REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 3077** (CTA Case No. 8198)
	Present:
- versus -	**DEL ROSARIO,** ***P.J.*****, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
PHILIPPINE AIRLINES, INC., Respondent.	Promulgated: SEP 25 2025 2:45 p.m.

x- -x

RESOLUTION

For resolution are the following:

1. petitioner's **Motion for Reconsideration (Re: Resolution dated 08 April 2025)** filed personally on April 25, 2025 and via email on April 28, 2025, with respondent's **Comment (To Petitioner's Motion for Reconsideration)** filed via accredited courier on June 2, 2025 and via email on June 3, 2025; and,

2. respondent's **Motion for Additional Time (To File Comment to Petitioner's Motion for Reconsideration)** filed via accredited courier on May 27, 2025 and via email on May 28, 2025.

Respondent's Motion for Additional Time (To File Comment to Petitioner's Motion for Reconsideration), which prays for additional period of five (5) days to file its comment to petitioner's Motion for Reconsideration, is granted in the interest of justice. Accordingly, respondent's Comment (To Petitioner's Motion for Reconsideration) is noted.

The Court shall now resolve petitioner's Motion for Reconsideration (Re: Resolution dated 08 April 2025).

Petitioner seeks reconsideration of the Resolution dated April 8, 2025 which dismissed his Petition for Review for being belatedly filed and for lack of jurisdiction. Petitioner avers that the Court erred in considering the date of receipt of the Office of the Solicitor General (OSG) of the Court in Division Resolution dated January 7, 2025 as the reckoning period to appeal, instead of the date of receipt thereof by the Bureau of Internal Revenue (BIR) Litigation Division. Petitioner raises the following arguments:

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

2. The BIR handling lawyers, deputized by the OSG to handle cases appealed before the CTA *En Banc,* are primarily responsible to prepare all the pleadings and other papers/documents before the CTA. Thus, all resolutions and processes of the CTA must be served to the BIR handling lawyers before the same are served to the OSG;

3. The OSG has no participation in the preparation of pleadings and the trial proper before the CTA; hence, it is the BIR handling lawyers who is capable of fully arguing the CIR's case before the Courts; and,

4. Technicalities must yield to substantial justice. Thus, assuming that the Motion for Extension of Time to File Petition for Review, and subsequently the Petition for Review were filed out of time, the courts are allowed to relax the rules of procedure to best serve the interest of justice and fair play.

Respondent, in its Comment, raises the following arguments:

1. The Court correctly dismissed the present petition for lack of jurisdiction, it having been filed out of time; and,

2. The determination of timeliness must be anchored on the receipt of the assailed Decision or order by the OSG, not by the BIR.

After careful evaluation of the parties' arguments, the Court resolves to deny petitioner's Motion for Reconsideration.

Contrary to petitioner's assertion, the deputization of BIR handling lawyers does not directly refute the laws, rules, and jurisprudence on which the assailed Resolution was based. While the BIR handling lawyers were, indeed, deputized by the OSG to "prepare all pleadings, motions, ... and other papers/documents in connection with the case," nothing in the excerpt quoted by petitioner from the Memorandum of Agreement between the BIR and the OSG shows that the OSG loses its status as principal counsel for petitioner before the Court *En Banc*.

Moreover, petitioner's arguments that the BIR handling lawyers are the ones who prepare petitioner's pleadings in practice and that the OSG has no participation in the preparation of pleadings and the trial proper before the CTA are likewise not persuasive.

Rule 9, Section 10 of the Revised Rules of the Court of Tax Appeals, as amended (RRCTA),[1] allows the OSG to deputize legal officers from the BIR. However, the same does not dissolve the OSG's status as counsel for the government, especially as said rule provides that "such deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General."

The use of the word "shall" in said provision, means that the BIR lawyers are required to remain under the control and supervision of the OSG. In claiming that the OSG is, in effect, not involved in the case, petitioner is admitting that the BIR and OSG are directly and knowingly violating Rule 9, Section 10 of the RRCTA. The fact that it is the BIR handling lawyers who prepare all the pleadings and other papers/documents before the CTA does not alter the rule that the OSG

[1] **Sec. 10.** *Solicitor General as counsel for the People and government officials sued in their official capacity.* - The Solicitor General shall represent the People of the Philippines and government officials sued in their official capacity in all cases brought to the Court in the exercise of its appellate jurisdiction. The former may deputize the legal officers of the Bureau of Internal Revenue in cases brought under the National Internal Revenue Code or other laws enforced by the Bureau of Internal Revenue, or the legal officers of the Bureau of Customs in cases brought under the Tariff and Customs Code of the Philippines or other laws enforced by the Bureau of Customs, to appear in behalf of the officials of said agencies sued in their official capacity: Provided, however, such duly deputized legal officers shall remain at all times under the direct control and supervision of the Solicitor General.

remains as the principal counsel of petitioner and has the direct control and supervision of the BIR handling lawyers.

Finally, it is true that the CTA has relaxed such technical rules before when dealing with Petitions for Review that were not fully compliant with the rules. However, such permissiveness cannot be applied when doing so would directly contradict existing jurisprudence.

To reiterate, the Supreme Court in *Claudine Monette Baldovino-Torres vs. Jasper A. Torres and the Republic of the Philippines*,[2] clarified that although the OSG may have deputized lawyers of a government agency, the OSG continues as the principal counsel; and that the proper basis for computing the reglementary period to file an appeal is service to the OSG, *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 **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.
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> 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**." *(Boldfacing supplied)*

Based on the foregoing pronouncements of the Supreme Court, it is the service to the OSG that is decisive. Counting fifteen (15) days from receipt of the assailed Resolution by the OSG on **January 15, 2025**, petitioner had until **January 30, 2025** within which to file his Petition for Review with the CTA *En Banc*. Thus, the Motion for Extension to File Petition for Review[3] filed on **January 31, 2025**, was filed beyond the reglementary period.

Considering that the motion for extension[4] was filed after the lapse of the prescribed period, the Petition for Review was likewise

[2] G.R. No. 248675, July 20, 2022.
[3] EB Docket, pp. 1-4.
[4] *Philippine National Bank vs. Deang Marketing Corporation and Berlita Deang*, G.R. No. 177931, December 8, 2008.

belatedly filed. The Court therefore has no other option but to dismiss the case.

WHEREFORE, premises considered, respondent's **Motion for Additional Time (To File Comment to Petitioner's Motion for Reconsideration)** is **GRANTED**. Accordingly, respondent's **Comment (To Petitioner's Motion for Reconsideration)** is **NOTED**. Petitioner's **Motion for Reconsideration (Re: Resolution dated 08 April 2025)** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice