoing, it is clear that the documents submitted by petitioner fail to establish that the subject MR (of the assailed Decision) was indeed filed *via* registered mail on 30 May 2024. Consequently, the Court *En Banc* must affirm the Third Division's ruling in the assailed Resolution[153] that petitioner filed the MR only on 24 June 2024, which falls beyond the reglementary period.

Due to this procedural lapse, the Third Division's assailed Decision has already attained finality because petitioner failed to timely file the MR before filing the present Petition for Review.[154] Thus, the Court *En Banc* has no recourse but to dismiss the case outright for lack of jurisdiction.

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150 Sec. 3. *Disputable presumptions*. – The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

...

(e) That evidence willfully suppressed would be adverse if produced[.]

151 BURDEN OF PROOF, BURDEN OF EVIDENCE AND PRESUMPTIONS.

152 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC).

153 Supra at note 8.

154 Supra at note 1.

It is settled that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional. This means that the failure to interpose a timely appeal deprives the appellate body of any jurisdiction to alter the final judgment, more so to entertain the appeal. Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not, and no court — not even the Supreme Court — has the power to revise, review, change or alter the same. The right to appeal is not a part of due process of law, but is a mere statutory privilege to be exercised only in the manner, and in accordance with, the provisions of the law. After a decision is declared final and executory, vested rights are acquired by the winning party.[155]

In the same vein, an MR must necessarily be filed within the period to appeal.[156] When filed beyond such period, the MR *ipso facto* forecloses the right to appeal.[157] Indeed, just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the case.[158]

In fine, given the circumstances surrounding the filing of the subject MR[159] (of the assailed Decision[160]), the present petition does not rest on sufficiently meritorious grounds that would justify a relaxation of procedural rules to relieve petitioner from the consequences of its failure to comply with the prescribed procedure. As a result, the Court *En Banc* finds no ample basis to take cognizance of this appeal in the higher interest of substantial justice.

WHEREFORE, premises considered, petitioner Orica Philippines, Inc.'s Petition for Review, filed on 14 October 2024, is hereby **DISMISSED** for lack of jurisdiction.

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155 *Bureau of Internal Revenue v. TICO Insurance Company, Inc., et al.*, G.R. No. 204226, 18 April 2022.

156 *Roberto Y. Ponciano, Jr. v. Laguna Lake Development Authority and Republic of the Philippines*, G.R. No. 174536, 29 October 2008.

157 Id.

158 *Allied Banking Corporation and Pacita Uy v. Spouses David E. Eserjose and Zenaida Eserjose*, G.R. No. 161776, 22 October 2004.

159 Supra at note 89.

160 Supra at note 7.

x - x

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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