REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

XEPIL PACKAGING represented by SUAT TEE D. POA, Petitioner,	**CTA EB NO. 2684** (CTA Case No. 10701)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.*****,** **RINGPIS-LIBAN,** **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** ***JJ.***
BUREAU OF INTERNAL REVENUE REVENUE REGION 7A, QUEZON CITY, Respondent.	Promulgated: MAR 0 3 2025 3:55pm

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RESOLUTION

FERRER-FLORES, J.:

Before this Court is respondent's **Motion for Reconsideration (Re: Decision dated October 07, 2024)** (*Motion for Reconsideration*) filed through electronic mail (e-mail) on October 28, 2024, with paper copies filed on November 4, 2024.

A perusal of the records shows that respondent's counsel received this Court's Decision dated October 7, 2024 (assailed Decision) on October 11, 2024. Counting 15 days from the receipt of the assailed Decision, respondent had until October 26, 2024, within which to file a motion for reconsideration. Considering that October 26, 2024 is a Saturday, respondent may file until October 28, 2024, the next working day.

While respondent filed its *Motion for Reconsideration* on October 28, 2024, it was filed through e-mail. The paper copies of the *Motion for Reconsideration*, on the other hand, were personally filed on November 4, 2024.

The Court of Tax Appeals (CTA) *En Banc* Resolution No. 8-2024[1] enumerates the pleadings and other court submissions which are to be filed in paper copies by personal filing, by registered mail, or by accredited courier, to wit:

(i) Initiatory pleadings and initial responsive pleadings, such as an answer to a complaint or a comment to a petition;

(ii) Annexes, appendices, exhibits, or other accompanying documents to pleadings or other court submissions not readily amenable to digitization to PDF;

(iii) Motion for Reconsideration of a Decision or Motion for New Trial or a Motion for Extension to File Petition for Review before the CTA *En Banc*;

(iv) Other litigious motions under Rule 15, Section 5 of the 2019 Amendments to the 1997 Rules of Civil Procedure, as amended, and meritorious motions under Rule III(2)(c) of the Revised Guidelines for Continuous Trial of Criminal Cases;

(v) Formal Offer of Evidence to be accompanied by scanned copies in PDF and saved in a USB storage device;

(vi) Independent Certified Public Accountant (ICPA) Report to be accompanied by scanned copies in PDF and saved in USB storage device; and,

(vii) Sealed and confidential documents or records.

Further, CTA *En Banc* Resolution No. 8-2024 requires that, when the primary manner of filing of the pleadings is by personal filing, by registered mail or by accredited courier, the party must transmit a PDF copy through e-mail within 24 hours from the filing of the paper copy of the pleadings, otherwise, it shall be deemed not filed. Also, it expressly states that, when the

[1] Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submission Before the Court of Tax Appeals Pursuant to A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC, effective September 1, 2024.

primary manner of filing is by personal filing, by registered mail or by accredited courier, the pleading or court submission shall be deemed to have been filed on the date and time of filing of the paper copy.

Based on the foregoing, the paper copies of respondent's *Motion for Reconsideration* by respondent should have been filed by personal filing, by registered mail or by accredited courier on or before October 28, 2024.

Clearly, respondent's filing of the paper copies of its *Motion for Reconsideration* on November 4, 2024 is considered out of time and deemed not filed, pursuant to CTA *En Banc* Resolution No. 8-2024.

Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory.[2]

WHEREFORE, respondent's **Motion for Reconsideration (Re: Decision dated October 07, 2024)** is **DISMISSED** for being filed out of time. Accordingly, the Decision dated October 7, 2024 is deemed final and executory.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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2 *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

With Separate Concurring Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

REPUBLIC OF THE PHILIPPINES
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EN BANC

XEPIL PACKAGING represented by SUAT TEE D. POA,
Petitioner,

- versus -

BUREAU OF INTERNAL REVENUE, REVENUE REGION 7A, QUEZON CITY,
Respondent.

CTA EB NO. 2684
(CTA Case No. 10701)

Present:

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

Promulgated:
MAR 03 2025 3:57 PM

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SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

With the death of Atty. Manuel A. Dalucapas, which fact of death had become known only on 29 December 2022 or after the Court in Division had dismissed the instant case pursuant to the Order of 06 June 2022[1] (and affirmed in the Resolution of 18 August 2022[2]), I am inclined to concur with

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1 During the Pre-Trial Conference on 06 June 2022, petitioner's then counsel of record, Atty. Manuel A. Dalucapas, failed to attend the hearing and to file the pre-trial brief. Thus, the Second Division (then composed of Associate Justice Juanito C. Castañeda, Jr. [ret.], as chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as members) dismissed the Petition for Review and considered the case closed and terminated.

2 In denying petitioner's Motion for Reconsideration filed on 01 July 2022, the Second Division (then composed of Associate Justice Erlinda P. Uy [ret.], as chairperson, Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as members) ruled that petitioner failed to proffer a valid and reasonable excuse for its failure to file the pre-trial brief and attend the Pre-Trial Conference for the following reasons: (1) the counsel's medical certificate (showing the he

the *ponencia* of my esteemed colleague, Associate Justice Corazon G. Ferrer-Flores, denying respondent Bureau of Internal Revenue, Revenue Region 7A, Quezon City's (**respondent**'s) Motion for Reconsideration for being filed out of time.

However, I wish to forward a different reckoning period for the counting of the fifteen (15)-day prescriptive period to appeal.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals[3] (**RRCTA**) provides that any aggrieved party may file his or her motion for reconsideration or new trial within 15 days from receipt of the court's assailed decision, resolution, or order.

Reiterating the cases of *National Power Corporation v. National Labor Relations Commission, et al.*[4] (**NAPOCOR**) and *Commissioner of Customs v. Court of Tax Appeals, et al.*[5] (**COC v. CTA**), in the recent case of *Claudine Monette Baldovino-Torres v. Jasper A. Torres, et al.*[6] (**Torres**), the Supreme Court clarified that the reckoning point of the 15-day reglementary period to file a reconsideration or new trial is counted from the receipt of the Office of the Solicitor General (**OSG**), the latter being the representative of the government of the Philippines, its agencies and instrumentalities:

> ...
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> 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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suffered an ailment and was required to take a bed rest) was dated 30 May 2022, or seven (7) days prior to hearing on 06 June 2022. However, the counsel did not offer the same prior the hearing date nor attached the same in the two (2) Manifestation filed electronically on 04 June 2022 and 16 June 2022, respectively. Petitioner only attached the medical certificate in the Motion for Reconsideration, which was filed 32 days after the Pre-Trial Conference; and, (2) petitioner did not file any motion for postponement before the Pre-Trial Conference despite filing its Manifestation on 04 June 2022. As for the procedural aspect, the Court noted that in the subject Motion for Reconsideration, petitioner did not properly allege the material date as to when it received the Order of 06 June 2022, thus preventing the Court from properly ascertaining the same was timely filed.

[3] A.M. No. 05-11-07-CTA.

[4] G.R. Nos. 90933-61, 29 May 1997.

[5] G.R. No. 132929, 27 March 2000.

[6] G.R. No. 248675, 20 July 2022.

> 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 processes, and not that on the deputized lawyers, is decisive.**
>
> In the same vein, **the period to file a motion for reconsideration in the present case should be counted from the receipt by the OSG of a copy of the RTC Decision on April 4, 2017**. Consequently, the filing by the OSG of its Motion for Reconsideration questioning the RTC Decision on April 18, 2017 was well within the reglementary period for filing such motion. **The counting of the period for its filing should be reckoned from the date of receipt of the assailed decision by the OSG and not by the public prosecutor**. This is because the public prosecutor acted as a mere representative of the OSG which, in turn, retained supervision and control over the former.[7]
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> ...

Applying *NAPOCOR, COC v. CTA* and *Torres*, a perusal of the case records reveals that OSG received the Decision of 07 October 2024 on **15 October 2024**.[8] Counting 15 days therefrom, respondent had until **30 October 2024** to file his or her Motion for Reconsideration. However, the same was only filed on 04 November 2024. Thus, it was belatedly filed.

With the foregoing, I vote to **DENY** respondent's Motion for Reconsideration for being filed out of time.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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7 Citations omitted, emphasis supplied and italics in the original text.
8 See Notice of Decision.