REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 3090** (CTA Case No. 10239)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
J-DEL INVESTMENTS AND MANAGEMENT CORP., *Respondent.*	Promulgated: JAN 2 2 2026 9:50pm

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RESOLUTION

On February 07, 2025, petitioner filed, through registered mail, a *Petition for Review*[1] before the Court *En Banc*, seeking review of the *Decision* dated July 31, 2024[2] (assailed Decision), and the *Resolution* dated November 29, 2024[3] (assailed Resolution), both promulgated by the Second Division.

The records disclose that the Office of the Solicitor General (OSG) received the assailed Resolution on **January 03, 2025**.[4] Pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals, petitioner had fifteen (15) days therefrom, or until **January 18, 2025**,

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[1] *En Banc* (EB) Docket, pp. 1-8.
[2] *Id.* at 13-24. The Decision was penned by Associate Justice Corazon G. Ferrer-Flores, and concurred in by Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.
[3] *Id.* at 25-29. The Resolution was penned by Associate Justice Corazon G. Ferrer-Flores, and concurred in by Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro.
[4] Division Docket – Vol. II, p. 790.

within which to file the instant *Petition*, unless, upon proper motion, the Court grants an additional period not exceeding fifteen (15) days. The Rule explicitly provides:

> Sec. 3. *Who may appeal; period to file petition.* — x x x
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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 **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 **<u>before the expiration of the reglementary period herein fixed</u>, 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. *(Rules of Court, Rule 42, sec. 1a)* (Emphasis and underscoring supplied)

In its *Petition*, however, petitioner asserts that the reckoning point of the reglementary period should be the Commissioner of Internal Revenue's (CIR) receipt of the assailed Resolution on January 08, 2025. On this basis, petitioner avers that it has until January 23, 2025, within which to institute the instant *Petition*. On said date, it likewise claims to have filed a *Motion for Extension of Time (to File a Petition for Review)*, praying for an additional fifteen (15) days, or until February 07, 2025, to perfect its appeal. From this premise, petitioner concludes that the present *Petition* was filed within the period allowed by the rules.[5]

We are not persuaded.

For one, petitioner insists that its *Motion for Extension of Time (to File a Petition for Review)*, filed on January 23, 2025, was seasonably filed, reckoning from the CIR's receipt of the assailed Resolution on January 08, 2025. This contention, however, is untenable. The CIR's receipt is of no legal consequence. Jurisprudence is clear that what is controlling is the service of the assailed decision upon the principal counsel of record.

In *Commissioner of Customs v. Court of Tax Appeals*,[6] echoing its pronouncement in the landmark case of *National Power Corp. v. National Labor Relations Commission*,[7] the Supreme Court settled that when a government office is represented by the OSG, it is the OSG, not the deputized lawyers, that remains the principal counsel. Service upon

[5] EB Docket, p. 2, pars. 4-5.
[6] G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division].
[7] G.R. Nos. 90933-61, May 29, 1997 [Per J. Romero, Second Division].

deputized counsels, acting merely as representatives of the OSG, does not bind the government agency. The Supreme Court emphasized:

> *First.* Petitioner was represented in the CTA by the Office of the Solicitor General which deputized lawyers in the Legal Service Division of the Bureau of Customs to serve as collaborating counsels. In accordance with this arrangement, lawyers in both offices (Bureau of Customs and the OSG) were served copies of decisions of the CTA. The lawyers at the Bureau received a copy of the decision of the CTA on May 30, 1997, while the OSG received its own on June 5, 1997. As earlier stated, the OSG filed its motion for reconsideration on June 20, 1997. Counted from this date, the motion was seasonably filed, but if the period for appealing or filing a motion for reconsideration were reckoned from the date of receipt of the decision by the lawyers of the Bureau of Customs, then the motion was filed five days late. The Court of Appeals ruled that service of the copy of the CTA decision on the lawyers of the Bureau of Customs was equivalent to service on the OSG, and, therefore, the motion for reconsideration was filed late.
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> This is error. In *National Power Corp. v. NLRC*, it was already settled 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 processes, and not that on the deputized lawyers, is decisive.** It was explained:
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>> ...The lawyer deputized and designated as special attorney-OSG" is a mere representative of the OSG and the latter retains supervision and control over the deputized lawyer. The OSG continues to be the principal counsel ...,and as such, the Solicitor General is the party entitled to be furnished copies of the orders, notices and decisions. The deputized special attorney has no legal authority to decide whether or not an appeal should be made.
>>
>> 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. We have likewise consistently held that **the proper basis for computing reglementary period to file an appeal and for determining whether a decision had attained finality is service on the OSG**. ...[8] (Emphasis supplied; citations omitted)

Clearly, the period within which to file a *Petition for Review* before the Court *En Banc* to appeal the assailed Resolution must be reckoned from the OSG's receipt thereof, which, in this case, was on January 03, 2025. In line with settled jurisprudence, the date of receipt by the CIR is of no moment. Accordingly, petitioner's *Motion for*

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[8] *Commissioner of Customs v. Court of Tax Appeals*, G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division].

Extension of Time (to File a Petition for Review), assuming one was ever filed, should have been lodged on or before January 18, 2025. Its supposed filing only on January 23, 2025 was, therefore, patently belated and cannot vest jurisdiction upon this Court.

For another, and in any event, the Records Verification Report dated September 08, 2025[9] reveals that the records are barren of any *Motion for Extension of Time (to File a Petition for Review)*.

In *Vda. de Victoria v. Court of Appeals*,[10] the Supreme Court held that "[i]t is a basic rule of remedial law that a motion for extension of time to file a pleading must be filed before the expiration of the period sought to be extended. Where a motion for extension of time is filed beyond the period for appeal, the same is of no effect since there would no longer be any period to extend, and the judgment or order to be appealed from will have become final and executory."[11]

All the more, then, must the instant *Petition* be struck down for utter lack of legal effect. Not only was the motion for extension belatedly filed, but the records are, in fact, devoid of any such pleading ever having been filed by petitioner. Hence, the *Petition* merits outright dismissal.

Settled is the rule that the perfection of an appeal, being no more than a statutory privilege, and at once both mandatory and jurisdictional, must be accomplished strictly in the manner and within the period prescribed by law; failing which, the judgment sought to be reviewed attains finality and becomes executory. Thus:

> To stress, the right to appeal is merely statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party has the correlative right to enjoy the finality of a decision in his favor.[12] (Citations omitted)

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[9] EB Docket, unpaginated.
[10] G.R. No. 147550, January 26, 2005 [Per J. Carpio Morales, Third Division].
[11] Citations omitted.
[12] *Apex Mining Co., Inc., v. Commissioner of Internal Revenue*, G.R. No. 122472, October 20, 2005 [Per J. Garcia, Third Division].

In light of the foregoing, the period within which to file the petition was never validly extended. Consequently, petitioner was bound to file the same no later than January 18, 2025, or fifteen (15) days from the OSG's receipt of the assailed Resolution. Its *Petition for Review*, filed only on February 07, 2025, was, thus, filed out of time.

ACCORDINGLY, the instant **Petition for Review** is **DISMISSED** for being filed out of time.

SO ORDERED.

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice