REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3000** (CTA Case Nos. 10073, 10120, & 10205)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES, ANGELES,** *and* **TESTON,** *JJ.*
PETRON CORPORATION, Respondent.	Promulgated: JUL 29 2026 10:2

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RESOLUTION

FERRER-FLORES, J.:

For this Court's resolution is the **Motion for Reconsideration (Re: Decision promulgated 20 January 2026)** filed by petitioner **Commissioner of Internal Revenue (petitioner/CIR)** on February 9, 2026, with **Opposition (To: Motion for Reconsideration dated 29 January 2026)** filed by respondent **Petron Corporation (respondent/Petron)** via registered mail on March 9, 2026 and received by the Court on March 16, 2026.

In the instant *Motion for Reconsideration*, petitioner prays for the Court *En Banc* to reverse and set aside its Decision dated January 20, 2026 (assailed Decision),[1] which dismissed his *Petition for Review* dated September 11, 2024, the dispositive portion of which reads:

[1] *Rollo*, pp. 167 to 181.

ACCORDINGLY, premises considered, the **Petition for Review** is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

In his *Motion for Reconsideration*, the CIR claims that the counsel for Bureau of Internal Revenue (BIR), representing the CIR before the Court of Tax Appeals (CTA), is the Litigation Division or Legal Division per Memorandum of Agreement (MOA) between Office of the Solicitor General (OSG) and the BIR. According to petitioner, the OSG is allowed under the law to deputize legal officers of government departments, bureaus, agencies, and offices to assist the Solicitor General and appear and represent the Government in cases involving their respective offices, brought before the courts. He points out that the same is acknowledged by the CTA through the Revised Rules of the CTA (RRCTA). In the case of the BIR and the OSG, the latter may deputize the legal officers of the former to appear in cases before the CTA. From the MOA between the OSG and the BIR, it is clear that the OSG deputized BIR handling lawyers in cases appealed to the CTA *En Banc*. The CIR points out that it is the BIR handling lawyer who prepares the necessary papers in connection with the case; thus, service of Court Decision, Resolution or Orders to the appropriate BIR legal office should be made first before the OSG. Petitioner avers that it does not contest the status of the OSG as the statutory counsel of the BIR. Petitioner, however, humbly submits that the issue here is the deprivation of due process of the BIR, not allowing him to put up his arguments and to be riddled with technicalities at every stage of the proceeding.

Assuming *arguendo* that the *Petition for Review* was filed out of time, as per petitioner, courts are allowed to relax the rules of procedure to best serve the interest of justice and fair play.

With regard to the merits of the case, petitioner again quotes the discussion of the Court in a different case[2] involving the similar issue of whether alkylate is subject to excise tax, where it was held that alkylate was a product of distillation, hence, subject to excise tax under Section 148(e) of the National Internal Revenue Code (NIRC) of 1997, as amended.

On the other hand, in its *Opposition*, respondent interposes that the present *Motion* should be denied for lack of jurisdiction and/or merit. Respondent maintains that the Court correctly ruled that the *Petition for Review* was filed beyond the reglementary period. Furthermore, even if the CIR's appeal was timely filed, the *Motion* still lacks merit as the assailed Decision is wholly consistent with the Supreme Court's decision in *Petron*

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[2] *Petron Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 2425, June 28, 2022.

Corporation vs. Commissioner of Internal Revenue,[3] which is final and binding on this Court.

Upon evaluation of the respective arguments raised by the parties, this Court finds petitioner's *Motion for Reconsideration* devoid of merit.

Section 10 of Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that the OSG shall represent the People of the Philippines and government officials sued in their official capacity in **all cases brought to the CTA** in the exercise of its appellate jurisdiction.[4]

This accords with Section 35(1), Chapter 12 of the Administrative Code of 1987, which provides for the OSG's powers and functions as the law office of the Government, viz.:

> SECTION 35. *Powers and Functions.* — **The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer.** When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:
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> (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.** *(Emphasis supplied)*

In relation thereto, on March 17, 2010, the OSG and the BIR entered into a MOA which was communicated to all revenue officers and other concerned parties through Revenue Memorandum Circular (RMC) No. 25-2010.[5] The MOA provides for the deputization of BIR legal officers and the

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[3] G.R. No. 255961, March 20, 2023.

[4] **SECTION 10.** *Solicitor General as Counsel for the People and Government Officials Sued in their Official Capacity.* — The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. He may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

[5] SUBJECT : Publishing the Full Text of the Memorandum of Agreement Between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General; March 17, 2010.

responsibilities of both parties in handling tax cases. Note, however, that the said MOA does not, in any way, alter the power and duties of the OSG as the lawyer of the government. The OSG remains as the principal counsel, and, as such, still exercises supervision and control over the deputized BIR legal officers with respect to a case. In this regard, the CIR, a government official acting in an official capacity, is represented both by the OSG as the principal counsel, and the Litigation Division of the BIR, as deputized counsel.

To reiterate, the Supreme Court has settled that the service of legal processes to the principal counsel, and not on the deputized lawyers, is decisive as to the date from which the 15-day period is counted.[6] Hence, the *Petition for Review* should have been filed within 15 days from the date of receipt of the OSG, as principal counsel, on September 9, 2024,[7] or until **September 24, 2024**. As it is, the *Petition for Review* was belatedly filed on **September 25, 2024**.

With regard to petitioner's argument that service should have been made upon the BIR first, Section 5 of Rule 14 of the RRCTA states: "The Clerk of Court or Division Clerk of Court shall serve notice of such decision or resolution upon the parties or their counsel, furnishing them with certified true copies thereof". On the other hand, Section 2 of the same Rule prescribes the service of pleadings or other court submissions as follows: "[w]here several counsels appear for one party, such party shall be entitled to only one copy of any pleading or paper to be served upon the lead counsel if one is designated, or upon any one of them if there is no designation of a lead counsel."

It should be noted that nothing in the aforequoted rule requires that service be made to a deputized counsel first.

Furthermore, even setting aside the issue on the timeliness of the filing the *Petition for Review*, the Court still finds the dismissal thereof to be in order.

A careful perusal of the *Petition* and the corresponding annexes reveals that, not only was it belatedly filed, but no written authorization from the OSG to the special counsels from the BIR was attached thereto.

It has been held that a petition filed without the OSG's *imprimatur*, when it is required, shall be defective and shall be dismissible based on this

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[6] *National Power Corp. vs. National Labor Relations Commission,* G.R. Nos. 90933-61, May 29, 1997.
[7] *Notice of Resolution,* Division Docket (CTA Case No. 10073) – Vol. V, p. 2569.

ground alone.[8] In *Commissioner of Internal Revenue vs. Second Division of the Court of Tax Appeals*,[9] the Supreme Court expounded that, while the above rule was relaxed in *Commissioner of Internal Revenue vs. La Suerte Cigar & Cigarette Factory*[10] (La Suerte), the Court did not find any reason to do so in the former case; the CIR/BIR is expected to observe the pronouncement in *La Suerte* and the guidelines set out in its own agreement with the OSG.

Here, petitioner failed to attach to his *Petition for Review* any deputization or authority from the OSG, the principal legal counsel. Clearly, the filing of the said *Petition for Review* is unwarranted and would thereby still result in the dismissal of the case.

Finally, the Court stresses that, despite the procedural infirmities, it still addressed the merits of the *Petition for Review* in the assailed Decision. Curiously, petitioner's arguments on the merits in the present *Motion* are the quoted portions of CTA EB No. 2425,[11] a complete duplication his arguments dismissed *Petition for Review*. At any rate, it should be noted that decisions of this Court do not constitute as binding precedents as only decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.[12]

In *Department of Energy vs. Commissioner of Internal Revenue*,[13] the Supreme Court, citing *Shangri-la International Hotel Management, Ltd. vs. Developers Group of Companies, Inc.*,[14] held that, while a motion for reconsideration, by its nature, may tend to dwell on issues already resolved in the decision or resolution sought to be reconsidered, a circumstance which should not be an obstacle for a reconsideration, petitioners must still raise matters substantially plausible or compellingly persuasive to warrant a reversal of the Court's previous ruling.

Clearly, there are no new matters which warrant the Court's attention. At any rate, the Court, at the risk of being repetitive, emphasizes that no less than the Supreme Court has definitively declared that **alkylate does not belong to the same category as naphtha and regular gasoline; hence, the same should not be subjected to excise tax.**[15]

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8 *Commissioner of Internal Revenue vs. Second Division of the Court of Tax Appeals*, G.R. No. 280165, August 4, 2025; citing *Republic vs. "G" Holdings Inc.*, G.R. No. 141241, November 22, 2005.

9 *Commissioner of Internal Revenue vs. Second Division of the Court of Tax Appeals*, supra.

10 G.R. No. 144942 (Resolution), July 4, 2002.

11 *Petron Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 2425, June 28, 2022.

12 *Commissioner of Internal Revenue vs. San Roque Power Corp.*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013.

13 G.R. No. 260912 (Resolution), August 30, 2023.

14 G.R. No. 159938 (Resolution), January 22, 2007.

15 *Petron Corporation vs. Commissioner of Internal Revenue*, G.R. No. 255961, March 20, 2023.

The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is. It is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[16]

The ruling of the Supreme Court, therefore, that alkylate should not be subjected to excise tax, should prevail.

All told, the Court *En Banc* finds no compelling reason to reverse or modify the assailed Decision.

ACCORDINGLY, petitioner's **Motion for Reconsideration (Re: Decision promulgated 20 January 2026)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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16 *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003, citing *Government Service Insurance System vs. Court of Appeals*, G.R. No. 101632, January 13, 1997.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

(Took no part)
PAOLO S. TESTON
Associate Justice