REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3077** (CTA Case No. 8198)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.,*** **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
PHILIPPINE AIRLINES, INC., Respondent.	Promulgated: APR 08 2025 3:10pm

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RESOLUTION

On February 17, 2025, a Petition for Review was filed by the Commissioner of Internal Revenue (CIR), assailing the Decision dated October 3, 2024 and the Resolution dated January 7, 2025 rendered by the Court of Tax Appeals (CTA) Second Division in CTA Case No. 8198.

Petitioner alleged that he received a copy of the assailed Resolution on January 16, 2025.[1] Under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), petitioner had fifteen (15) days from receipt of the assailed Resolution, or until January 31, 2025, to appeal to the Court *En Banc*.

On January 31, 2025, petitioner filed a Motion for Extension to File Petition for Review,[2] praying for an extension of fifteen (15) days from January 31, 2025, or until February 15, 2025, to file the petition.

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[1] Par. 1, Timeliness of the Petition, Petition for Review, EB Docket, p. 10.
[2] EB Docket, pp. 1-4.

The Court *En Banc* granted the motion, extending the deadline to February 15, 2025, subject to the condition that the motion for extension is filed on time.[3] Since February 15, 2025 fell on a Saturday, petitioner had until the next working day, February 17, 2025, to file the petition for review.

However, a review of the case records revealed that petitioner's Motion for Extension to File Petition for Review, was filed one (1) day late on January 31, 2025. An examination of the Notice of Resolution dated January 7, 2025[4] shows that a copy of the Resolution dated January 7, 2025 was received by the Office of the Solicitor General (OSG) on January 15, 2025 and by the Bureau of Internal Revenue (BIR) on January 16, 2025.

In *Republic of the Philippines, represented by the Land Registration Authority vs. Raymundo Viaje, et al.*,[5] the Supreme Court clarified that although there are deputized lawyers to represent the government in legal proceedings, the OSG remains to be the principal counsel (for the government agency) that is entitled to be furnished with copies of all court orders, notices, and decisions. Additionally, the Supreme Court ruled that the proper basis for computing a reglementary period and for determining whether a decision had attained finality is service on the OSG.

This was reiterated in *Claudine Monette Baldovino-Torres vs. Jasper A. Torres and the Republic of the Philippines*,[6] *viz.*:

> "In the case of *National Power Corporation v. National Labor Relations Commission (NAPOCOR),* the Court held **that the proper basis for computing the reglementary period to file an appeal and in determining whether a decision had attained finality is service on the OSG.** In holding so, the Court emphasized that the **lawyer deputized by the OSG is considered as a mere representative of the latter who retains supervision and control over the deputized lawyer.** As a consequence, copies of orders and decisions served on the deputized counsel, acting as agent or representative of the Solicitor General, are not binding until they are actually received by the latter.
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> The NAPOCOR case was cited in the subsequent case of *Commissioner of Customs v. Court of Tax Appeals*, where it was reiterated that **although the OSG may have deputized the lawyers in a government agency represented by it, the OSG continues to be the principal counsel and, therefore, service on it of legal**

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[3] EB Dcoket, p. 8.
[4] CTA Case No. 8198 Docket, Vol. Four, p. 2120.
[5] G.R. No. 180993, January 27, 2016.
[6] G.R. No. 248675, July 20, 2022.

> **processes**, and not that on the deputized lawyers, **is decisive**." *(Boldfacing supplied)*

Based on the foregoing pronouncements of the Supreme Court, it is the service to the OSG that is decisive. Counting fifteen (15) days from receipt of the assailed Resolution by the OSG on **January 15, 2025**, petitioner had until **January 30, 2025** within which to file his Petition for Review with the CTA *En Banc*. Thus, the Motion for Extension to File Petition for Review[7] filed on **January 31, 2025**, was filed beyond the reglementary period.

It is a basic rule that a motion for extension of time to file a pleading must be filed before the expiration of the period sought to be extended. The Court's discretion to grant a motion for extension is conditioned upon the timeliness of the motion, the passing of which renders the court powerless to entertain or grant it. Since the motion for extension was filed after the lapse of the prescribed period, there was no more period to extend.[8]

Resultantly, the CTA *En Banc* is without jurisdiction to take cognizance of the case. The Court cannot decide the case on the merits[9] as the only power left with it is to dismiss the case.

It has been ruled that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.[10]

As petitioner failed to timely appeal within the fifteen (15)-day reglementary period, the assailed Decision and Resolution of the CTA Second Division in CTA Case No. 8198 automatically became final and executory.

Judgments or orders become final and executory by operation of law and not by judicial declaration. The finality of a judgment becomes

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[7] EB Docket, pp. 1-4.
[8] *Philippine National Bank vs. Deang Marketing Corporation and Berlita Deang*, G.R. No. 177931, December 8, 2008.
[9] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.
[10] *Commissioner of Internal Revenue vs. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.

a fact upon the lapse of the reglementary period of appeal if no appeal is perfected.[11]

WHEREFORE, premises considered, petitioner's **Petition for Review** is hereby **DISMISSED** for being belatedly filed and for lack of jurisdiction.

SO ORDERED.

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

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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

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[11] *Barrio Fiesta Restaurant, et al. vs. Helen C. Beronia*, G.R. No. 206690, July 11, 2016.