REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PERF RESTAURANTS, INC.,
Respondent.

CTA *EB* NO. 3132
(CTA Case No. 11231)

Present:

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

Promulgated:

JUN 30 2026 4:20pm

x --- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For the Court's resolution is petitioner's *Motion for Reconsideration (Re: Resolution Promulgated 06 November 2025)*, filed on November 27, 2025, with respondent's *Comment (Re: Petitioner's Motion for Reconsideration)*, filed on January 26, 2026, assailing this Court's November 6, 2025 Decision, which dismissed the instant Petition for Review for lack of jurisdiction.

The Motion lacks merit.

Petitioner mainly argues that (1) even a preliminary finding of prescription is enough for the Court in Division to grant the judicial appeal before it, following *Sections 203 & 222 of the National Internal Revenue Code, as amended* ("*NIRC*"); and (2) given the Court in Division's findings on the relevant waivers, the finding of prescription is inevitable.

The Court *En Banc* is not convinced. *First*, nothing in the cited provisions of the *NIRC* speak of the preliminary findings by the Court of Tax Appeals. They would come into play if the Court in Division's findings were *final*, but this does not apply here, as discussed in the assailed Decision. The Court in Division clearly marked its findings as preliminary.

Second, assuming *arguendo* that the relevant waivers are, in fact, invalid, the fact remains that the Court in Division has yet to act on such invalidity in relation to the main case. It has yet to act on the Petition for Review before it or on the assessment being assailed there. As such, to treat the Court in Division's resolutions as final actions on the assessment is procedurally premature.

Petitioner, as such, cannot simply *assume* that the Court in Division *will* grant the Petition before it and thus treat its findings as final, without awaiting the actual actions of the Court in Division. By treating its findings as final, and by filing the instant Petition for Review before the Court *En Banc*, petitioner effectively preempted the Court in Division's ruling on the main case. This is procedurally unsound and cannot be allowed.

The Motion thus raises no substantial challenge to this Court *En Banc*'s ruling.

FOR THESE REASONS, petitioner's *Motion for Reconsideration (Re: Resolution Promulgated 06 November 2025)*, filed on November 27, 2025, is hereby **DENIED** for lack of merit. The assailed Decision, dated November 6, 2025, is **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
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