REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

STA. ELENA CONSTRUCTION & DEVELOPMENT CORPORATION, *Petitioner,*	**CTA *EB* SCA NO. 0011** (CTA SCA NO. 0029)
	Present:
-versus-	**RINGPIS-LIBAN**, *P.J.*, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and*, **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAY 2 1 2026 3:17 p.m.

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RESOLUTION

CUI-DAVID, J.:

On February 5, 2026, the Court *En Banc* received the undated *Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)*, filed by petitioner Sta. Elena Construction & Development Corporation.

The *Petition for Certiorari* assails the *Resolutions* dated April 8, 2025 and November 5, 2025 (assailed *Resolutions*) issued by the Court of Tax Appeals – Second Division (Court in Division), which dismissed petitioner's earlier *Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)* filed on December 23, 2024. The dispositive portions of the assailed *Resolutions* read:

***Resolution* dated April 8, 2025**

WHEREFORE, premises considered, the instant *Petition for Certiorari* filed on December 23, 2024, is **DISMISSED**.

SO ORDERED.[1]

***Resolution* dated November 5, 2025**

ACCORDINGLY, petitioner's *Motion for Reconsideration (to the Resolution dated 08 April 202)* is **DENIED** for lack of merit.

Consequently, petitioner's *Urgent Motion to Suspend Collection of Taxes* is **NOTED without ACTION.**

SO ORDERED.[2]

Upon review of the present *Petition for Certiorari,* the Court finds that the dismissal of the case is in order.

Petitions for *certiorari* are governed by Rule 65 of the Revised Rules of Court:

RULE 65
CERTIORARI, PROHIBITION, AND MANDAMUS

Section 1. *Petition for certiorari.* – **When any tribunal**, board or officer **exercising judicial** or quasi-judicial functions **has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction**, and **there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law**, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order, or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

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[1] Division Docket, p. 103.
[2] *Id.* at 272.

> Section 4. *When and where to file the petition.* – The petition shall be filed **not later than sixty (60) days from notice of the** judgment, order, or **resolution. In case a motion for reconsideration** or new trial **is timely filed**, whether such motion is required or not, **the petition shall be filed not later than sixty (60)** days counted from the notice of the denial of the motion[.] (Emphasis supplied)

Under Section 4 of Rule 65, a petition for *certiorari* must be filed within **sixty (60) days** from notice of the assailed judgment, order or resolution. Its essential requisites are: (1) the writ is directed against a tribunal, a board or any officer exercising judicial or quasi-judicial functions; (2) such tribunal, board or officer has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal or any plain, speedy and adequate remedy in the ordinary course of law.[3]

Here, the present *Petition for Certiorari* was **filed out of time**, and the essential requisites for its allowance are **not present**.

On the timeliness of the filing of the present *Petition for Certiorari*, petitioner alleges that the *Petition* was filed within the period provided under Rule 65, claiming receipt of the assailed *Resolution* dated November 5, 2025 only on December 4, 2025. It further cites jurisprudence allowing the relaxation of procedural rules on timeliness and argues that the acts complained of are "continuing" in nature, thus justifying the filing of the present petition. Petitioner asserts the following:

TIMELINESS OF THE PETITION

> This Petition has been filed within the reglementary period prescribed under Rule 65 of the Rules of Court, in relation to Rule 8 of the Revised Rules of the Court of Tax Appeals/
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> Petitioner received a hard copy of the Resolution **dated 05 November 2025**, denying the Motion for Reconsideration, on **04 December 2025** (Annex A-5), when the same was physically left at counsel's office lobby and thereafter forwarded internally in the ordinary course of business. **No registry return card or electronic proof of service exists**, as the Resolution was not served by registered mail or electronic means. Immediately upon confirmation of receipt, Petitioner formally requested certified true copies from the Office of the Clerk of Court on 05 December 2025, the filing of

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[3] *Tagle v. Equitable PCI Bank*, G.R. No. 172299, April 22, 2008 [Per J. Chico-Nazario, Third Division].

> this Petition falls well within the sixty (60)-day period provided under Rule 65.
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> Even assuming ***arguendo*** that an earlier date were considered, jurisprudence consistently recognized that the sixty-day period under Rule 65 is **not inflexible**, and may be relaxed where strict application would result in a denial of substantial justice, particularly where the petition raises **pure question of jurisdiction** and alleges a continuing violation of due process ...
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> More importantly, the assailed acts in this case – namely, the **enforcement of a Warrant of Distrain and/or Levy and the continuing garnishment of Petitioner's funds** – are continuing and coercive in nature ... Where the acts complained off are continuing, the period to file a petition for certiorari **may not be strictly** reckoned from a single date, as each act of enforcement constitutes a fresh violation of right. Accordingly, this Petition is timely filed.[4] (Emphasis in the original, citations omitted)

However, the records show that the assailed *Resolution* dated November 5, 2025 was served on petitioner on **December 1, 2025**.[5] Thus, petitioner had until **January 30, 2026** to file a petition for *certiorari* before the Court *En Banc*. Nevertheless, the present *Petition for Certiorari* was filed only on **February 5, 2026**, which is clearly beyond the reglementary period.

Even assuming that the Court *En Banc* were to adopt petitioner's alleged date of receipt of **December 4, 2025**, petitioner would have had only until **February 2, 2026** to file the petition. Still, the filing of the present *Petition for Certiorari* only on **February 5, 2026,** would remain beyond the reglementary period.

Further, even if the Court *En Banc* were to consider the alleged date of receipt of **December 5, 2025**, as stated in the attached Affidavit of Building Administrative Staff (Re: Actual Receipt of CTA Second Division Resolution),[6] petitioner would have had only until **February 3, 2026,** to file the petition. Clearly, the filing of the present *Petition for Certiorari* on **February 5, 2026,** was already time-barred.

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[4] *En Banc* Docket, unpaged, *Petition for Certiorari ((With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)* [*Petition*], pp. 5-6.
[5] Division Docket, p. 267, Notice of Resolution dated November 5, 2025.
[6] *En Banc* Docket, unpaged, *Petition*, Annex A-5.

Apart from being belatedly filed, the present *Petition for Certiorari* is also the wrong remedy to assail the Resolutions of the Court in Division dismissing petitioner's earlier *Petition for Certiorari and* denying the subsequent *Motion for Reconsideration.*

As a rule, *certiorari* will lie only in the absence of an appeal or any other plain, speedy, and adequate remedy in the ordinary course of law. If the remedy of appeal is available, a petition for *certiorari* under Rule 65 will not prosper.[7]

In this case, the remedy of appeal was clearly available under Rule 43 of the Revised Rules of Court, pursuant to Sections 3(b) and 4(b), Rule 8 of the Revised Rules of the CTA (RRCTA), *viz.*:

> Sec. 3. Who may appeal; period to file petition. — ....
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> (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 <u>within fifteen days</u> from receipt of a copy of the questioned** decision or **resolution.**
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> . . . .
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> SEC. 4. Where to appeal; mode of appeal. ...
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> (b) **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 <u>Rule 43 of the Rules of Court</u>**. The Court *en banc* shall act on the appeal. (Emphasis supplied)

Having received a copy of the *Resolution* dated November 5, 2025 on **December 1, 2025**, petitioner had fifteen (15) days, or until **December 16, 2025,** to file a petition for review before the Court *En Banc* under Rule 43. It did not do so. Instead, petitioner filed the present *Petition for Certiorari* under Rule 65 of the Revised Rules of Court only on **February 5, 2026**. Consequently, the assailed *Resolution* dated November 5, 2025, became final and executory on **December 17, 2025**.

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[7] *People v. Tuyay*, G.R. No. 206579, December 1, 2021 [Per J. Hernando, Second Division].

In *Commissioner of Internal Revenue v. Court of Tax Appeals, Third Division,* [8] the Supreme Court further instructs that resort to certiorari cannot be justified by the mere allegation that the issue raised is jurisdictional, since such issues can be raised on appeal, *viz.*:

> Neither can it be averred that the only question raised in this case is a jurisdictional question. As already mentioned, *certiorari* lies only where there is no appeal nor any plain, speedy, and adequate remedy in the ordinary course of law. There is no reason why the issue of grave abuse of discretion could not have been raised on appeal.

Thus, petitioner's allegation of grave abuse of discretion is insufficient to sustain the present *Petition for Certiorari.* Being a wrong remedy, the instant petition merits outright dismissal.[9]

Even assuming *arguendo* that the Court *En Banc* were to give due course to the present *Petition for Certiorari,* the same would still be dismissible for lack of merit.

In *Bureau of Internal Revenue v. Acosta,*[10] the Supreme Court explained the nature and office of a petition for *certiorari* under Rule 65 of the Revised Rules of Court, as follows:

> A petition for *certiorari* under Rule 65 of the Rules of Court covers errors of jurisdiction or grave abuse of discretion amounting to excess or lack of jurisdiction. Errors of jurisdiction refer to acts done by the court without or in excess of its jurisdiction, and which error is correctible only by the extraordinary writ of *certiorari.* The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or to a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility. The petitioner, or the BIR in this case, bears the burden to prove not merely reversible error, but grave abuse of discretion on the part of the public respondent, absent which in the exercise of judicial power a petition for *certiorari* cannot prosper. (Citations omitted)

There is grave abuse of discretion when an act is (1) done contrary to the Constitution, the law, or jurisprudence, or (2)

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[8] G.R. No. 203403, November 14, 2018 [Per J. Reyes Jr., Second Division].
[9] *Commissioner of Internal Revenue v. Court of Tax Appeals Second Division*, G.R. No. 258947, March 29, 2022.
[10] G.R. No. 195320, April 23, 2018 (Per J. Reyes, Jr., Second Division).

executed whimsically, capriciously, or arbitrarily out of malice, ill will, or personal bias.[11]

In the present *Petition for Certiorari*, petitioner alleges:

> PREFATORY STATEMENT
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> The assailed Resolutions dismissed Petitioner's *Petition for Certiorari* and denied its Motion for Reconsideration solely on procedural grounds, without resolving the serious jurisdictional and constitutional issues raised against the Bureau of Internal Revenue's assessment and continuing collection actions. In doing so, the CTA Second Division first refused to exercise jurisdiction over issues that go into the very authority of the State to assess and collect taxes, and thereafter perpetuated the same error by denying reconsideration without addressing the substantial matters raised.
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> These acts constitute grave abuse of discretion amounting to lack or excess of jurisdiction, correctible by this Honorable Court *En Banc*.
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> . . . .
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> ISSUES RAISED
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> . . . .
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> Stated differently, the core issue is whether the CTA Second Division refused to exercise its jurisdiction by mechanically applying procedural rules to defeat a Petition for Certiorari that squarely invoked questions of jurisdiction and continuing violation of constitutional rights.
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> DISCUSSION
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> . . . .
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> Taken together, the assailed Resolutions demonstrate a refusal to exercise jurisdiction and capricious adherence to technical rules at the expense of substantial justice. These acts fall squarely within the corrective reach of certiorari.[12]

A careful review of the Court in Division's assailed *Resolutions* reveals no such grave abuse of discretion. On the contrary, the dismissal of the earlier *Petition for Certiorari* and the subsequent denial of the *Motion for Reconsideration* were

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[11] *Commissioner of Internal Revenue v. Court of Tax Appeals, Third Division*, G.R. No. 203403, November 14, 2018 [Per J. Reyes, Jr., Second Division].

[12] *En Banc* Docket, unpaged, *Petition*, pp.1-2,7, 9.

grounded on applicable provisions of the RRCTA, the Revised Rules of Court, relevant Court issuances, and prevailing jurisprudence.

The Court *En Banc* likewise agrees that petitioner's reason for the belated filing of its *Petition for Certiorari* –its alleged lack of legal representation – does not constitute a compelling justification that would warrant the relaxation of procedural rules.

Petitioner's repeated non-compliance with applicable procedural requirements has likewise not escaped the attention of the Court *En Banc*. The importance of strict adherence to procedural rules has already been emphasized in the assailed *Resolutions*, wherein the Court in Division found that both the *Petition for Certiorari* and the *Motion for Reconsideration* were filed beyond the prescribed periods. In addition, the Court in Division also noted petitioner's failure to comply with CTA *En Banc* Resolution No. 8-2024 on electronic filing.

Notably, in its *Motion for Reconsideration*[13] filed before the Court in Division, petitioner expressly undertook to fully comply with CTA *En Banc* Resolution No. 8-2024 in all its future submissions. Despite this undertaking, petitioner again failed to observe the same requirement in the present case. The present *Petition for Certiorari* was personally filed out of time, and although the annexes were transmitted electronically, the petition itself in Portable Document Format (PDF) was not electronically filed.[14]

Under CTA *En Banc* Resolution 8-2024, the present *Petition for Certiorari* is deemed **not filed**. While the Court *En Banc* may direct petitioner to comply with the said requirement, such compliance would not alter the disposition of the case.

In this light, the Supreme Court's reminder in *Dagot, Jr. v. Spouses Go Cheng Key and Chua Siong Kuan*,[15] is instructive:

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[13] Division Docket, p. 109, Motion for Reconsideration (Pursuant to Rule 15 of the Revised Rules of the Court of Tax Appeals), par. IV (18).

[14] Records Verification dated March 5, 2026 stating that "[a]s of this date and records of this Court, there was NO PDF copy of Petition for Review [sic] attached in the email received on February 7, 2026 filed by Petitioner in the above-entitled case." The present *Petition* was personally filed on February 5, 2026. Under *En Banc* Resolution No. 8-2024, petitioner is required to electronically transmit a copy of its *Petition* within 24 hours or until February 6, 2026, 11:59 p.m. Petitioner belated email on February 7, 2026, 12:11 a.m. contained only the annexes of its *Petition*.

[15] G.R. Nos. 211309 & 211957, October 2, 2024 [Per J. Hernando, First Division].

> [C]ourts and litigants alike are enjoined to follow procedural rules except only for the most persuasive reasons:
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> > Alluding to the 'interest of substantial justice' should not automatically compel the suspension of procedural rules. While they may have occasionally been suspended, it remains basic policy that the Rules of Court are to be faithfully observed... **The bare invocation of 'the interest of substantial justice' is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights.** Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of [their] thoughtlessness in not complying with the procedure prescribed.
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> Litigants and their counsels are warned to not employ schemes that are contrary to our prevailing laws and procedures lest they be constrained to suffer the adverse consequences thereof. Courts are also reminded to be circumspect and mindful of the effects of issuing any orders in the "interest of substantial or higher justice" so as to not further delay the speedy and efficient administration of justice. (Emphasis supplied; citations omitted)

In fine, petitioner failed to show that the Court in Division committed grave abuse of discretion in dismissing the subject *Petition for Certiorari* and denying the *Motion for Reconsideration.* There is nothing in the assailed *Resolutions* to show that the Court in Division acted in a manner so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law.

WHEREFORE, premises considered, the *Petition for Certiorari (With Application for Temporary Restraining Order and/or Writ of Preliminary Injunction)* is hereby **DISMISSED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice