REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

TETRA PAK PHILIPPINES, INC.,
Respondent.

CTA *EB* NO. 2831
(CTA Case No. 10113)

Present:

DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:

FEB 11 2025 11:25 am

x -- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

Before the Court is petitioner's *Motion for Reconsideration (Re: Resolution* [*sic*] *Promulgated 12 September 2024)*, filed on October 7, 2024, with respondent's *Comment/Opposition (to the Respondent's Motion for Reconsideration dated 4 October 2024)*, filed via licensed courier on 18 October 2024. Petitioner assails the Decision of this Court, dated September 12, 2024, which dismissed his Petition for Review for being filed late.

The Motion lacks merit.

Petitioner's primary argument against the dismissal of the case is his insistence that the reckoning point for filing a Petition for Review before this Court *En Banc* should be the Bureau of Internal Revenue's ("BIR") receipt of the assailed issuance, not that of the Office of the Solicitor General ("OSG"), given that (1) the latter validly deputized the lawyers of the former; (2) said lawyers of the BIR are the ones who actually prepare petitioner's pleadings; and (3) technical rules of procedure should be applied with a liberal hand.

The arguments fail to convince. First, the deputization of BIR lawyers does not directly refute the laws, rules, and jurisprudence on which Our ruling was based. While the BIR's lawyers were, indeed, deputized by the OSG to "prepare all pleadings, motions, . . . and other papers/documents in connection with the case," nothing in the passage quoted by petitioner from the Memorandum of Agreement between the BIR and the OSG shows that the OSG *loses* its status as main counsel for petitioner before the Court *En Banc*. This is precisely the reason raised in the assailed Decision for reckoning the period for filing a Petition for Review with the Court of Tax Appeals ("CTA") *En Banc* from the OSG's receipt, rather than that of the BIR, of a denial of Motion for Reconsideration. The Motion's discussion of such deputization thus fails to refute Our ruling.

The claims that the BIR's lawyers are the ones who prepare petitioner's pleadings in practice and that "it is not desirable for [the] OSG to attend to each and every case that [is] filed against the government" do not persuade Us either. If anything, this is an *admission of non-compliance* by petitioner himself. For as quoted in the assailed Decision and in the Motion itself, the *Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), states that the deputized BIR lawyers "shall remain at all times under the direct control and supervision of the Solicitor General." Note the use of the word "shall" in the preceding quotation, which means that the BIR lawyers are *required* to remain under the control and supervision of the OSG. By claiming that the OSG is, in effect, not involved in the case, petitioner is thus claiming that the BIR and OSG are directly and knowingly violating *Rule 9, Section 10 of the RRCTA*. The fact that it is apparently not "desirable" for the OSG to remain as the primary counsel here is of no moment, inasmuch as a rule's perceived desirability has no effect whatsoever on said rule being *mandatory* and *required.*

Neither does this Court *En Banc* see a good reason to relax technical rules of procedure here, despite doing so in other cases. It is true that the CTA has relaxed such technical rules before when dealing with Petitions for Review that were not fully compliant with the rules. However, such permissiveness cannot be applied when doing so would directly contradict existing jurisprudence. Such jurisprudence can be found here, as the Supreme Court has consistently held that when the OSG deputizes special lawyers, it is the service of legal processes on the OSG, *not* on the deputized lawyers, that is decisive.[1] Given this clear and consistent pronouncement from the High

[1] *Baldovino-Torres v. Torres*, G.R. No. 248675, July 20, 2022; *Commissioner of Customs v. Court of Tax Appeals*, G.R. No. 132929, March 27, 2000; *National Power Corporation v. National Labor Relations Commission*, G.R. No. 90933-61, May 29, 1997.

Court, this Court's usual liberality towards procedural rules cannot be extended to this case.

As to petitioner's direct arguments against the grant of a refund to respondent, the same are rehashed from arguments previously raised and have consequently already been discussed in the assailed Decision and in the issuances of the Court in Division as either lacking in merit or wholly irrelevant to the case. We thus need not cover them anew here.

In short, the Motion fails to show that Our ruling in the assailed Decision was in error.

ACCORDINGLY, the instant *Motion for Reconsideration (Re: Resolution* [*sic*] *Promulgated 12 September 2024)*, filed on October 7, 2024, is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice