REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

C.U.T. COMMERCIAL CORPORATION,
Respondent.

CTA EB No. 2990
(CTA Case No. 9933)

Present:

RINGPIS-LIBAN, ***P.J.***,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES,
TESTON, *and*
CENTENO-DIJAMCO, ***JJ.***

Promulgated:
JUL 29 2026 4:05

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration (Re: Resolution Promulgated on 30 January 2026)"[1] (**MR**) filed on 18 February 2026 through registered mail and emailed[2] on 19 February 2026, with respondent C.U.T. Commercial Corporation's (**respondent**'s) "Comment (Re: [Petitioner's MR] dated 16 February 2026)"[3] (**Comment**) filed on 23 March 2026 through private courier and emailed[4] on 24 March 2026.

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1 *Rollo*, pp. 86-101.
2 Id., pp. 84-85.
3 Id., pp. 106-112.
4 Id., pp. 115-116.

The MR assails the Court *En Banc*'s declaration in the Decision of 30 January 2026[5] (**assailed Decision**) that it lacks jurisdiction over the case, thus dismissing the Petition for Review.

In the MR, while petitioner recognizes the Office of the Solicitor General (**OSG**) as the Bureau of Internal Revenue's (**BIR**'s) statutory counsel on the cases filed before the Court of Tax Appeals (**CTA**), it should also be acknowledged that the former deputized the BIR lawyers to appear on its behalf. He or she points out that a Memorandum of Agreement (**MOA**) between OSG and BIR has already defined the responsibilities of both parties, particularly the BIR, in handling tax cases.

Petitioner also asserts that the Court *En Banc* failed to consider Section 220[6] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, which categorically provides that prosecution and litigation of tax cases shall be conducted by BIR legal officers. Such provision operates *lex specialis* to tax cases as opposed to the provisions of the Administrative Code of 1987, which applies *lex generalis* to other government representations before the court.

Further, petitioner claims that the Supreme Court did not render Section 220 of the NIRC of 1997, as amended, ineffective in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*[7] (**La Suerte**). Instead, it clarified its enforceability without prejudice to the OSG's responsibility to appear in appellate proceedings. Alleging necessary implication, petitioner submits that if BIR lawyers can represent the agency in instituted cases against erring taxpayers, then they can also represent the BIR when it is impleaded as a defendant or respondent. To prevent the latter from representing the agency on the supposed absence of the OSG's authority appears to be a patent absurdity.

Citing Revenue Memorandum Circular (**RMC**) No. 25-2010[8] which circularized the MOA, petitioner highlights that the OSG had deputized BIR lawyers to prepare all pleadings for cases that are appealed before

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5 Id., pp. 66-83.
6 SEC. 220. *Form and Mode of Proceeding in Actions Arising under this Code.*
7 G.R. No. 144942. 04 July 2002.
8 Publishing the Full Text of the Memorandum of Agreement Between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General.

the appellate courts, such as the CTA. Being the counsel responsible for all the relevant pleadings, it should be understood that it is the service to the BIR lawyers, or their receipt thereof, which is the significant and material date in reckoning the prescriptive period. This is to fully afford them a reasonable period and opportunity to prepare the respective pleadings.

Moreover, petitioner argues that counting the reglementary period from the OSG's receipt may create a precedent situation wherein a party first furnishes the OSG with a pleading only to later on also furnish the BIR at a later date for it to invoke dismissal or denial of the case on the alleged technicality of belated filing.

Petitioner also claims that an appeal is only perfected upon the filing of a Petition for Review before the court. Absent the said petition, the filing of a motion seeking for an extension of time to file a petition is still within the BIR lawyer's authority and obligation as he or she remains to be the lead counsel.

Lastly, petitioner alleges that the CTA is given discretion to relax procedural rules in order to resolve the case on substantive merits instead of technicalities. Citing the case of *Joel F. Latogan v. People of the Philippines*,[9] and other CTA cases, petitioner declares that there are already multiple instances where the Court gave due course to a case and liberally applied the procedural rules. In a similar vein, he or she prays that this Court give due course to the Motion for Extension of Time and the Petition for Review, which were deemed belatedly filed in the assailed Decision.

In the Comment, respondent reiterates the case of *Claudine Monette Baldovino-Torres v. Jasper A. Torres, et al.*[10] (**Baldovino-Torres**) and emphasized that the date of OSG's receipt is controlling. To rebut petitioner's invocation of liberal application of technical rules, respondent forwards the case of *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*[11] and contends that a party seeking to avail the right to appeal must comply with the statutory requirements, particularly the filing of the appeal within the proper

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9 G.R. No. 238298, 22 January 2020.
10 G.R. No. 248675, 20 July 2022.
11 G.R. No. 167606, 11 August 2010.

period, lest it would be lost and the judgment or decision being appealed from shall attain finality. In this case, respondent insists that the assailed Decision became final and executory due to petitioner's failure to timely appeal it before this Court *En Banc*.

We resolve.

At the outset, it is noted that the MR is timely filed.[12] Nevertheless, an examination of petitioner's arguments reveals that he or she insists on the reckoning of the reglementary period from the BIR's receipt rather than from that of the OSG pursuant to Section 220 of the NIRC of 1997, as amended. However, such insistence is without legal basis and merit.

Although We are not unaware of the MOA between the BIR and the OSG, We could not close our eyes to the judicial pronouncements in *Baldovino-Torres*, which 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 the case of *LG Electronics Philippines, Inc. v. Commissioner of Internal Revenue*[13] citing *La Suerte*, the Supreme Court declared that while it is cognizant of BIR's responsibility to institute civil and criminal cases under Section 220 of the NIRC of 1997, as amended, it emphasized that in appellate proceedings, it is the OSG who is the proper party to represent the government, *viz* –

> ...
> Furthermore, we find it appropriate to pronounce that the Bureau of Internal Revenue Legal Division is not the proper representative of respondent.
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> We observe that respondent is represented by a lawyer from the Legal Division of Revenue Region No. 7 of the Bureau of Internal Revenue and not by the Office of the Solicitor General. We are mindful of Section 220 of Republic Act No. 8424 or the Tax Reform Act of 1997, which provides that legal officers of the Bureau of Internal Revenue

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[12] The Office of the Solicitor General (**OSG**) received the Decision dated 30 January 2026 on 06 February 2026. Counting fifteen (15) days therefrom, petitioner had until 21 February 2026 to file the motion for reconsideration (**MR**). The MR was filed on 18 February 2026 through registered mail and emailed on 19 February 2026 pursuant to En Banc Resolution No. 8-2024. Thus, the MR is timely filed.

[13] G.R. No. 165451, 03 December 2014; Citations omitted and emphasis supplied.

are the ones tasked to institute the necessary civil or criminal proceedings on behalf of the government:

Section 220. Form and Mode of Proceeding in Actions Arising under this Code. — Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but no civil or criminal action for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner.

Nonetheless, this court has previously ruled on the issue of the Bureau of Internal Revenue's representation in appellate proceedings, particularly before this court:

The institution or commencement before a proper court of civil and criminal actions and proceedings arising under the Tax Reform Act which "shall be conducted by legal officers of the Bureau of Internal Revenue" is not in dispute. **An appeal from such court, however, is not a matter of right. Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic. This Court continues to maintain that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings.** This pronouncement finds justification in the various laws defining the Office of the Solicitor General, beginning with Act No. 135, which took effect on 16 June 1901, up to the present Administrative Code of 1987. Section 35, Chapter 12, Title III, Book IV, of the said Code outlines the powers and functions of the Office of the Solicitor General which includes, but not limited to, its duty to —

> (1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party.
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> . . . .
>
> (3) Appear in any court in any action involving the validity of any treaty, law, executive order or proclamation, rule or regulation when in his judgment his intervention is necessary or when requested by the Court.

> In Gonzales vs. Chavez, the Supreme Court has said that, from the historical and statutory perspectives, the Solicitor General is the "principal law officer and legal defender of the government."
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> **From the foregoing, we find that the Office of the Solicitor General is the proper party to represent the interests of the government through the Bureau of Internal Revenue. The Legal Division of the Bureau of Internal Revenue should be mindful of this procedural lapse in the future.**
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> ...

Addressing petitioner's blanket statement of relaxation of technical rules, in *Republic of the Philippines v. Court of Appeals and Traders Royal Bank*,[14] the Supreme Court ruled that failure to file an appeal within the allowed prescriptive period raises a jurisdictional problem and may not be considered a mere technicality –

> ...
> Nor can petitioner invoke the doctrine that rules of technicality must yield to the broader interest of substantial justice. **While every litigant must be given the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities, the failure to perfect an appeal within the reglementary period is not a mere technicality. It raises a jurisdictional problem as it deprives the appellate court of jurisdiction over the appeal.** The failure to file the notice of appeal within the reglementary period is akin to the failure to pay the appeal fee within the prescribed period. In both cases, the appeal is not perfected in due time. As we held in *Pedrosa v. Hill*, the requirement of an appeal fee is by no means a mere technicality of law or procedure, but an essential requirement without which the decision appealed from would become final and executory. The same can be said about the late filing of a notice of appeal.
> ...

Further, in *Ely Chan Sa Velasco v. Hon. Rodolfo A. Ortiz, et al.*,[15] the Supreme Court earlier stressed that a party's right to appeal is a purely statutory right, and he or she who wants to exercise it must comply with the statute –

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14 G.R. No. 129846, 18 January 2000; Citations omitted and emphasis supplied.
15 G.R. No. 51973, 16 April 1990.

> ...
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> *[W]hen the law fixes thirty days, we cannot take it to mean also thirty-one days.* If that deadline could be stretched to thirty-one days in one case, what would prevent its being further stretched to thirty-two days in another case, and so on, step by step, until the original line is forgotten or buried in the growing confusion resulting from the alterations? *That is intolerable. We cannot fix a period with the solemnity of a statute and disregard it like a joke.* If law is founded on reason, whim or fancy should play no part in its application
>
> We do not agree that *"the ends of justice would be better subserved"* by *allowing an appeal presented "only one day late."* There is no basis in fact, law or reason for such conclusion. On the contrary, these considerations militate against it: (1) The orderly administration of justice would suffer a drawback if the period for perfecting appeals be rendered uncertain, as it would be, by sanctioning such transgression of the deadline. (2) The appealed decision is presumed by law to be just and correct, and therefore the denial of the appeal does not necessarily imply an injustice to the appellant. (3) The right to appeal is a purely statutory right, and he who wants to exercise it must comply with the statute.
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> ...

WHEREFORE, petitioner Commissioner of Internal Revenue's Motion for Reconsideration (Re: Resolution Promulgated on 30 January 2026) filed on 18 February 2026 through registered mail and emailed on 19 February 2026 is hereby **DENIED** for lack of merit.

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

Took No Part
PAOLO S. TESTON
Associate Justice

Took No Part
DEBBIE JEAN I. CENTENO-DIJAMCO
Associate Justice