REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* NO. 3021** (CTA Case No. 10372)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
BIO-RESOURCE POWER GENERATION CORPORATION, *Respondent.*	Promulgated: MAY 26 2026 10:50a.m.

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RESOLUTION

CUI-DAVID, J.:

Before the Court *En Banc* is petitioner's *Motion for Reconsideration (Re: Decision dated 27 November 2025) [**Motion for Reconsideration**],* [1] filed on December 17, 2025, assailing the *Decision*[2] promulgated on November 27, 2025 (**assailed *Decision***), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DISMISSED** for having been filed out of time and for lack of merit.
>
> Accordingly, the *Decision* dated July 30, 2024, and the Resolution dated October 4, 2024, of the Court's Second Division are **AFFIRMED**.
>
> **SO ORDERED.**

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[1] *En Banc (EB)* Docket, pp. 115–140.
[2] *Id.* at 77–91.

In seeking the reversal and reconsideration of the assailed *Decision*, petitioner raises the following arguments in his *Motion for Reconsideration*:

1. The counsel for the Bureau of Internal Revenue (**BIR**) representing the Commissioner of Internal Revenue (**CIR**) before the Court of Tax Appeals (**CTA**) is the Litigation Division or Legal Division per Memorandum of Agreement (**MOA**) between the Office of the Solicitor General (**OSG**) and BIR;

2. Technicalities must yield to substantial justice;

3. The assessments were made in accordance with prevailing laws and rules. The recent decisions of the Honorable Court regarding the technicalities on petitioner's letters and notices should not be applied retroactively;

4. The Reply to the Preliminary Assessment Notice (**PAN**) need not be addressed in the Formal Letter of Demand (**FLD**); and

5. Petitioner was not denied of its right to due process as it was able to [effectively] file a reply to PAN and protest the FLD.

On the other hand, by way of *Comment (Re: Respondent's* [sic] *Motion for Reconsideration dated December 16, 2025)*, filed on February 4, 2026, respondent avers that the present *Motion for Reconsideration* merely rehashes arguments previously raised before the Court's Second Division (**Court in Division**), which have been exhaustively examined and resolved by the said division.

Respondent maintains that the present *Petition for Review* was properly denied for being belatedly filed. It contends that petitioner's reliance on the MOA between the OSG and the BIR is misplaced, as such agreement cannot supplant the long-settled rule that notices, resolutions, and decisions must be served upon the OSG, as the government's principal counsel, for purposes of determining the timeliness of appeals.

Moreover, respondent argues that a liberal application of procedural rules is unwarranted, as petitioner failed to advance any compelling or exceptional circumstance to justify such leniency.

Finally, respondent reiterates that the assessments were tainted with patent violations of due process.

After a careful consideration of the submissions of both parties, the Court *En Banc* finds the instant *Motion for Reconsideration* to be without merit.

In the assailed *Decision,* the Court *En Banc* sustained the rulings in the *Decision* dated July 30, 2024[3] and the *Resolution* dated October 4, 2024[4] of the Court in Division, which cancelled and set aside the deficiency income tax, value-added tax, expanded withholding tax, and compromise penalties assessment, in the aggregate amount of ₱33,468,709.51, for the fiscal year ending September 30, 2016. The Court *En Banc* denied the instant *Petition for Review*[5] after finding that it was filed out of time and that, even assuming it was timely filed, the assessment was void for petitioner's failure to comply with due process requirements.

Petitioner asserts that, under the MOA between the OSG and the BIR, the latter's lawyers were deputized to handle cases appealed before the CTA *En Banc* and, being the counsel primarily responsible for pleadings and other papers/ documents, all resolutions and processes of the CTA must be served upon BIR lawyers.

The Court *En Banc* begs to differ.

It has been consistently held in a catena of cases that the OSG's date of receipt determines when a decision attains finality and serves as the basis for computing the reglementary period to file an appeal.[6] While the BIR is indeed deputized by the OSG under the said MOA, it remains a "mere representative" of the OSG, which retains full supervision and control over its deputized counsel, being the government's principal counsel.

The fact that the OSG received the *Resolution* dated October 4, 2024, on October 15, 2024,[7] remains undisputed. Consequently, petitioner should have filed its *Petition for Review,* or at the very least, a *Motion for Extension of Time to File Petition for Review,* on or before October 30, 2024. Such failure to perfect an appeal as required by the rules has the effect of

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[3] *Id.* at 41–50.
[4] *Id.* at 52–54.
[5] *Id.* at 9–29.
[6] *Baldovino-Torres v. Torres,* G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division]; *Commissioner of Customs v. Court of Tax Appeals,* G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division]; *Republic v. Viaje,* G.R. No. 180993, January 27, 2016 [Per J. Reyes, Third Division]; *National Power Corporation v. National Labor Relations Commission,* G.R. Nos. 90933–61, May 29, 1997 [Per J. Romero, Second Division].
[7] Division Docket – Vol. 2, p. 1012.

defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[8]

To emphasize, while the Supreme Court and this Court possess the discretion to allow liberal application of the rules in exceptional circumstances to prevent manifest injustice, **jurisdiction over the subject matter is a fundamental requirement,** without which a court cannot validly act on a case. Absent any compelling reason, procedural rules cannot be disregarded. It is well settled that the perfection of an appeal in the manner and within the period prescribed by law is both **mandatory and jurisdictional**.

Petitioner contends that technicalities must yield to substantial justice. This argument does not persuade. The Court *En Banc* stresses that the invocation of substantial justice is not a magic wand that would readily dispel the application of procedural rules.[9] Such rules are required to be followed except only for the most persuasive of reasons.[10]

As petitioner has failed to present any new, substantial, or compelling argument, or to raise any novel issue that has not already been previously scrutinized, studied, and resolved by the Court, there is no justification to abandon the assailed *Decision.*

In light of the finding that the *Petition for Review* was belatedly filed, a conclusion petitioner failed to refute, the Court finds it unnecessary to address the other arguments raised by petitioner in relation to due process violations.

WHEREFORE, premises considered, petitioners' *Motion for Reconsideration (Re: Decision dated 27 November 2025)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

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[8] *China Banking Corp. v. City Treasurer of Manila.* G.R. No. 204117. July 1. 2015 [Per J. Mendoza. Second Division].
[9] *Philippine Savings Bank v. Papa*. G.R. No. 200469. January 15. 2018. [Per J. Martires. Third Division].
[10] *Id.*

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WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice