21-000464-0093

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10688

FIRST TELECOM PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MARVEEN B. DE LA PAZ
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

DU-BALADAD AND ASSOCIATES
20th Floor, Chatham House
Rufino corner Valero Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **April 15, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 21, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST TELECOM PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10688

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

APR 15 2025, 9:20 AM

x- -x

RESOLUTION

Before the Court is respondent's ***Motion for Reconsideration (Re: Decision dated December 17, 2024)*** filed via personal service and e-mail on January 17, 2025, with petitioner's *Comment (on Respondent's Motion for Reconsideration dated January 17, 2025)*, filed via personal service and e-mail on February 7, 2025.

Respondent's *Motion* seeks the reversal of the Court's *Decision* promulgated on December 17, 2024 (assailed *Decision*), which granted petitioner's *Petition for Review*. The dispositive portion of the assailed *Decision* reads:

> **WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**. Accordingly, the Formal Letter of Demand with Final Assessment Notices dated December 28, 2017, are **CANCELLED** and **SET ASIDE**. The Final Decision on Disputed Assessment dated October 29, 2021, assessing petitioner First Telecom Philippines, Inc. for deficiency income tax, value-added tax, expanded withholding tax, improperly accumulated earnings tax, penalties, and interest for taxable year 2012, is **REVERSED** and **SET ASIDE**.
>
> Furthermore, respondent is **ENJOINED** and **PROHIBITED** from enforcing the collection of the subject deficiency taxes against petitioner.

SO ORDERED.

At the onset, the Court notes that the *Motion for Reconsideration* was filed out of time.

Records reveal that respondent, through the Office of the Solicitor General (**OSG**), received the *Notice of Decision* on **December 23, 2024**, while the Bureau of Internal Revenue (**BIR**) received it on January 2, 2025.

Section 11 of Republic Act (**RA**) No. 1125,[1] as amended by RA No. 9282,[2] provides:

> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. — ...
>
> "All other cases involving rulings, orders or decisions filed with the CTA as provided for in Section 7 shall be raffled to its Divisions. A party adversely affected by a ruling, order or decision of a Division of the CTA may file a motion for reconsideration or new trial before the same Division of the CTA **<u>within fifteen (15) days from notice thereof</u>**: Provide, however, That in criminal cases, the general rule applicable in regular Courts on matters of prosecution and appeal shall likewise apply.
>
> ... ... [Emphasis supplied]

Accordingly, respondent had 15 days from December 23, 2024, or until **January 7, 2025**, to file the *Motion for Reconsideration*. However, the *Motion for Reconsideration* was filed only on January 17, 2025, **<u>ten (10) days</u>** beyond the deadline.

The Court emphasizes that, for purposes of computing the reglementary period to file an appeal and determining whether a decision has attained finality, service on the OSG, not the BIR, is the proper basis. A lawyer deputized by the OSG is considered merely a representative, while the OSG retains supervision and control over the deputized lawyer. As a consequence, copies of orders and decisions served on the deputized counsel, acting as

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1 AN ACT CREATING THE COURT OF TAX APPEALS.

2 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.

agent or representative of the Solicitor General, are not binding until they are actually received by the latter.[3]

Given the untimely filing of respondent's *Motion*, the assailed *Decision* has become final, executory, and unappealable, thereby depriving this Court of jurisdiction to entertain the *Motion*.

WHEREFORE, in light of the foregoing, respondent's *Motion for Reconsideration* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ON OFFICIAL BUSINESS
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

[3] *Baldovino-Torres v. Torres, et al.*, G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division], citing *National Power Corporation v. National Labor Relations Commission, et al.*, G.R. Nos. 90933-61, May 29, 1997 [Per J. Romero, Second Division].