REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2734** (CTA Case No. 9912)
	Present:
- versus -	**RINGPIS-LIBAN, *P.J.*, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES, *JJ.***
ERMILO TAN NG HUA, Respondent.	Promulgated: FEB 05 2026 2:18 p.m.

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution are:

1. Petitioner Commissioner of Internal Revenue's (**petitioner's/CIR's**) "Motion for Reconsideration (Re: Decision dated 14 April 2025)"[1] (**petitioner's MR**), filed *via* registered mail on 07 May 2025[2]; and

2. Respondent Ermilo Tan Ng Hua's (**respondent's**) "Motion for Reconsideration"[3] (**respondent's MR**) to the Court *En Banc*'s Resolution dated 06 August 2025 (**assailed Resolution**), filed *via* email on 29 September 2025.[4]

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[1] *Rollo*, pp. 164-179.
[2] Received by the Court on the same day (07 May 2025), with email filed on 08 May 2025.
[3] *Rollo*, p. 194-195
[4] Filed *via* registered mail on 29 September 2025 and received by the Court on 07 October 2025. Per *En Banc* Resolution No. 8-2024, when the primary manner of filing is through electronic

Petitioner's MR assails the Court *En Banc*'s Decision[5] promulgated on 14 April 2025 (**assailed Decision**). The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, with the foregoing considered, the instant Petition for Review *Ad Cautelam* filed by petitioner Commissioner of Internal Revenue on 10 March 2023 is **DENIED** for lack of merit. Accordingly, the assailed Amended Decision dated 25 August 2022 and assailed Resolution dated 01 February 2023, of the First Division in CTA Case No. 9912, entitled *Ermilo Tan Ng Hua v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.
>
> **SO ORDERED.**
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> ...

In petitioner's MR, he or she reiterates all the arguments previously raised in the Petition for Review filed before the Court *En Banc*.

To recapitulate, petitioner asserts that the assessment against respondent is valid and that there is no violation of the latter's right to due process. Petitioner insists that respondent's issuance of the Letter Notice (**LN**) carries the mandate imposed by law to assess proper taxes based on examination of returns without the necessity of a Letter of Authority (**LOA**).[6]

Petitioner adds that there is insufficient proof that respondent received the Final Decision on the Request for Reconsideration (**FDRR**) dated 16 July 2018 on 03 August 2018. According to petitioner, the filing of the documents, along with respondent's MR[7], was a mere afterthought. The documents were already available prior to the submission of the case for resolution. Thus, respondent's failure to present the same for identification and comparison violated petitioner's right to due process.

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transmittal, the time and date of the electronic transmittal shall be considered as the time and date of filing, id., p. 193.

5 *Rollo*, pp. 129-163.

6 See Revenue Memorandum Order (**RMO**) No. 42-2003, Prescribing Additional Guidelines Governing the Rules on Assessment of National Internal Revenue Taxes covered by a Letter Notice (LN) issued under the RELIEF System as defined in RMO No. 30-2003 and other data matching processes.

7 Division Docket, pp. 299-304.

Lastly, petitioner claims that the Bureau of Internal Revenue's (**BIR**'s) assessment is presumed correct and made in good faith, thus the collection of taxes should not be enjoined considering that petitioner could still file an MR on the assailed Decision (as it did).

On the other hand, respondent's MR assails the Court *En Banc*'s Resolution of 06 August 2025[8], where the Court *En Banc* deemed respondent's "Comment (to Petitioner's [MR])"[9] (**Comment**) as not filed due to respondent's failure to provide the email/soft copy of the said Comment pursuant to *En Banc* Resolution No. 8-2024.[10]

In respondent's MR, he urges the Court *En Banc's* reconsideration of the assailed Resolution and argues that it has been a while since respondent's counsel filed any pleading and at that time, electronic filing was not yet required. Respondent further avers that his counsel inadvertently missed the electronic filing due to heavy workload. Finally, respondent pleads that it is more in keeping with the interest of substantial justice, to allow the admission of his Comment to petitioner's MR.

We resolve.

<u>Petitioner's MR has no merit.</u>

Petitioner's arguments are a mere rehash of those already raised and considered by the Court's First Division and the Court *En Banc*. In *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[11], the Supreme Court explained, to wit:

> ...
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final

8 Supra at note 3.
9 Comment (to Petitioner's Motion for Reconsideration), *rollo*, p. 184-188.
10 Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals Pursuant to A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC.
11 G.R. No. 109645 (Resolution), 04 March 1996.

> order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[12] ruled:

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.**
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> ...

For emphasis, the Court *En Banc* reiterates that petitioner's assessment of respondent (pursuant to an investigation that the Revenue Officer's [**ROs**] conducted the same without any authority) is null and void.

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[12] G.R. No. 159938, 22 January 2007; Citation omitted and emphasis supplied.

The pertinent provisions of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provide clearly:

> ...
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> **SEC. 6.** *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* —
>
> (A) *Examination of Returns and Determination of Tax Due.* — After a return has been filed as required under the provisions of this Code, **the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax**: *Provided, however,* That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
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> ...
>
> **SEC. 13.** *Authority of a Revenue Officer.* — Subject to the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, a **Revenue Officer assigned** to perform assessment functions in any district may, **pursuant to a Letter of Authority issued by the Revenue Regional Director**, examine taxpayers within the jurisdiction of the district in order to collect the correct amount of tax, or **to recommend the assessment of any deficiency tax due** in the same manner that the said acts could have been performed by the Revenue Regional Director himself.
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> ...
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> **SEC. 228.** *Protesting of Assessment.* — **When the Commissioner or his duly authorized representative finds that proper taxes should be assessed**, he shall first notify the taxpayer of his findings: *Provided, however,* That a preassessment notice shall not be required in the following cases[.][13]
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> ...

The RO tasked to examine the books of accounts of taxpayers must be authorized *via* LOA. Otherwise, the assessment for deficiency taxes resulting therefrom is void.

In *Commissioner of Internal Revenue v. Sony Philippines, Inc.*[14], the Supreme Court sees similarly:

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13 Emphasis supplied and italics in the original text.

14 G.R. No. 178697, 17 November 2010; Citation omitted.

> ...
>
> Based on Section 13 of the Tax Code, a Letter of Authority or LOA is the authority given to the appropriate revenue officer assigned to perform assessment functions. It empowers or enables said revenue officer to examine the books of account and other accounting records of a taxpayer for the purpose of collecting the correct amount of tax. The very provision of the Tax Code that the CIR relies on is unequivocal with regard to its power to grant authority to examine and assess a taxpayer.
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> ...
>
> Clearly, there must be a grant of authority before any revenue officer can conduct an examination or assessment.
>
> ...

As discussed in the assailed Decision, RO Jane M. Garfin (RO Garfin) made an admission that no LOA was issued when she conducted the audit or examination of petitioner's books. She also confirmed that the basis of respondent's audit was an LN.

It is settled that an LN does not operate as a substitute for a validly-issued LOA, this has already been clarified by the Supreme Court in the case of *Medicard Philippines, Inc. v. Commissioner of Internal Revenue*[15](**Medicard**), where the Supreme Court explained, thus:

> ...
>
> **The Court cannot convert the LN into the LOA required under the law** even if the same was issued by the CIR himself. ... **Since the law specifically requires an LOA** and RMO No. 32-2005 requires the conversion of the previously issued LN to an LOA, **the absence thereof cannot be simply swept under the rug**, as the CIR would have it. In fact Revenue Memorandum Circular No. 40-2003 considers an LN as a notice of audit or investigation only for the purpose of disqualifying the taxpayer from amending his returns.
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> ... **Simply put, LN is entirely different and serves a different purpose than an LOA. Due process demands**, as recognized under RMO No. 32-2005, **that after an LN has serve its purpose, the revenue officer should have properly secured an LOA before proceeding with the further examination and assessment of the petitioner**. Unfortunately, this was not done in this case.
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> ...

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[15] G.R. No. 222743, 05 April 2017; Citation omitted and emphasis supplied.

> ... In fact, apart from being a statutory requirement, an LOA is equally needed even under the BIR's RELIEF System because the rationale of requirement is the same whether or not the CIR conducts a physical examination of the taxpayer's records: to prevent undue harassment of a taxpayer and level the playing field between the government's vast resources for tax assessment, collection and enforcement, on one hand, and the solitary taxpayer's dual need to prosecute its business while at the same time responding to the BIR exercise of its statutory powers. The balance between these is achieved by ensuring that any examination of the taxpayer by the BIR's revenue officers is properly authorized in the first place by those to whom the discretion to exercise the power of examination is given by the statute.
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> That the BIR officials herein were not shown to have acted unreasonably is beside the point because the issue of their lack of authority was only brought up during the trial of the case. **What is crucial is whether the proceedings that led to the issuance of VAT deficiency assessment against MEDICARD had the prior approval and authorization from the CIR or her duly authorized representatives. Not having authority to examine MEDICARD in the first place, the assessment issued by the CIR is inescapably void.**
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> ...

In his or her MR, petitioner cites Section 34[16], Rule 132 of the Rules of Court, as amended, and argues that the Court should not accept any evidence not formally offered as it amounts to a violation of petitioner's right to due process. We think otherwise. It is clear that: (1) existing jurisprudence has already justified the admission of exhibits belatedly attached to an MR to serve the interest of substantial justice[17]; (2) respondent, through his unrebutted testimony, was able to prove that he received the FDRR on 03 August 2018 and the exhibits attached in his MR[18]; and (3) the proceedings in this Court are not strictly governed by technical rules of evidence, technicalities should not be used to frustrate, but rather promote the interest of substantial justice. The ascertainment of the truth that should be the paramount consideration.

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16 SEC. 34. *Offer of Evidence.*

17 See *Filminera Resources Corporation v. Commissioner of Internal Revenue,* G.R No. 233581 (Notice), 11 March 2019.

18 See (1) print out of the scanned copy of the mailing envelope which contained the FDRR dated 16 July 2018 Decision; and (2) Certification dated 29 March 2022 from the Postmaster of Ragay, Camarines Sur, Division Docket, pp. 306-307.

Since respondent's judicial appeal[19] was timely filed on 23 August 2018, within the 30-day appeal period[20] (reckoned from respondent's receipt of petitioner's FDRR on 03 August 2018), the Court in Division validly acquired jurisdiction over the case.

Succinctly, it is a party-movant's duty to convincingly show grounds for a reconsideration of an assailed judgment or order, or at the least give its previous arguments a fresh perspective in such a way that would warrant a re-examination of the case. Unfortunately, in the instant case, petitioner has failed to do so.

Respondent's MR has no merit.

After due consideration of respondent's arguments, We find respondent's MR bereft of merit.

The rules of procedure are intended to ensure the orderly administration of justice and the protection of substantive rights in judicial and extrajudicial proceedings.[21] Bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel courts to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their non-observance may result to prejudice a party's substantive rights.[22]

As a corollary, any party seeking a liberal application of the rules must present strong and compelling reasons to warrant the suspension of the rules.[23] To merit liberality, respondent must show that there is reasonable cause justifying its noncompliance with the rules.[24]

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19 Id., pp. 10-26.

20 See *Philippine Amusement and Gaming Corporation v. Bureau of Internal Revenue, et al.*, G.R. No. 208731, dated 27 January 2016.

21 *Auria Limpot v. Court of Appeals, et al.*, G.R. No. L-44642, 20 February 1989.

22 *Joel F. Latogan v. People of the Philippines,* G.R No. 238298, 22 January 2020.

23 *Subic Bay Metropolitan Authority v. Subic Bay Marine Exploratorium, Inc.*, G.R. No. 237591, 10 November 2021.

24 *Philippine Charity Sweepstakes Office, et al. v. The Commission on Audit*, G.R. No. 246313, 15 February 2022.

In *National Grid Corporation of the Philippines v. Clara C. Bautista, married to Rey R. Bautista*[25], the Supreme Court citing *Viva Shipping Lines, Inc. v. Keppel Philippines Mining, Inc., et al.*[26], ruled:

> ...
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> *. . . Liberality in the application of the rules is not an end in itself. It must be pleaded with factual basis and must be allowed for equitable ends. There must be no indication that the violation of the rule is due to negligence or design. Liberality is an extreme exception, justifiable only when equity exists.*
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> ...

In the present MR, respondent failed to show any reasonable cause justifying its non-compliance with the rules. Respondent's explanation, proffered in its MR, that its lapse was due to mere inadvertence cannot, in any degree, be considered as reasonable cause that would justify the suspension of the rules.[27]

It is noted that though respondent timely filed its Comment on petitioner's MR, he nevertheless failed to comply with *En Banc* Resolution No. 8-2024.[28] Specifically, the records of the case show that when respondent filed its Comment it failed to provide the email/soft copy of the said Comment, pursuant to *En Banc* Resolution No. 8-2024.[29]

Pertinently, paragraph 2[30] of *En Banc* Resolution No. 8-2024 (which adopts Supreme Court Administrative Matters Nos. 10-3-7-SC and A.M. 11-9-4-SC[31]) requires respondent to file an electronic or soft copy in Portable Document Format (**PDF**) of his Comment within twenty-four (24) hours from personally filing the hard copy thereof. Failure to do so results in the said Comment being deemed not filed.

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25 G.R. No. 232120, 30 September 2020; Citation omitted and italics in the original text.

26 G.R. No. 177382, 17 February 2016.

27 See respondent's MR, supra at note **Error! Bookmark not defined.**.

28 Supra at note 10.

29 Id.

30 **2.** ***Manner of transmittal.*** – . . .

...

When the primary manner of filing is through personal filing, by registered mail, or by accredited courier, in accordance with Rule 13, Section 3(a), 3(b), or 3(c) of the 2019 Amendments to the 1997 Rules of Civil Procedure, ten (10) paper copies for *En Banc* cases, and six (6) paper copies for initiatory pleadings or four (4) paper copies for subsequent pleadings for Division cases, shall be filed. The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; ***otherwise, the pleading or court submission shall be deemed as not filed.*** (Emphasis and italics in the original text)

31 Re: Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Being Filed Before the Lower Courts Pursuant to the Efficient Use of Paper Rule.

Respondent filed its Comment on 30 June 2025, he thus had until 01 July 2025 to transmit the soft copy *via* e-mail. However, records of the case reveals that respondent only e-mailed a PDF copy of its Comment on 25 September 2025. Hence, respondent's PDF copy emailed on **25 September 2025** was filed eighty-six **(86) days late.**

Respondent's delay in sending the PDF copy of his Comment and his non-compliance with *En Banc* Resolution No. 8-2024 evince his blatant disregard of procedural rules, further precluding any justification for Us to liberally apply them.

In *Joenar Vargas Agravante v. Commission on Elections, et al.*[32], the Supreme Court discussed to wit:

> ...
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> While petitioner does not deny his procedural lapses, **he argues that** the COMELEC *En Banc* **should have afforded him liberality considering his substantial compliance** with the rules and the *prima facie* merit of his brief. **However, it must be recalled that the relaxation of procedural rules cannot be made without any valid reasons to support it.** Any party seeking a liberal application of the rules is required to present strong and compelling reasons to warrant the suspension of the rules. **To merit liberality, petitioner must show that there is reasonable cause justifying his noncompliance with the rules and that the outright dismissal of the petition would defeat the administration of substantive justice.**
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> ...

All told, this Court sees no cogent reason to warrant a reconsideration or modification of the Resolution dated 06 August 2025.

WHEREFORE, in view of the foregoing, petitioner Commissioner of Internal Revenue's "Motion for Reconsideration (Re: Decision dated 14 April 2025)", filed on 07 May 2025, is **DENIED** for lack of merit and respondent Ermilo Tan Ng Hua's "Motion for Reconsideration", filed on 25 September 2025, is **DENIED** for lack of merit.

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[32] G.R. No. 264029, 08 August 2023; Citation omitted; Emphasis supplied.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

ON OFFICIAL BUSINESS

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice