REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

CHERIE MARIE T. CHAN,
Respondent.

CTA EB NO. 3139
(CTA Case No. 10640)

Present:

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

Promulgated:

SEP 10 2025 3:52p.m.

x- x

RESOLUTION

On May 6, 2025, petitioner Commissioner of Internal Revenue (CIR) filed his *Motion for Extension of Time to File Petition for Review*,[1] which was granted by the Court in a Minute Resolution dated May 8, 2025,[2] subject to the condition that the motion for extension is filed on time.

Records show that petitioner received the Resolution dated April 7, 2025, denying his *Motion for Reconsideration (Re: Decision dated 26 July 2024)* on April 15, 2025, via electronic mail, and April 22, 2025, through personal service. On the other hand, the Office of the Solicitor General (OSG) received the said Resolution on April 15, 2025, via electronic mail.

In his *Motion for Extension of Time to File Petition for Review*, petitioner manifests that he received the Resolution dated April 7, 2025, on

[1] *Rollo*, pp. 1 to 4.
[2] *Rollo*, p. 8.

April 22, 2025. Thus, he has until May 7, 2025, within which to file a Petition for Review before the Court of Tax Appeals (CTA) *En Banc*. Due to heavy load of cases of equal urgency, however, he anticipates that he may not be able to file the same on its due date and thus requests for another 15 days from May 7, 2025 or until May 22, 2025, within which to file his Petition for Review.

The CIR filed his *Petition for Review* on May 21, 2025.

The motion was filed out of time.

It 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.[3] The court's discretion to grant a motion for extension is conditioned upon such motion's timeliness, the passing of which renders the court powerless to entertain or grant it.[4]

Here, the OSG received the Resolution dated April 7, 2025 on April 15, 2025. Counting 15 days from April 15, 2025, petitioner had until April 30, 2025, to file the Motion for Extension of Time to File Petition for Review. Petitioner, however, filed his *Motion for Extension of Time to File Petition for Review* only on May 6, 2025.

It is doctrinally entrenched that the right to appeal is a statutory right and the one who seeks to avail of that right 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 appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well. The failure to perfect the appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to preclude the appellate court from acquiring the jurisdiction to review the judgment.[5]

In view of the foregoing, the instant *Motion for Extension of Time to File Petition for Review* did not comply with the condition set forth in the Minute Resolution dated May 8, 2025, and is considered filed out of time. Accordingly, it does not extend the period within which to file the Petition for Review. The *Petition for Review* filed by the CIR on May 21, 2025 is, thus, filed out of time.

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[3] *Isidra Vda. de Victoria v. Court of Appeals*, G.R. No. 147550, January 26, 2005.
[4] *Philippine Long Distance Telephone Co., Inc. v. Court of Appeals*, G.R. No. 57079, September 29, 1989.
[5] *Albor v. Court of Appeals*, G.R. No. 196598, January 17, 2018.

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

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

With 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

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

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ANGELES, ***JJ.***

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CONCURRING OPINION

I concur with the resolution in dismissing the present Petition for Review filed by petitioner Commissioner of Internal Revenue (**petitioner/CIR**) for being filed out of time.

I wish to add that the legal basis for the Court *En Banc*'s finding—that the fifteen (15)-day period to appeal to the Court *En Banc* under Section 3(b)[1], Rule 8[2] of the Revised Rules of the Court of Tax Appeals (**RRCTA**) should be counted from petitioner's receipt of the assailed Resolution dated 07 April

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[1] SEC. 3. *Who May Appeal; Period to File Petition.* —

...

(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 before the expiration of the reglementary period herein fixed, 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. (Emphasis supplied)

[2] *Procedure in Civil Cases.*

2025[3], served *via* electronic mail (**email**) on **15 April 2025**[4] (and not from the date of receipt through personal service on 22 April 2025)—is Section 11, Rule 13-A of the Rules of Court (**ROC**), as amended, also known as the "Interim Rule on the Electronic Filing and Service of Pleadings Judgment, and Other Papers in Civil Cases" (**Interim Rule**), which took effect on 01 December 2024.

Section 11 of the Interim Rule mandates that courts must serve judgments, final orders, or resolutions electronically by emailing digital copies to the parties' and counsels' email addresses of record. It further provides that the date and time of delivery indicated in the internet message header of the court's email shall be deemed the official date and time of receipt of the judgment, final order, or resolution, *viz*:

> ...
>
> SEC. 11. *Service of Judgments, Final Orders, or Resolutions.* — **Judgments, final orders, or resolutions shall be served electronically by emailing digital copies to the email addresses of record of the parties and their counsels.**
>
> **<u>The date and time of delivery appearing in the internet message header of the email sent by the court shall be the date and time of receipt of the judgment, final order, or resolution.</u>** Under exceptional circumstances, the court, upon motion and hearing, may allow the inspection of headers of the court's transmittal email by a counsel or party. Motions for inspection filed on frivolous grounds shall subject the filing counsel to disciplinary action.[5]
>
> ...

Notably, before the amendment introduced by the Interim Rule courts could serve judgments, final orders, or resolutions only through personal service or registered mail.[6] Under the old rule, the fifteen (15)-day period to appeal to the Court *En Banc* would have been counted from petitioner's receipt of the assailed Resolution through personal service on 22 April 2025. In that case, petitioner's "Motion for Extension of Time to File Petition for

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3 *Rollo*, pp. 64-66.
4 See Notice of Resolution dated 10 April 2025 and Email Transmittal dated 15 April 2025, id., pp. 62 and 63, respectively.
5 Emphasis and underscoring supplied.
6 See Section 13 of the Rules of Court (**ROC**), as amended by the 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. No. 19-10-20-SC).

Section 13. *Service of Judgments, Final Orders or Resolutions.* — **Judgments, final orders or resolutions shall be served either personally or by registered mail.** Upon *ex parte* motion of any party in the case, a copy of the judgment, final order, or resolution may be delivered by accredited courier at the expense of such party. When a party summoned by publication has failed to appear in the action, judgments, final orders or resolutions against him or her shall be served upon him or her also by means of publication at the expense of the prevailing party. (Emphasis supplied)

Review"[7] (**Motion for Extension**), filed on 06 May 2025, would have been considered timely.

Unfortunately, as previously discussed, under the new rule, the 15-day period to appeal to Court *En Banc* must be counted from petitioner's receipt of the assailed Resolution *via* email on 15 April 2025, as reflected in the internet message header of the Third Division's email. Accordingly, petitioner had only **until 30 April 2025** to file its Motion for Extension. Having filed the same belatedly—on 06 May 2025, or six (6) days beyond the deadline—petitioner failed to comply with the condition set forth in Court *En Banc*'s Minute Resolution dated 08 May 2025.[8] As such, the grant of the Motion for Extension could not serve as a valid basis to extend the fifteen (15)-day appeal period.

All told, the present Petition for Review must be dismissed for being filed out of time.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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7 *Rollo*, pp. 1-4.
8 Id., p. 8.