REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

MONTALBAN METHANE POWER CORPORATION,
Respondent.

CTA *EB* NO. 2881
(CTA Case No. 10038)

Present:

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

Promulgated:

NOV 25 2025 3:41 p.m.

x- -x

RESOLUTION

CUI-DAVID, J.:

This resolves petitioner's *Motion for Reconsideration* filed on July 8, 2025, with respondent's *Comment (Re: Petitioner's Motion for Reconsideration dated 7 July 2025)* filed on August 20, 2025.

Petitioner seeks reconsideration and reversal of the *Decision* dated June 20, 2025 (assailed *Decision*), which reads:

> **WHEREFORE**, the *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

In his *Motion for Reconsideration*, petitioner argues that the Court erred in dismissing the *Petition for Review* for having been filed out of time. Petitioner contends that the reckoning date for the filing should be February 19, 2024, when the Bureau of Internal Revenue (BIR) Legal Division received the assailed Resolution, rather than February 13, 2024, when the Office of the Solicitor General (OSG) received it.

Petitioner invokes the Memorandum of Agreement (MOA) between the OSG and the BIR, published under Revenue Memorandum Circular (RMC) No. 25-2010, which deputizes BIR lawyers as lead counsel in tax cases before the Court of Tax Appeals. Petitioner argues that since BIR lawyers actively litigated the case and the OSG did not enter its appearance, the date of receipt by the BIR should be controlling. Petitioner further pleads for leniency and liberality in the interpretation of procedural rules in the interest of substantial justice, citing Supreme Court rulings that relaxed procedural timelines.

Additionally, petitioner disputes the Court's finding that the Final Assessment Notice (FAN) violated respondent's right to due process, asserting that respondent's Reply to the Preliminary Assessment Notice (PAN) lacked substantive arguments or supporting documents, and therefore did not merit consideration.

Respondent opposes the motion by asserting that the Court correctly ruled that the reckoning date for filing the petition is the date the OSG received the resolution. Respondent emphasizes that the OSG remains the principal counsel of the government, and that service upon deputized counsel does not bind the government. Respondent further argues that the absence of express authorization from the OSG to the BIR lawyers renders the petition invalid. Respondent points out that petitioner failed to attach any deputization order or even a copy of RMC No. 25-2010 to the pleadings.

On the issue of due process, respondent maintains that the FAN was a mere copy of the PAN and failed to address the defenses raised in its reply. This omission, according to respondent, violated Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and rendered the assessment void, as held in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.* (*Avon*).[1]

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[1] G.R. Nos. 201398-99 & 201418-19, October 3, 2018 [Per J. Leonen, Third Division].

After a thorough review of the arguments raised, the Court finds no merit in the *Motion for Reconsideration.*

RMC No. 25-2010 is clear that the OSG remains the lead counsel, and merely deputizes BIR lawyers for cases appealed to the Court *En Banc.* As explained in the assailed *Decision,* jurisprudence consistently affirms that the OSG is the principal counsel of the government, and that service of court issuances upon the OSG, not upon deputized counsel, is the reckoning point for computing reglementary periods. The OSG received the assailed resolution on February 13, 2024, making the deadline to file a petition or a motion for extension on February 28, 2024. Petitioner's *Motion for Reconsideration,* filed on March 4, 2024, was clearly filed beyond the prescribed period.

The Court also finds no merit in petitioner's claim that respondent's Reply to the PAN lacked any argument. The FAN issued was a mere reiteration of the PAN, with no explanation for rejecting the taxpayer's reply. This failure violates Section 228 of the NIRC of 1997, as amended, and constitutes a denial of due process, rendering the assessment void, consistent with the ruling in *Avon.*

WHEREFORE, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

x--x

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

ON LEAVE
HENRY S. ANGELES
Associate Justice