REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB NO. 2915
(CTA Case No. 10417)

- versus -

NEW YORK BAY PHILIPPINES, INC.,
Respondent.

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NEW YORK BAY PHILIPPINES, INC.,
Petitioner,

CTA EB NO. 2916
(CTA Case No. 10417)

- versus -

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 0 3 2026 4:10pm

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RESOLUTION

REYES-FAJARDO, ***J.:***

We resolve the:

1. *Motion for Reconsideration (Re: Decision promulgated on 02 December 2025)*[1] filed by Commissioner of Internal Revenue (CIR) on December 11, 2025, with the NYBP's *Comment (Re: CIR's Motion for Reconsideration dated December 11, 2025)*[2] filed on January 26, 2026; and,

2. *Motion for Partial Reconsideration (Re: Decision dated December 2, 2025)*[3] filed by New York Bay Philippines Inc. (NYBP) on December 26, 2025, with CIR's *Manifestation*[4] filed on February 3, 2026.

On December 2, 2025, the Court promulgated a Decision,[5] denying the Petitions for Review in CTA EB Nos. 2915 and 2916, and affirming the Decision dated October 4, 2023, and Resolution dated April 19, 2024 of the Court of Tax Appeals Special Second Division (Court in Division) in CTA Case No. 10417. The *fallo* of which reads:[6]

> **WHEREFORE**, the Petitions for Review, filed by the Commissioner of Internal Revenue in CTA EB No. 2915, and by New York Bay Philippines, Inc. in CTA EB No. 2916, are **DENIED.** The Decision dated October 4, 2023, and Resolution dated April 19, 2024, in CTA Case No. 10417, are **AFFIRMED.**
>
> **SO ORDERED.**

Specifically, the Court denied CIR's Petition for Review holding that its Motion for Partial Reconsideration before the Court in Division was belatedly filed, thus rendering said decision final as to the CIR. It also denied NYBP's Petition for Review, sustaining the reduced refundable amount determined by the Court in Division. The Court affirmed the Court in Division's findings on NYBP's non-compliance with invoicing and substantiation requirements, particularly with respect to unreadable official receipts (ORs) and those lacking indication of the nature of services.

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1 *Rollo.*, pp. 120 - 137.
2 *Id.*, pp. 158 - 173.
3 *Id.*, pp. 140 - 151.
4 *Id.*, pp. 158 - 160.
5 *Id.*, pp. 106 - 118.
6 *Id.*, p. 117.

Undaunted, both parties filed their respective Motions for Reconsideration.

After due consideration of the arguments presented, We find no cogent reason to disturb the assailed Decision.

The Court's reckoning of the reglementary period for filing a Motion for Reconsideration from the OSG's receipt of the Court's Decision is proper.

In its Motion for Reconsideration (Re: Decision promulgated on 02 December 2025), the CIR maintains that the reglementary period for filing a Motion for Reconsideration should be reckoned from the date of receipt of the Court's Decision by the Bureau of Internal Revenue (BIR) Litigation Division or the handling BIR counsel, and not from receipt by the OSG.

NYBP through its Comment (Re: CIR's Motion for Reconsideration dated December 11, 2025), retorts that the proper reckoning point is the OSG's receipt, it being the statutory counsel of the government in appellate proceedings, notwithstanding any deputation of BIR counsel.

The CIR's position is unavailing.

In *Baldovino – Torres v. Torres et al., (Torres),*[7] it was held that the reckoning of the (15) fifteen-day period to file a Motion for Reconsideration is based on the date the OSG receives the decision, as principal counsel for the government.

Torres further instructs that in reckoning reglementary periods and determining finality of decision, service of legal processes upon the OSG, not upon deputized agency counsel, is controlling, *viz.*:

> In the case of *National Power Corporation v. National Labor Relations Commission (NAPOCOR)*, the Court 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 holding so, the Court emphasized that the

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[7] G.R. No. 248675, July 20, 2022.

> lawyer deputized by the OSG is considered as a mere representative of the latter who retains supervision and control over the deputized lawyer. **As a consequence, copies of orders and decisions served on the deputized counsel, acting as agent or representative of the Solicitor General, are not binding until they are actually received by the latter.**
>
> The *NAPOCOR* case was cited in the subsequent case of *Commissioner of Customs v. Court of Tax Appeals*, where it was reiterated that although the OSG may have deputized the lawyers in a government agency represented by it, **the OSG continues to be the principal counsel and, therefore, service on it of legal processes, and not that on the deputized lawyers, is decisive.** [8]

In fine, CIR's position is bereft of legal basis. Accordingly, CIR's belated filing of its Motion for Reconsideration rendered the Decision of the Court in Division final as to it, thereby barring any further review.

The disallowance of NYBP's input VAT credits is proper.

NYBP, in its Motion for Partial Reconsideration (Re: Decision promulgated on December 2, 2025), contends that the Court erred in disallowing portions of its input VAT on the grounds of unreadable ORs and the absence of the nature of services indicated therein, arguing that the original physical copies of the receipts are clear and legible, and that the nature of the services may be ascertained from the identity of its suppliers and related billing documents.

The CIR through its Manifestation, maintains his position that NYBP is not entitled to a refund of its excess unutilized input VAT for calendar year 2018.

We sustain the disallowance of the subject input VAT.

The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.[9] NYBP failed to discharge this burden, as it did not submit the subject ORs in complete and legible condition. The Court, in the

8 Emphasis ours. Citations omitted.

9 *Commissioner Internal Revenue v. Filminera Resources Corporation*, G.R. No. 236325, September 16, 2020.

exercise of its judicial evaluation, is not bound to be persuaded by evidence it cannot properly examine or verify.

Further, Sections 113(B) and 237 of the National Internal Revenue Code, as amended,[10] expressly require that VAT ORs must state the nature of the service on the face of the ORs itself. NYBP's reliance on suppliers' identity and supporting documents cannot substitute for compliant ORs.

WHEREFORE, Commissioner of Internal Revenue's *Motion for Reconsideration (Re: Decision promulgated on 02 December 2025),* and New York Bay Philippines Inc.'s *Motion for Partial Reconsideration (Re: Decision dated December 2, 2025)* are **DENIED**. The Decision promulgated on December 2, 2025 is **AFFIRMED.**

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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10 SEC. 113. Invoicing and Accounting Requirements for VAT-registered Persons. —

(B) Information Contained in the VAT Invoice or VAT Official Receipt. — The following information shall be indicated in the VAT invoice or VAT official receipt:

...

(3) The date of transaction, quantity, unit cost and description of the goods or properties or **nature of the service**; and

...

SECTION 237. Issuance of Receipts or Sales or Commercial/Invoices.- All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or **nature of service**:..

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

(Kindly see my Separate Concurring and Dissenting Opinion)
HENRY S. ANGELES
Associate Justice

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 2915** (CTA Case No. 10417)
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NEW YORK BAY PHILIPPINES, INC., *Petitioner,*	**CTA EB NO. 2916** (CTA Case No. 10417)
- versus -	Present: **RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 03 2026 4:10

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SEPARATE CONCURRING AND DISSENTING OPINION

ANGELES, *J.*:

I concur with the majority's disposition denying, for lack of merit, the *Motion for Reconsideration (Re: Decision promulgated on 02 December 2025)*[1] filed by the Commissioner of Internal Revenue

[1] *En Banc* (*EB*) Docket (CTA *EB* No. 2915), pp. 120 to 139.

(CIR) in Court of Tax Appeals (CTA) *En Banc* (*EB*) No. 2915, considering that the CIR's *Motion for Partial Reconsideration (Re: Decision promulgated on 04 October 2023)*[2] before the Court in Division was not seasonably filed, the reglementary period being reckoned from the Office of the Solicitor General's receipt of the assailed Decision.[3]

However, I am, with due respect, unable to fully join the *ponencia* insofar as it likewise denied, in its entirety, the *Motion for Partial Reconsideration (Re: Decision dated December 2, 2025)*[4] filed by New York Bay Philippines, Inc.'s (NYBP) in CTA *EB* No. 2916. On this point, I respectfully dissent.

As regards NYBP's *Motion for Partial Reconsideration*,[5] I agree with the *ponencia* in rejecting its contention that the disallowed input value-added tax (VAT) in the amount of ₱221,710.64 should nonetheless be allowed on the premise that the nature of the suppliers' services may be ascertained from other supporting documents. In this regard, I find no cogent reason to depart from the ruling of the majority.

I respectfully part ways with the *ponencia*, however, insofar as it sustains the disallowance of NYBP's input VAT claim totaling ₱5,460,345.01 on the sole ground that certain Official Receipts (ORs) (subject ORs), as submitted in scanned form, were either unreadable or contained illegible portions necessary to establish the details of the underlying transactions. In my humble view, the circumstances surrounding the submission of these documents do not warrant the outright rejection of the corresponding input VAT claims, broken down as follows:

Particulars	Amount
Disallowed input VAT on the ground that the scanned copies of the supporting VAT ORs were unreadable	₱4,136,795.37
Disallowed input VAT on the ground that the breakdown of amounts in the scanned copies of the VAT ORs were unreadable	1,323,549.64
Total	**₱5,460,345.01**

A careful review of the records reveals that the originals of the subject ORs were, in fact, examined and verified by the Independent

[2] Division Docket – Vol. II, pp. 871 to 881.
[3] Division Docket – Vol. II, pp. 633 to 673.
[4] *EB* Docket (CTA *EB* Case No. 2915), pp. 140 to 151.
[5] *EB* Docket (CTA *EB* Case No. 2915), pp. 140 to 151.

Certified Public Accountant (ICPA), Mr. Walter L. Abela Jr. In his Sworn Statement,[6] the ICPA unequivocally confirmed that the voluminous documentary exhibits supporting NYBP's claim—including the ORs covered by Exhibit "P-26" and its corresponding sub-markings—were examined and verified by him, and that the photocopies submitted to the Court were faithful reproductions of the originals maintained by NYBP. He further certified that the documents supporting the schedules and summaries were photocopied under his supervision from the originals and certified true copies in the petitioner's possession. Thus:

> **III. VERIFICATION OF DOCUMENTS**
>
> **Q19: Mr. Abela, in the course of the verification procedures that you performed as ICPA in this case, you mentioned that you verified and marked the documents supporting the petitioner's claim for refund of excess and unutilized input VAT for CY 2018. If shown copies of these documents, will you be able to identify them?**
>
> A19: Yes.
>
> **Q20: I am showing to you several documents marked as <u>Exhibits P-25 to P-41, including sub-marked documents</u>. What is the relation to these documents, if any, to the ones you examined, verified, and identified in your ICPA Report?**
>
> A20: These are the voluminous documents that we examined and verified in relation to petitioner's judicial claim for refund of excess and unutilized input VAT for CY 2018, particularly:

<u>Description</u>	<u>Exhibit</u>
x x x	
Summary and Photocopies of Official Receipts (ORs) and Sales Invoices (SIs) of Valid Unutilized Input VAT on Purchases Other Than Capital Goods	Exhibits "P-26," "P-26.1" to "P-26.6," Exhibits "P-26.1.1" to "P-26.1.100," Exhibits "P-26.2.1" to "P-26.2.134," Exhibits "P-26.3.1" to "P-26.3.162," Exhibits "P-26.4.1" to "P-26.4.185," Exhibits "P-26.5.1" to "P-26.5.68," and Exhibits "P-26.6.1" to "P-26.6.21"
x x x	

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[6] Division Docket – Vol. I, *Sworn Statement of Mr. Walter L. Abela Jr. to Questions Propounded by Atty. Ana Riza N. Santos-Bernil* dated February 23, 2022, Exhibit "P-20," pp. 343 to 360.

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Q21: **Mr. Abela, who pre-marked these exhibits?**

A21: We pre-marked these documents pursuant to my authority and duty under Rule 13 of the Revised Rules of the CTA.

Q22: **I noticed that all these exhibits are copies, where are the originals of these documents?**

A22: The originals of all the supporting documents are stored at the office of petitioner at Units 2-7 Level 18 IBP Tower, Julia Vargas Avenue, Ortigas Center, Pasig City.

Q23: **Other than the foregoing, what other documents, if any, did you examined in the court of review in relation to petitioner's judicial claim for refund of excess and unutilized input VAT for CY 2018?**

A23: In addition to the foregoing, we also used the exhibits that were pre-marked by the petitioner prior to my commissioning as ICPA, particularly:

x x x

Q24: **With respect to the verification of the authenticity and due execution of documents supporting petitioner's claim for refund of or issuance of TCC for excess and unutilized input VAT for CY 2018, what were your findings?**

A24: I hereby certify that the documents supporting the schedules and summaries were photocopied under my supervision from the original and certified true copy of documents in petitioner's file and are faithful reproductions thereof, or are original printouts, from the petitioner's BIR-registered Computerized Accounting System.

x x x[7] (Emphases in the original)

These documentary exhibits were thereafter formally offered[8] in evidence, and admitted by the Court in Division through its Resolution dated March 30, 2022.[9] Notably, in its *Formal Offer of Evidence*,[10] NYBP expressly manifested that "**Exhibits "P-25" to "P-41"** had been identified and marked by the ICPA, and that their electronic copies were contained in the Universal Serial Bus (USB) Drive marked as **Exhibit "P-21-b,"** which was submitted by the ICPA to the Court

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7 Division Docket – Vol. I, *Sworn Statement of Mr. Walter L. Abela Jr. to Questions Propounded by Atty. Ana Riza N. Santos-Bernil* dated February 23, 2022, Exhibit "P-20," pp. 354 to 358.
8 Division Docket – Vol. I, Petitioner's *Formal Offer of Evidence*, pp. 366 to 384.
9 Division Docket – Vol. I, pp. 563 to 564.
10 Division Docket – Vol. I, Petitioner's *Formal Offer of Evidence*, pp. 366 to 384.

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on February 24, 2022, pursuant to CTA *En Banc* Resolution No. 08-2016 dated August 30, 2016.[11]

A reading of CTA *En Banc* Resolution No. 08-2016[12] readily reveals that its principal objective is administrative in nature—to address the storage concerns of the Court's Judicial Records Division while advancing the goals of the Efficient Use of Paper Rule. Equally important, however, is the safeguard expressly embedded therein: notwithstanding the submission of documentary exhibits in electronic form, **the original receipts, invoices, vouchers, and other supporting documents must remain available for verification and comparison <u>whenever necessary</u>.** Thus, the Resolution itself recognizes that the submission of scanned copies is not intended to supplant the originals, but merely to provide a more efficient means of presenting voluminous evidence before the Court. The relevant provisions state:

> **WHEREAS**, to address the storage concerns of the Judicial Records Division and in line with the goals of the Efficient Use of Paper Rule, it is proposed that the submission of pre-marked receipts, invoices, vouchers or other documents in evidence be in the form of soft copies or scanned copies of the same saved in PDF format in a portable storage device such as memory cards, CDs, DVDs or USBs. It shall be the responsibility of the party submitting the portable storage device that the same be accessible by the Court.
>
> **NOW THEREFORE**, the Court *En Banc* **RESOLVES** as it is hereby **RESOLVED**, to **ADOPT** the proposal that the submission of pre-marked receipts, invoices, vouchers or other documents in evidence be in soft copies or scanned copies of the same saved in PDF format in a portable storage device such as memory cards, CDs, DVDs or USBs and **that it is the responsibility of the party submitting the portable storage device to ensure that the same is accessible by the Court, <u>subject to the provisions of Section 5(b), Rule 12 and Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals on the availability of the original receipts, invoices, vouchers or other documents for verification and comparison, if necessary</u>.** (Emphasis and underscoring supplied)

This requirement mirrors Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals,[13] which likewise provides that documentary exhibits submitted by the ICPA remain subject to verification against the originals, the availability of which shall be the primary responsibility of the party in possession thereof, *viz.*:

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[11] Division Docket – Vol. I, Petitioner's *Formal Offer of Evidence*, p. 376.
[12] August 30, 2016.
[13] A.M. No. 05-11-07-CTA, November 22, 2005.

> SEC. 3. *Findings of independent CPA.* – **The submission by the independent CPA of pre-marked documentary exhibits <u>shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA</u>.** The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification. *(n)* (Emphasis and underscoring supplied)

Viewed in this light, I find it difficult to sustain the conclusion that NYBP should be deprived of its claim corresponding to the subject ORs merely because the scanned copies thereof stored in the USB drive were subsequently found to be unreadable.

To my mind, NYBP did precisely what the Court's own rules required. It submitted its documentary exhibits in electronic form pursuant to CTA *En Banc* Resolution No. 08-2016.[14] The originals were available, examined by the ICPA, and remained subject to verification at all times. To deny the claim corresponding to the subject ORs solely on account of deficiencies in their scanned copies, notwithstanding the availability and prior verification of the originals, would elevate form over substance, and produce a result inconsistent with both the letter and spirit of the governing rules.

Indeed, while CTA *En Banc* Resolution No. 08-2016[15] imposes upon the submitting party the responsibility of ensuring that the portable storage device is accessible to the Court, such obligation must be read in conjunction with the Resolution's equally important safeguard requiring the continuing availability of the original documents for verification and comparison. These requirements are complementary and must be harmonized in a manner that advances, rather than defeats, the fair evaluation of evidence.

Significantly, NYBP was first apprised of the alleged unreadability of certain scanned copies only upon receipt of the assailed Decision[16] of the Court in Division. Upon learning of such deficiency, it promptly attached to its *Motion for Partial Reconsideration (Re: Decision dated October 4, 2023)*[17] clear and legible copies or printouts of the subject ORs.

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[14] *Supra* note 12.
[15] *Ibid.*
[16] Division Docket – Vol. II, pp. 633 to 673.
[17] Division Docket – Vol. II, pp. 674 to 687.

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Under these circumstances, such course of action cannot be regarded as procedurally improper. On the contrary, it constituted the most practical and reasonable means by which NYBP could address a deficiency of which it had no prior notice, while enabling the Court to examine documents whose originals had already been verified by the ICPA,[18] and whose electronic copies had been admitted into evidence.[19]

To hold otherwise would, in effect, place a litigant at a disadvantage for faithfully adhering to a mode of submission expressly authorized by the Court. A party's compliance with the procedures established by the CTA should not be transformed into a basis for denying substantive relief, particularly where the authenticity of the underlying documents remains capable of verification against the originals. Such a result would unduly exalt procedural form over the fair and just determination of the case on the merits.

It bears emphasizing further that jurisprudence is replete with cases where the Supreme Court, in the higher interest of substantial justice, has permitted the reopening of proceedings or the admission of evidence not previously presented during trial.[20] A *fortiori*, there is greater reason to allow the verification and consideration of the clear and legible copies or printouts of the subject ORs in the present case. After all, the originals thereof were duly examined and verified by the ICPA,[21] and their electronic copies were formally offered[22] and admitted into evidence,[23] albeit through submission in a USB drive in accordance with the procedural framework prescribed by the Court.

All told, I vote to *(1)* **DENY** the *Motion for Reconsideration (Re: Decision promulgated on 02 December 2025)* filed by the CIR in CTA *EB* No. 2915 for lack of merit; and *(2)* **PARTIALLY GRANT** NYBP's *Motion for Partial Reconsideration (Re: Decision dated December 2, 2025)* in CTA *EB* No. 2916. Accordingly, the refundable amount should be recomputed after due consideration of the legible copies or printouts of the subject Official Receipts attached to NYBP's *Motion for Partial Reconsideration (Re: Decision dated October 4, 2023)* filed

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[18] Division Docket – Vol. I, *Sworn Statement of Mr. Walter L. Abela Jr. to Questions Propounded by Atty. Ana Riza N. Santos-Bernil* dated February 23, 2022, Exhibit "P-20," pp. 354 to 358.
[19] Division Docket – Vol. I, pp. 563 to 564.
[20] *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023 [Per J. Hernando, First Division]; *Commissioner of Internal Revenue v. De La Salle University, Inc.*, G.R. Nos. 196596, 198841 & 198941, November 09, 2016 [Per J. Brion, Second Division].
[21] Division Docket – Vol. I, *Sworn Statement of Mr. Walter L. Abela Jr. to Questions Propounded by Atty. Ana Riza N. Santos-Bernil* dated February 23, 2022, Exhibit "P-20," pp. 343 to 360.
[22] Division Docket – Vol. I, Petitioner's *Formal Offer of Evidence*, pp. 366 to 384.
[23] Division Docket – Vol. I, pp. 563 to 564.

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before the Court in Division, subject to appropriate verification against the originals as may be warranted under the Rules.

HENRY S. ANGELES
Associate Justice