

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES,
Petitioner,

CTA EB CRIM. NO. 185
(CTA Crim. Case No. O-185)

Present:

- versus -

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

YEN CHAN LIAW (2 Antonio St.,
Mandaluyong City)

KING LIN LEU (Mayfair St.,
Montevista Park Subd. Cainta,
Rizal),

Promulgated:

Respondents.

JUL 17 2025
[Signature] 2:35 p.m.
X

X - - - - -

RESOLUTION

Records show that on February 7, 2025, petitioner filed a *Verified Petition for Review (of the Resolutions dated June 24, 2024 and January 20, 2025)*,¹ assailing the Resolutions dated June 24, 2024 (*first assailed Resolution*)² and January 20, 2025 (*second assailed Resolution*),³ both issued by the Court's Third Division (Court in Division) in CTA Criminal Case No. O-185, entitled "*People of the Philippines v. Yen Chan Liaw (2 Antonio St., Mandaluyong City) King Lin Leu (Mayfair St., Montevista Park Subd. Cainta, Rizal).*"

The *first* assailed Resolution ordered the dismissal of CTA Criminal Case No. O-185 on the ground of prescription, while the *second* assailed Resolution denied petitioner's *Motion for Reconsideration (To the Resolution dated June 24, 2024)* for lack of merit.

¹ *En Banc* Docket, pp. 1-18.
² *Id.* at 33-38.
³ *Id.* at 40-42.

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In assailing these Resolutions, petitioner claims that the Court in Division erred in dismissing CTA Criminal Case No. O-185 based on prescription.

However, petitioner’s *Verified Petition for Review (of the Resolutions dated June 24, 2024 and January 20, 2025)* was filed beyond the prescriptive period.

It must be emphasized that a petition for review before the Court *En Banc* is governed by Section 18 of Republic Act (RA) No. 1125,⁴ as amended, which reads:

SEC. 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *En Banc*. (*Emphasis supplied*)

In relation thereto, Section 9(b), Rule 9 of the Revised Rules of the Court of Tax Appeals (RRCTA) states:

RULE 9
PROCEDURE IN CRIMINAL CASES

. . . .

SEC. 9. *Appeal; period to appeal.* —

... ..

(b) An appeal to the Court *En Banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court **within fifteen days from receipt of a copy of the decision or resolution appealed from.** The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days. (*Emphasis supplied*)

... ..

⁴ An Act Creating the Court of Tax Appeals.

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Based on the foregoing provision, to successfully file a *Petition for Review* before the Court *En Banc*, a party litigant must file a *Petition for Review*, or a motion for extension of time to file the same, within fifteen (15) days from receipt of the questioned decision or resolution. In addition, a party litigant must comply with the requirements set forth in Rule 43 of the Rules of Court.

Records show that petitioner, represented by the Department of Justice (DOJ), received the *second* assailed Resolution, which denied its *Motion for Reconsideration (To the Resolution dated June 24, 2024)* on January 21, 2025.⁵ Thus, petitioner had 15 days from January 21, 2025, or until **February 5, 2025**, to file its *Petition for Review* before the Court *En Banc*.

However, petitioner filed the instant *Verified Petition for Review (of the Resolutions dated June 24, 2024 and January 20, 2025)* on **February 7, 2025**, rendering it time-barred.

While petitioner claims that it received the *second* assailed Resolution through its Deputized Special Prosecutor on January 23, 2025 – which would make the filing timely - said date of receipt is not decisive. As the Supreme Court ruled in *National Power Corporation v. National Labor Relations Commission* ⁶ (NAPOCOR), which was later cited in *Commissioner of Customs v. Court of Tax Appeals*,⁷ service of the decision upon the principal counsel, not deputized lawyers, is controlling, to wit:

First. Petitioner was represented in the CTA by the Office of the Solicitor General which deputized lawyers in the Legal Service Division of the Bureau of Customs to serve as collaborating counsels. In accordance with this arrangement, lawyers in both offices (Bureau of Customs and the OSG) were served copies of decisions of the CTA. The lawyers at the Bureau received a copy of the decision of the CTA on May 30, 1997, while the OSG received its own on June 5, 1997. As earlier stated, the OSG filed its motion for reconsideration on June 20, 1997. Counted from this date, the motion was seasonably filed, but if the period for appealing or filing a motion for reconsideration were reckoned from the date of receipt of the decision by the lawyers of the Bureau of Customs, then the motion was filed five days late. The Court of Appeals ruled that service of the copy of the CTA decision

⁵ Division Docket, p. 376.

⁶ G.R. No. 90933-61, May 29, 1997 [Per J. Romero, Second Division].

⁷ G.R. No. 132929, March 27, 2000 [Per J. Mendoza, Second Division].

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on the lawyers of the Bureau of Customs was equivalent to service on the OSG, and, therefore, the motion for reconsideration was filed late.

This is error. In *National Power Corp. v. NLRC*, it was already settled 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...** (Emphasis and italics supplied)

Similarly, in the relatively recent case of *Baldovino-Torres v. Torres*,⁸ the Supreme Court echoed the doctrine laid down in NAPOCOR when it reaffirmed that the public prosecutor in a criminal case remains the principal counsel, even if private or special prosecutors are deputized:

The Court finds no merit in the contention that the OSG filed its Motion for Reconsideration out of time in the RTC. Admittedly, the public prosecutor in charge of the case, who was deputized by the OSG to appear on its behalf, received a copy of the RTC Decision on March 20, 2017. On the other hand, the OSG received its copy only on April 4, 2017.

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 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*. (Emphasis and italics supplied)

In essence, the public prosecutor in a criminal case remains the principal counsel, even when private or special prosecutors are deputized. Consequently, the period for filing a

⁸ G.R. No. 248675, July 20, 2022 [Per J. Inting, Third Division].

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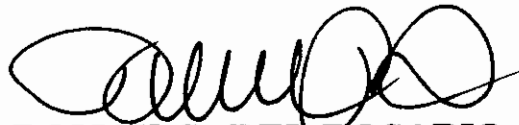
petition for review with the Court *En Banc* to appeal a ruling of the Court in Division is counted from the DOJ's receipt of the adverse ruling. In line with the cited jurisprudence, the date on which the BIR receives such a ruling is immaterial.

As previously noted, the DOJ received the *second* assailed Resolution on January 21, 2025. Counting 15 days, petitioner had until **February 5, 2025**, to file a petition for review before the Court *En Banc*. However, it belatedly filed the present *Verified Petition for Review* on **February 7, 2025**.

Given these circumstances, the *second* assailed Resolution of the Court in Division has become final and executory. Thus, the Court *En Banc* lacks jurisdiction over this case and must dismiss the instant *Verified Petition for Review*.

WHEREFORE, premises considered, the present *Verified Petition for Review* (of the Resolutions dated June 24, 2024 and January 20, 2025) is hereby **DISMISSED** for lack of jurisdiction,

SO ORDERED.



ROMAN G. DEL ROSARIO

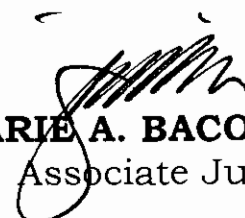
Presiding Justice



MA. BELEN M. RINGPIS-LIBAN
Associate Justice



CATHERINE T. MANAHAN
Associate Justice



JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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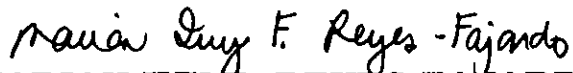
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MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



MARIAN IVY F. REYES-FAJARDO
Associate Justice



LANEE S. CUI-DAVID
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice



HENRY S. ANGELES
Associate Justice