24-000614-0009

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA AC NO. 340

NEW MOON HOLDINGS (PHILIPPINES) INC.,
Petitioner,

- versus -

THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE L. ENRIQUEZ IN HIS CAPACITY AS THE CITY TREASURER OF THE CITY OF TAGUIG ,
Respondent.

NOTICE OF RESOLUTION

To:

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THE CITY OF TAGUIG
Thru: Office the City Mayor
Taguig City Hall, Gen. Luna Street
Taguig City

ATTY. VOLTAIRE L. ENRIQUEZ
Office of the City Treasurer
Taguig City Hall, Gen. A. Luna Street
Taguig City

HON. ANTONIO M. OLIVETE
Presiding Judge
Thru: Branch Clerk of Court
Regional Trial Court
National Capital Judicial Region
Branch 267 - Taguig City
2nd Floor, Hall of Justice Building
DPWH Compound, General Santos Avenue
Central Bicutan, Taguig City

GREETINGS:

You are hereby notified by these presents that on **February 27, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 3, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
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NEW MOON HOLDINGS (PHILIPPINES) INC.,
Petitioner,

- versus -

THE CITY OF TAGUIG AND ATTY. J. VOLTAIRE L. ENRIQUEZ IN HIS CAPACITY AS THE CITY TREASURER OF THE CITY OF TAGUIG,
Respondents.

CTA AC NO. **340**

Members:

DEL ROSARIO, P.J., *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

Promulgated:
FEB 27 2025, 3:30PM

x - x

RESOLUTION

For the Court's resolution is the "Respectful Motion for Reconsideration [Of the Resolution dated November 13, 2024]"[1] (**MR**), filed *via* registered mail by petitioner New Moon Holdings (Philippines) Inc. (**petitioner/NMHPI**) on 02 December 2024.[2] Correspondingly, respondents City of Taguig and Atty. J. Voltaire L. Enriquez (**City Treasurer Enriquez**) in his capacity as City Treasurer of the City of Taguig (collectively, **respondents**) filed a "Motion for Leave to File Opposition and Admit Attached Opposition"[3] (**Motion for Leave**) on 10 January 2025.

Earlier, in the Resolution dated 13 November 2024[4] (**assailed Resolution**), this Court ***deemed as not filed*** the instant *Petition for Review* dated 04 October 2024[5] due to petitioner's failure to submit an electronic mail (**email**)/soft copy thereof within twenty-four (24) hours

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[1] Division Docket, pp. 322-354, with annexes.
[2] Received by the Court on 10 December 2024.
[3] Division Docket, pp. 357-374, with attached Opposition to Motion for Reconsideration.
[4] Id., p. 320.
[5] Id., pp. 5-317, with annexes.

from the filing of the hard/paper copy, as required by paragraph 2[6] of *En Banc* Resolution No. 8-2024[7], adopting A.M. No. 10-3-7-SC and A.M. 11-9-4-SC[8] (**eFiling Guidelines**).

Considering that the thirty (30)-day reglementary period for filing an appeal before the Court of Tax Appeals (**CTA**) lapsed on **11 October 2024**—calculated from petitioner's *alleged* receipt of the Regional Trial Court (**RTC**) Branch 267-Taguig City's (**court *a quo***'s) Order dated 22 August 2024 on 11 September 2024—and further noting that the instant *Petition for Review*[9] filed on 10 October 2024 was deemed not filed due to non-compliance with the email submission requirement under *En Banc* Resolution No. 8-2024, this Court also dismissed the instant *Petition for Review* in the assailed Resolution.[10]

Aggrieved, petitioner filed the instant MR[11], therein asking this Court to (**1**) reconsider its assailed Resolution and (**2**) instead give due course to the instant *Petition for Review*, (**3.a**) remand the case to the court *a quo* to allow petitioner to present evidence and establish the factual, evidentiary and legal basis for its claim for refund and its Protest, or (**3.b**) strike down and void respondent City of Taguig's Notice of Assessment and order respondent City of Taguig to refund the local business tax (**LBT**) it collected on the dividend *per* Official Receipt (**OR**) No. A-5775376.

Firstly, petitioner apologizes for not electronically transmitting the instant *Petition for Review* within 24 hours of its physical filing before the CTA on 10 October 2024. Petitioner clarifies that this lapse was not

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6 2. ***Manner of transmittal.*** - The PDF copies must be transmitted by litigants and court users to the official e-mail addresses:

...

When the primary manner of filing is through personal filing, by registered mail, or by accredited courier, in accordance with Rule 13, Section 3(a), 3(b), or 3(c) of the 2019 Amendments to the 1997 Rules of Civil Procedure, ten (10) paper copies for *En Banc* cases, and six (6) paper copies for initiatory pleadings or four (4) paper copies for subsequent pleadings for Division cases, shall be filed. The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; ***otherwise, the pleading or court submission shall be deemed as not filed.***

7 Guidelines on Submission of Electronic Copies of Pleadings and Other Court Submissions Before the Court of Tax Appeals Pursuant A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC.

8 RE: GUIDELINES ON SUBMISSION OF ELECTRONIC COPIES OF PLEADINGS AND OTHER COURT SUBMISSIONS BEING FILED BEFORE THE LOWER COURTS PURSUANT TO THE EFFICIENT USE OF PAPER RULE

MOVING TOWARDS DIGITAL COURTS: COMPONENT ONE: TRANSITION TO ELECTRONIC FILING AND SERVICE OF PLEADINGS, MOTIONS AND OTHER DOCUMENTS AS WELL AS DIGITAL SERVICE OF ALL ORDERS IN CIVIL CASES.

9 Supra at note 5.

10 Supra at note 4.

11 Supra at note 1.

due to defiance, disregard, or intentional noncompliance with the CTA's procedural rules.

Petitioner seeks the Court's liberality in reconsidering the dismissal of its *Petition for Review*[12], attributing the delay to unforeseen circumstances involving an office staff's urgent need to care for her ailing child. As detailed in the instant MR, on 11 October 2024, petitioner's office staff, Romeber Quiamco Casas (**Casas**), who was responsible for electronically transmitting the scanned copy of the *Petition for Review* (the first page of which is stamped "Received" by the CTA) and its attachments, received an urgent message from her child's school. She was informed that her son was experiencing severe toothache. Acting on maternal instinct, she rushed to the school, took her child to a dentist, and remained with him throughout the weekend due to his persistent discomfort. Consequently, she did not return to work until 14 October 2024 (Monday), by which time she had inadvertently forgotten the electronic transmittal task due to the volume of new work. Upon receiving the Court's assailed Resolution[13], petitioner immediately conducted a thorough investigation, obtained a certification from the dentist confirming the child's treatment[14], and secured an Affidavit dated 02 December 2024[15] from Casas detailing the circumstances.

Petitioner submits that the failure to electronically transmit the *Petition for Review* within 24 hours of its physical filing was purely accidental and beyond its control. Petitioner cites the Supreme Court's ruling in *Sally Sarmiento v. Edita A. Dizon*[16], where a similar delay was excused due to unforeseen personal circumstances. Given these exceptional circumstances, petitioner respectfully requests the Court's consideration and leniency.

Secondly, petitioner urges the CTA to resolve the case on its merits rather than dismissing it on technical grounds. The *Petition for Review* was personally filed and received by the CTA on 10 October 2024, with the correct docket fees duly paid. Petitioner highlights that under Office of the Court Administrator (**OCA**) Circular No. 272-2024[17],

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12 Supra at note 5.
13 Supra at note 4.
14 Annex "C-Motion" attached to Petitioner's *Respectful Motion for Reconsideration*, Division Docket, p. 339.
15 Annex "D-Motion" attached to Petitioner's *Respectful Motion for Reconsideration*, id., pp. 340-341.
16 G.R. No. 235424, 03 February 2021.
17 Frequently Asked Questions (FAQs) on Electronic Filing (A.M. No. 10-3-7-SC and A.M. No. 11-9-4-SC).

failure to transmit an electronic copy within 24 hours does not automatically warrant dismissal of the case. Instead, the Court may simply withhold action on the petition until compliance is made.

According to petitioner, under OCA Circular No. 272-2024, during the transition period (from 01 September 2024 to 30 November 2024), unless the primary mode of filing is electronic submission in accordance with Rule 13[18] of the Rules of Court (**ROC**), as amended[19], the reckoning date for filing is based on the completion of the primary mode of filing or service, *i.e.*, the submission of hard copies either personally or by registered mail. In such cases, the filing or service of electronic copies does not determine when a court document is officially filed or received, nor does it toll or initiate the running of filing periods.

Additionally, petitioner emphasizes that resolving cases on their merits rather than on technicalities is the better rule. Citing *Trans International v. The Court of Appeals, et al.*[20], petitioner asserts that courts should provide parties the broadest opportunity to present their case, especially when an appeal has been timely filed and docket fees duly paid.

Given these considerations, petitioner respectfully requests the CTA to set aside the dismissal and proceed with adjudicating the case on its merits.

Lastly, petitioner asserts that it has strong, valid, and meritorious grounds for seeking a review of the case. Given the staggering assessment by respondent amounting to ₱12,317,153.56, petitioner emphasizes that the case should not be dismissed on a mere technicality. Petitioner notes that the court *a quo* resolved questions regarding the propriety, validity, and legality of the assessment based solely on procedural grounds. It thus urges this Court to adjudicate these issues on their merits rather than on technicalities.

A key argument against the assessment is that a substantial portion of the LBT assessment is imposed on dividend income, which, as established in *City of Davao and Bella Linda N. Tanjili, in her official*

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[18] Filing and Service of Pleadings, Judgments and Other Papers.
[19] 2019 Amendments to the 1997 Rules of Civil Procedure (A.M. NO. 19-10-20-SC).
[20] G.R. No. 128421, 26 January 1998.

capacity as City Treasurer of Davao City v. ARC Investors, Inc.[21], is not subject to LBT when received by a holding company.

Petitioner further claims that the assessment contains glaring errors, including the improper use of 'gross revenues' instead of 'gross receipts' as the tax base, which has been declared unconstitutional by the Supreme Court in *Ericsson Telecommunications, Inc. v. City of Pasig, represented by its City Mayor, Hon. Vicente P. Eusebio, et al.*[22] and *City of Manila, et al. v. Cosmos Bottling Corporation*[23] as it results in double taxation. Additionally, Section 143[24] of the Local Government Code of 1991 (**LGC**) and Section 75[25] of the Revenue Code of Taguig of 1993, as amended, explicitly mandate that LBT must be based on 'gross receipts', reinforcing the illegality of respondent's assessment.

Given these legal precedents and statutory provisions, petitioner respectfully reiterates that this Court should review the case on its merits.

In his or her Opposition[26], respondents argued that: (**1**) the *Petition for Review*[27] is dismissible for lack of jurisdiction due to petitioner's failure to timely file its appeal before the court *a quo* within the period set by law; and, (**2**) petitioner's electronic filing of its initiatory pleading was invalid and contrary to the eFiling Guidelines, thus preventing this Court from acquiring jurisdiction.

Respondents contend that this Court lacks jurisdiction over the petition because the Complaint filed before the court *a quo* was submitted one (1) day after the expiration of the 30-day period provided under the LGC for appealing the City Treasurer's inaction on the Protest against the Notice of Assessment. Consequently, petitioner allegedly forfeited the right to appeal respondents' Notice of Assessment, rendering the dismissal of the Complaint before the court *a quo* on jurisdictional grounds final, conclusive, and unappealable.

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21 G.R. No. 249668 (Resolution), 13 July 2022.
22 G.R. No. 176667, 22 November 2007.
23 G.R. No. 196681, 27 June 2018.
24 Section 143. *Tax on Business.*
25 Section 75. *Imposition of Tax.*
26 Supra at note 3, pp. 360-374.
27 Supra at note 5.

Respondents also clarify that the dismissal of the complaint before the court *a quo* for failure to file an appeal within the reglementary period is not merely a technicality but a jurisdictional matter. By not perfecting an appeal within the prescribed period following respondent City Treasurer's inaction, the assessment became final and unappealable.

As regards petitioner's failure to electronically transmit the *Petition for Review*[28] before this Court, respondents argue that such omission reflects a lack of due diligence and good faith in prosecuting the case. They contend that this failure cannot be excused as mere inadvertence.

Furthermore, respondents find it highly improper for petitioner to attribute its failure to comply with procedural rules to its office staff, Casas, or, more specifically, to a mother's love for her child. Citing two (2) Supreme Court rulings[29], respondents emphasize that shifting the blame to an office secretary is inexcusable, as the responsibility for ensuring compliance with procedural rules rests with the party litigant, not its staff. They assert that petitioner's attempt to appeal to sentimentality and emotions does not absolve it from the obligation to adhere to the e-filing requirement set by this Court.

With these considerations, respondents submit that the instant MR lacks any substantial argument or valid justification to warrant the reversal of the Court's assailed Resolution.[30] Petitioner has failed to present any exceptional circumstance or compelling reason to justify its non-compliance with the e-filing requirement. Respondents further stress that strict adherence to procedural rules is essential to maintaining the integrity of judicial processes and preventing undue delays. Granting the instant MR would set a dangerous precedent, potentially encouraging litigants to treat mandatory procedural requirements as optional, thereby undermining the effectiveness of established rules.

We resolve.

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[28] Supra at note 5.

[29] *Magsaysay Maritime Corp. / Air-Sea Holiday GMBH Stable Organization Italia/ Marlon R. Roño v. Elmer V. Enanor*, G.R. No. 224115, 20 June 2018 and *Basilio C. Gutierrez v. Atty. Leonardo N. Zulueta*, A.C. No. 2200 (Resolution), 19 July 1990.

[30] Supra at note 4.

RESPONDENTS' MOTION FOR LEAVE TO FILE OPPOSITION AND ADMIT ATTACHED OPPOSITION

In the interest of justice and to ensure that all relevant facts, arguments, and legal bases are duly considered in resolving petitioner's MR, this Court is inclined to admit respondents' Opposition.

PETITIONER'S MOTION FOR RECONSIDERATION

At the outset, this Court acknowledges petitioner's plea for the liberal application of procedural rules, citing exceptional circumstances that led to the non-submission of an electronic copy of the *Petition for Review*[31] within the prescribed 24-hour period. Petitioner invokes jurisprudence emphasizing the preference for the resolution of cases on the merits rather than on technicalities.

After a judicious review of the records and the arguments presented, this Court finds a compelling reason to set aside its assailed Resolution.[32]

Considering that the *Petition for Review* is an "initiatory pleading" filed by petitioner on 10 October 2024—within the three (3)-month transition period (*i.e.*, from 01 September 2024 to 30 November 2024) of the eFiling Guidelines, which were adopted by the Court *En Banc* through its Resolution No. 8-2024—this Court shall review the relevant provisions and issuances clarifying the matter. This reassessment aims to determine the merits of dismissing the case for failure to comply with the electronic transmittal requirement.

In its Resolution dated 11 April 2023, the Supreme Court promulgated the eFiling Guidelines. Item 11 thereof states that by **05 April 2024**, the primary manner of filing of all pleadings, motions and other court submissions, before any court, shall be through electronic transmittal.

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[31] Supra at note 5.
[32] Supra at note 4.

However, the Supreme Court, through OCA Circular No. 117-2024 dated 25 April 2024, resolved to move the date of the mandatory applicability of the eFiling Guidelines to **02 September 2024**.

In its Resolution dated 20 August 2024, the Supreme Court, in the 10th Whereas Clause, stated that, effective **01 December 2024**, electronic transmittal shall become the primary manner for filing pleadings or other court submissions, as follows:

> ...
>
> **WHEREAS**, by December 1, 2024, **all civil cases** pending before first and second-level courts **shall use** **<u>electronic transmittal</u>** **as the <u>primary manner of filing</u> pleadings and other court submissions and their accompanying documents**, such as annexes and exhibits, if any[.][33]
>
> ...

In the above Resolution, the Supreme Court also declared that, ***effective 01 September 2024, courts shall not act on any pleading or other court submission filed in a civil case governed by the Rules of Civil Procedure unless it is accompanied by an electronic transmittal via email of the said pleading or other court submission***. Additionally, this electronic submission must be completed within 24 hours from the completion of the primary manner of the document's filing. And that by 01 December 2024, all filing of pleadings and other court submissions shall be done through email of PDF copies. Sections 1 and 3 of the eFiling Guidelines provide, in part, as follows:

> ...
>
> **Sec. 1.** ***Mandatory submission of electronic copies of filings in civil cases.*** **— Starting September 1, 2024, <u>no first- or second-level court shall act upon any pleading, motion, or other court document (herein referred to as "pleading or other court submission") filed</u>, served, or offered in evidence in any civil case governed by the rules of civil procedure, <u>unless the filing</u>, service and offer in evidence <u>is accompanied by an electronic transmittal through e-mail of the same pleading or court submission</u>.** The additional accompanying documents of the pleading or other court submission, such as annexes, appendices, or exhibits, shall also be electronically submitted.
>
> ...

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[33] Emphasis in the original text and supplied, underscoring supplied.

> **Electronic submission through e-mail must be completed within 24 hours from the completion of the primary manner of the document's filing, service, or offer, in accordance with Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure.**
>
> . . .
>
> **Section 3.** ***Mandatory electronic filing and service.*** **— ...**
>
> **By December 1, 2024**, **all filing** and service **of pleadings, motions, and other documents** to the parties and their counsels in cases within certified judicial regions **shall be done through e-mail of PDF copies**. Provided, **the filing** and service **of initiatory pleadings shall continue to be governed by Rule 13 and other pertinent rules under the 2019 Amendments to the 1997 Rules of Civil Procedure until their amendment, subject to the requirement of submission of PDF copies pursuant to Section 1, paragraph 3 of this Resolution**. Further to Section 1, paragraph 2, the filing and service through e-mail of court submissions not readily amenable to digitization in PDF and sealed and confidential court records may continue to be waived upon motion of the filing party or counsel.[34]
>
> . . .

OCA Circular No. 272-2024 clarifies that: (**1**) the transition period for mandatory electronic filing and service begins on 01 September 2024, during which litigants must comply with the filing procedure under Section 3[35], Rule 13[36] of the ROC, as amended, while also ensuring that a PDF copy of the filed pleading and its attachments is sent to the court's official email address within 24 hours of completing the primary method of filing; (**2**) the court will not act on the pleading until the electronic copy is received; and, (**3**) the transition period ends on 01 December 2024, subject to the following conditions—(**a**) that the amendments to Rule 13 and related provisions of the ROC, as amended, have been promulgated, and (**b**) that the Court has issued

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[34] Emphasis in the original text and supplied, italics in the original text and underscoring supplied.

[35] SEC. 3. *Manner of Filing.* — The filing of pleadings and other court submissions shall be made by:

(a) Submitting personally the original thereof, plainly indicated as such, to the court;
(b) Sending them by registered mail;
(c) Sending them by accredited courier; or
(d) Transmitting them by electronic mail or other electronic means as may be authorized by the court in places where the court is electronically equipped.

In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second and third cases, the date of the mailing of motions, pleadings, and other court submissions, and payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. In the fourth case, the date of electronic transmission shall be considered as the date of filing.

[36] Supra at note 18.

an order designating electronic transmittal as the primary method of filing, either within a specific judicial region or nationwide. The relevant provisions, presented in the form of Frequently Asked Questions (**FAQs**), state as follows:

> ...
>
> **Q2: When will the mandatory electronic filing and service start?**
>
> September 1, 2024 is the start of the transition period to mandatory electronic filing and service. During the transition period, parties must still comply with the manner of filing provided under Rule 13, Section 3 of the Rules of Civil Procedure.
>
> However, a PDF copy of the filed pleading, along with its attachments, must be sent to the official e-mail address of the court where the case is pending within 24 hours from the completion of the primary manner of filing.
>
> ...
>
> **Q5: What happens if we fail to send an electronic copy of the pleading filed?**
>
> The court will not act on the pleading until an electronic copy is sent to its e-mail.
>
> ...
>
> **Q37: When will the transition period for the mandatory electronic filing and service end?**
>
> On December 1, 2024, subject to the following conditions: (1) that the amendments to Rule 13 and related provisions of the Rules of Court shall have been promulgated; and (2) that the Court has ordered for electronic transmittal to be the primary manner of filing in a judicial region or in the entire country.
>
> ...

As evident from the foregoing, electronic transmittal is not yet the primary manner for filing pleadings or other court submissions during the transition period from 01 September 2024 to 30 November 2024. It becomes the primary manner of filing all pleadings and court submissions only on 01 December 2024.

While the eFiling Guidelines mention only first- and second-level courts, the interpretations derived from OCA Circular No. 272-2024 apply to this Court as well. As aforesaid, the Court *En Banc*, through Resolution No. 8-2024, adopted the eFiling Guidelines in establishing its own rules to govern the filing of pleadings and other court submissions.

This Court shall now proceed to determine the appropriate reckoning date for filing, for purposes of counting reglementary periods during the transition period, considering that electronic transmittal is not yet the primary method for filing pleadings or other court submissions.

Prior to the promulgation of the Supreme Court's Resolution dated 26 November 2024 on Rule 13-A or the "Interim Rule on the Electronic Filing and Service of Pleadings Judgments, and Other Papers in Civil Cases" (**Interim Rule**), Section 3[37], Rule 13 of the ROC, as amended, provided four (4) modes for filing pleadings and other court submissions: (**1**) personal filing, (**2**) registered mail, (**3**) accredited courier and (**4**) email. The filing party had the option to elect any of these modes as the primary manner of filing.

In contrast, the Interim Rule introduced a distinction between "complaints and other initiatory pleadings" and "non-initiatory pleadings". Specifically, for complaints and other initiatory pleadings, only the first three modes (personal filing, registered mail, or accredited courier) are permitted, provided that electronic transmittal is also completed. Meanwhile, for non-initiatory pleadings, email is the sole allowed mode of filing.

OCA Circular No. 272-2024 also clarifies that, during the transition period (as distinguished from post-transition period where electronic transmittal is the primary mode of filing), the reckoning date and time for filing pleadings and other court submissions, for purposes of counting reglementary periods, shall depend on the primary mode of filing chosen by the filing party, *viz*:

> ...
> **Q36: During the transition period, what is the effect of receiving electronic copies of inbound and outbound court documents?**
>
> <u>Unless the primary mode of filing elected in accordance with Rule 13 of the Rules of Civil Procedure is electronic submission, the receipt of inbound or outbound court documents during the transition period shall not initiate or toll filing periods. The reckoning date shall still be from the completion of the primary mode of filing or service.</u>

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[37] Supra at note 35.

> *NOTE: Inbound court documents refer to documents filed by parties to the court. Meanwhile, outbound court documents refer to issuances from the court sent to the parties.*
>
> ...
>
> **Q38: After the transition period is over, what is the effect of the receipt of electronic copies of inbound and outbound court documents?**
>
> <u>After the transition period, the receipt of the electronic copies of inbound and outbound court documents shall have the effect of initiating or tolling the periods for filing.</u>
>
> However, this shall not apply to: (1) summons which shall still be governed by Rule 14 of the 2019 Amendments to the 1997 Rules of Procedure; (2) the filing and service of initiatory pleadings which shall still be governed by Rule 13 and other pertinent rules, until their amendment, subject to the requirement of submitting electronic copies accompanying the primary manner of filing.
>
> ...

Clearly from the foregoing, during the transition period, if the primary mode of filing is *via* email, the Court's receipt of the email shall initiate or toll the filing period. However, if the filing is done through personal filing, registered mail, or an accredited courier, the reckoning date shall be determined as follows: (**1**) for personal filing, it is the date of filing as endorsed by the clerk of court and reflected on the pleading; (**2**) for registered mail, it is the date of mailing as indicated by the post office stamp on the envelope or registry receipt; and (**3**) for accredited courier, it is the date reflected on the official receipt. In these three (3) modes of filing, the subsequent email submission shall neither initiate nor toll the filing period.

En Banc Resolution No. 8-2024 similarly provides the following guidelines on the date and time of filing depending on the primary manner of filing of pleadings and other court submissions:

> ...
>
> **3.** ***Date and time of filing.*** - It shall be understood that:
>
> **(a) When the primary manner of filing is by <u>personal filing, registered mail, or accredited courier</u>, the pleading or court submission <u>shall be deemed to have been filed on the date and time of filing of the paper copy</u>.**
>
> The filing of the paper copy shall be done during office hours of the Court from eight o'clock in the morning (8:00 a.m.) to four-thirty o'clock in the afternoon (4:30p.m.) from Monday to

Friday, except on declared court holidays and such days as may be designated by law or executive proclamation as non-working official holidays.

(b) **When the primary manner of filing is through <u>electronic transmittal</u> pursuant to Rule 13, Section 3(d) of the 2019 Amendments to the 1997 Rules of Civil Procedure**, the cut-off time for pleadings and court submissions shall likewise be at 4:30 p.m. from Monday to Friday, except on declared court holidays and such days as may be designated by law or executive proclamation as non-working official holidays.

Any pleading or court submission filed through electronic means or transmittal after the 4:30 p.m. cut-off time shall be considered as filed on the next working day.

<u>**The time and date of the electronic transmittal shall be considered as the time and date of filing.**</u> However, failure to thereafter submit within five (5) days, ten (10) paper copies for *En Banc* cases and six (6) paper copies or four (4) paper copies for Division cases, of pleadings or court submissions filed through electronic submittal *shall constrain the Court to consider such pleading or court submission electronically filed as not filed.*

(c) Any party filing through electronic means or transmittal shall copy furnish the other party with the pleading or court submission and submit such proof of service to the CTA. *Otherwise, the pleading or court submission shall be considered as not filed.*[38]

...

However, unlike the eFiling Guidelines, *En Banc* Resolution No. 8-2024 expressly states that a pleading or court submission shall be **deemed not filed** if its PDF copy is not transmitted within 24 hours from the filing of the paper copy, *viz*:

...

2. *Manner of transmittal.* - The PDF copies must be transmitted by litigants and court users to the official e-mail addresses:

...

<u>When the primary manner of filing is through personal filing, by registered mail, or by accredited courier, in accordance with Rule 13, Section 3(a), 3(b), or 3(c) of the 2019 Amendments to the 1997 Rules of Civil Procedure</u>, ten (10) paper copies for *En Banc* cases, and six (6) paper copies for initiatory pleadings or four (4) paper

[38] Emphasis in the original text and supplied, italics in the original text and underscoring supplied.

> copies for subsequent pleadings for Division cases, shall be filed. The PDF copies must be transmitted within twenty-four (24) hours from such filing of paper copies; ***otherwise, the pleading or court submission shall be deemed as not filed***.[39]
>
> ...

In light of the above provision, which considers a pleading, including an initiatory pleading, as not filed on the day of its physical submission if the PDF copy is not transmitted within 24 hours, this Court proceeded to dismiss the instant case. The ground for dismissal was that this Court failed to acquire jurisdiction over the case, as petitioner's appeal was not perfected within the 30-day reglementary period, which lapsed on 11 October 2024. This was because the *Petition for Review*, physically filed on 10 October 2024, was deemed not filed on that date due to non-compliance with the electronic transmittal requirement.

However, considering that the instant Petition for Review was physically filed during the transition period, when electronic transmittal was not yet the primary method for filing pleadings or other court submissions, and courts were merely enjoined from acting on a pleading or submission unless accompanied by an electronic transmittal *via* email of the PDF copy (rather than deeming it as "not filed"), this Court is inclined to reconsider the dismissal of the case.

It is worth noting that the phrase "deemed not filed", in relation to the filing of a pleading or other court submission when the required electronic transmittal is not completed within 24 hours of the primary mode of filing (other than electronic transmission), appears only in Section 3 of the Interim Rule (which took effect on 01 December 2024 or after the transition period), to wit:

> ...
>
> **SEC. 3.** *Manner of filing of complaints and other initiatory pleadings.* - The filing of complaints and other initiatory pleadings shall be done by:
>
> a. Submitting personally the original paper, plainly indicated as such, to the court;
> b. Sending the paper by registered mail; or,
> c. Sending the paper by accredited courier.

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[39] Emphasis and italics in the original text and underscoring supplied.

> In the case of Section 3.a., the clerk of court shall endorse the date and hour of filing of the complaint or initiatory pleading. In the case of Section 3.b. or 3.c., the date of mailing of the complaint or initiatory pleading and payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of filing, payment, or deposit in court. The envelope shall be attached to the record of the case.
>
> **After the complaint or initiatory pleading has been filed through any of the three modes provided in the first paragraph of this Section, the filing party shall subsequently email the complaint or initiatory pleading in digital file format to the court.** Digital copies of the additional accompanying documents of the complaint or initiatory pleading, such as annexes, appendices, or exhibits, shall likewise be emailed. **The electronic transmittal of the complaint or initiatory pleading and the accompanying documents must be made within 24 hours from the completeness of the primary mode of the complaint or initiatory pleading's filing.**
>
> The term "digital file format," when used to refer to pleadings, papers, and other documents, shall mean the portable document format.
>
> **No court shall act upon any complaint or initiatory pleading unless the latter's filing is accompanied by the electronic transmittal required in the third paragraph of this Section. If the electronic transmittal is not completed before the period, the complaint or initiatory pleading shall be <u>deemed not filed</u>, regardless of the completeness of the primary mode of its filing.**[40]
>
> . . .

As previously noted, the phrase "deemed not filed" (nor any equivalent consequence) in the above context does not appear in the eFiling Guidelines, as adopted by this Court. Accordingly, the more prudent course of action in this case, which was filed during the transition period, would have been to simply inform petitioner that the Court would not act on the petition due to the lack of an accompanying electronic transmittal and to direct petitioner to comply with the electronic transmittal requirement.

Now, considering that petitioner eventually complied with the electronic transmittal requirement (simultaneously with the filing of the instant MR), the more reasonable interpretation is that the Court's

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[40] Emphasis in the original text and supplied, italics in the original text and underscoring supplied

subsequent receipt of the electronic submission on 02 December 2024 neither initiated nor tolled the reglementary period for filing an appeal.

The reckoning date for purposes of counting reglementary period remains the completion of the primary mode of filing, which, in this case, was personal filing on 10 October 2024. This holds true regardless of petitioner's email submission (of the PDF copy of the *Petition for Review*[41]), which indicated that the primary method of filing was electronic transmittal, as the Court had already received the physical copy before the electronic copy.

With the Court's eventual receipt of the PDF copy of the personally filed *Petition for Review* and the determination that the reckoning date for filing was 10 October 2024—which falls within the 30-day reglementary period for filing an appeal from the *alleged* receipt of the court *a quo*'s Order dated 22 August 2024—the basis for dismissal, as stated in the assailed Resolution[42], is no longer valid, as this Court would have acquired jurisdiction over the case, provided that the alleged reckoning date of receipt is duly supported by the evidence on record.

Notably, Section 2, Rule 42[43] of the ROC, as amended, prescribes the form and contents of a Petition for Review. Meanwhile, Section 3 outlines the consequences of non-compliance with these requirements. The pertinent provisions state as follows:

> ...
> SEC. 2. *Form and contents.* — **The petition** shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and **shall** (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; **(b) indicate the specific material dates showing that it was filed on time**; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; **(d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and <u>other</u>**

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41 Supra at note 5.
42 Supra at note 4.
43 Petition for Review from the Regional Trial Courts to the Court of Appeal.

> **material portions of the record as would support the allegations of the petition**.
>
> ...
>
> SEC. 3. *Effect of Failure to Comply with Requirements.* — **The failure of the petitioner to comply with any of the foregoing requirements regarding** the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and **the contents of and the documents which should accompany the petition** **shall be sufficient ground for the dismissal** **thereof.**[44]
>
> ...

Based on the foregoing, the specific material dates must be explicitly stated in the Petition for Review to demonstrate that it was filed within the prescribed period. Additionally, the Petition for Review must be accompanied by, among other requirements, clearly legible duplicate originals or certified true copies of the final orders of the lower court and other material portions of the record necessary to support petitioner's allegations. Non-compliance with these requirements constitutes sufficient grounds for dismissal.

In the instant *Petition for Review*[45], petitioner indicated the date of receipt of the court *a quo*'s Order dated 22 August 2024 and appended a certified true copy of the said order. Petitioner alleges that it received such order on **11 September 2024**. However, the appended certified true copy of such order does not bear any receiving stamp or written indication of the said alleged date of receipt. Furthermore, petitioner did not submit any additional evidence to substantiate this claim. As it stands, petitioner's allegation regarding its receipt of court *a quo*'s Order it not supported by evidence.

Petitioner's allegation remains a bare allegation and the same does not prove a fact.[46] It is basic that whoever alleges a fact has the burden of proving it because a mere allegation is not evidence.[47] This fatal infirmity cannot be disregarded as the timeliness of an appeal is a factual issue that requires a review of the evidence presented.[48]

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[44] Emphasis and underscoring supplied and italics in the original text.
[45] Supra at note 5.
[46] *Tomasa J. Sabellina v. Dolores Buray, et al.*, G.R. No. 187727, 02 September 2015.
[47] *BP Oil and Chemicals International Philippines, Inc. vs. Total Distribution & Logistic Systems, Inc.*, G.R. No. 214406, 06 February 2017.
[48] *Republic of the Philippines, et al. vs. Augustus Albert V. Martinez, et al.*, G.R. Nos. 224438-40, 03 September 2020.

Nonetheless, in the interest of substantial justice, rather than outrightly dismissing the case for failure to establish the timeliness of the appeal, as authorized under Section 3, Rule 42 of the ROC, as amended, this Court finds it necessary to require petitioner to submit proof that it received court *a quo*'s Order dated 22 August 2024 on 11 September 2024. Failure to comply shall result in the dismissal of the case.

WHEREFORE, with the foregoing, petitioner's "Respectful Motion for Reconsideration [Of the Resolution dated November 13, 2024]", filed on 02 December 2024, and respondents' "Motion for Leave to File Opposition and Admit Attached Opposition", filed on 10 January 2025, are hereby **GRANTED**.

Accordingly, the Court's Resolution dated 13 November 2024 is hereby **SET ASIDE**.

Lastly, petitioner is **ORDERED** to submit, within **ten (10) calendar days** from notice, an original or certified true copy of any proof that it received the Regional Trial Court Branch 267-Taguig City's Order dated 22 August 2024 on 11 September 2024.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice