REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB NO. 3215** (CTA Case No. 10961)
	Present:
- *versus* -	**RINGPIS-LIBAN,** *P.J.,* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
PAMPANGA I ELECTRIC COOPERATIVE, INC. *Respondent.*	Promulgated: FEB 13 2026 4:30 PM

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RESOLUTION

On July 29, 2025, the Court's Second Division in CTA Case No. 10961 issued a *Resolution*[1] denying herein petitioner's *Motion for Reconsideration Re: Decision dated 23 April 2025*. On even date, a *Notice of Resolution*[2] was issued informing the parties that such *Resolution* was rendered. As borne by the records, the Office of the Solicitor General (OSG) and the Bureau of Internal Revenue (BIR), received such *Notice* on August 15, 2025 and August 20, 2025, respectively.

Subsequently, on September 2, 2025, petitioner filed a *Motion for Extension of Time to File Petition for Review*.[3] In a *Minute Resolution*[4] dated September 8, 2025, the *Motion for Extension* was granted <u>subject to the condition that the same was filed on time.</u>

[1] EB Docket, pp. 61 to 63.
[2] EB Docket, p. 60.
[3] EB Docket, pp. 1 to 4.
[4] EB Docket, p. 8.

On September 17, 2025, petitioner filed the *Petition for Review*.[5]

As provided in the Revised Rules of the Court of Tax Appeals (RRCTA),[6] cases decided by the Court of Tax Appeals (CTA) Division may be elevated to the CTA *En Banc* by filing a petition for review within fifteen (15) days from receipt of a copy of the assailed decision or resolution. Upon motion, the Court may extend such period and allow an additional fifteen (15) days within which to file the appeal. The significant provision is reproduced below:

RULE 8
Procedure in Civil Cases

SECTION 3. *Who may appeal; period to file petition.* –

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(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

In the present case, although the *Motion for Extension of Time to File the Petition for Review* was previously granted, this was contingent upon the timely filing of the same. Records reveal that as early as August 15, 2025, respondent, through the OSG, already received the *Resolution* dated July 29, 2025.[7] Counting fifteen (15) days therefrom, respondent had only until August 30, 2025 to file a petition for review or a motion to extend the period to file the same. Considering that the present *Motion for Extension of Time* was filed only on September 2, 2025, such is filed out of time.

It is key to point out that the Administrative Code of 1987 outlines the powers and functions of the OSG, including but not limited to, its duty to:

(1) Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which

[5] EB Docket, pp. 9 to 35.
[6] A.M. No. 05-11-07-CTA, November 22, 2005.
[7] As evidenced by the stamped receipt of the OSG thereof, in the *Notice of Resolution* dated July 29, 2025 – EB Docket, p. 60.

> the Government or any officer thereof in his official capacity is a party.[8]

This is also consistent with precedents and the established rule that it is the Solicitor General who has the primary responsibility to appear for the government in appellate proceedings.[9] Such is the case notwithstanding Section 220 of the NIRC, as enunciated in *Civil Service Commission, et al. vs. Asensi*,[10] where the Supreme Court said that:

> ...the Court has already ruled on a similar argument before in *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*,[11] which was previously cited in the assailed Resolution. In that case, the Commissioner of Internal Revenue invoked Section 220[12] of the Tax Reform Act of 1997 in asserting that its legal officers were allowed to institute civil and criminal actions and proceedings in behalf of the government before the Supreme Court. The Court disagreed, stating that **'Section 220 of the Tax Reform Act must not be understood as overturning the long established procedure before this Court in requiring the Solicitor General to represent the interest of the Republic.'** The Court again cited *Gonzales v. Chavez*[13] in holding that **'from the historical and statutory perspectives, the Solicitor General is the principal law officer and legal defender of the government.' Strikingly, the Tax Reform Act was a law enacted subsequent to the Administrative Code and is more specific in application to tax cases. <u>Yet these considerations were not sufficient for the Court to consider the powers granted to BIR legal officers under Section 220 of the Tax Reform Act as superseding those vested to the Solicitor General under the Administrative Code.</u>** xxx. *(Emphases and underscoring added)*

Moreover, in *Republic of the Philippines, represented by the Land Registration Authority vs. Raymundo Viaje, et al.*,[14] it was established that the OSG remains to exercise supervision and control over the deputized lawyers and is entitled to be furnished of copies of all court orders, notices and decisions, to wit:

> The power of the OSG to deputize legal officers of the government departments, bureaus, agencies and offices to assist it in representing the government is well settled. **The Administrative**

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[8] Section 35, Chapter 12, Title III, Book IV.

[9] *Civil Service Commission, et al. vs. Asensi*, G.R. No. 160657, December 17, 2004.

[10] G.R. No. 160657, December 17, 2004.

[11] G.R. No. 144942, July 2, 2002.

[12] "SEC. 220. *Form and Mode of Proceeding in Actions Arising under this Code.* – Civil and criminal actions and proceedings instituted in behalf of the Government under the authority of this Code or other law enforced by the Bureau of Internal Revenue shall be brought in the name of the Government of the Philippines and shall be conducted by legal officers of the Bureau of Internal Revenue but no civil or criminal actions for the recovery of taxes or the enforcement of any fine, penalty or forfeiture under this Code shall be filed in court without the approval of the Commissioner."

[13] G.R. No. 97351, February 4, 1992.

[14] G.R. No. 180993, January 27, 2016.

> **Code of 1987 explicitly states that the OSG shall have the power to 'deputize legal officers of government departments, bureaus, agencies and offices to assist the Solicitor General and appear or represent the Government in cases involving their respective offices, brought before the courts and <u>exercise supervision and control over such legal officers with respect to such cases</u>.' But it is likewise settled that the OSG's deputized counsel is 'no more than the 'surrogate' of the Solicitor General in any particular proceeding' and <u>the latter remains the principal counsel entitled to be furnished copies of all court orders, notices, and decisions</u>.** xxx. *(Emphases and underscoring added)*

Furthermore, it must be pointed out that the deputized special attorney has no legal authority to decide whether or not an appeal should be made.[15] 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**.[16] Also, **the proper basis for computing the reglementary period to file an appeal and for determining whether a decision had attained finality is <u>service on the OSG.</u>**[17]

To reiterate, Rule 8, Section 3(b) of the RRCTA provides that a party desiring to appeal an adverse decision or resolution of the CTA Division must file a petition for review **within fifteen (15) days *<u>from receipt</u>* of the adverse decision or resolution.** Moreover, an extension may only also be filed within such duration or before the expiration thereof.

Again, the assailed *Resolution* was served to and received by the OSG on August 15, 2025. Thus, petitioner had fifteen (15) days therefrom or until August 30, 2025 to either file an appeal or motion for extension of time to file the same before the CTA En Banc, notwithstanding the fact that the BIR received the Assailed Resolution only on a later date, i.e., on August 20, 2025.

Consequently, since it was only on September 2, 2025 when the Petitioner filed the present *Motion for Extension of Time to File Petition for Review*, and although granted in a *Resolution* dated September 8, 2025, allowing herein petitioner to file the present *Petition* until September 19, 2025, it does not change the fact that no Petition for Review nor a Motion for Extension was filed on or before August 30, 2025. Hence, the present *Petition* was filed out of time.

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[15] *National Power Corporation vs. National Labor Relations Commission, et al.*, G.R. Nos. 90933-61, May 29, 1997.
[16] *Id.*
[17] *Id.*

In *Vda. de Victoria v. Court of Appeals*,[18] the Supreme Court held that "[i]t is a basic rule of remedial law that a motion for extension of time to file a pleading must be filed before the expiration of the period sought to be extended. Where a motion for extension of time is filed beyond the period for appeal, the same is of no effect since there would no longer be any period to extend, and the judgment or order to be appealed from will have become final and executory."[19]

In light of the foregoing, the *Motion for Extension of Time* merely filed on September 2, 2025 failed to effectively extend the filing of a petition for review as prayed for. Hence, the instant *Petition for Review* was belatedly filed.

Settled is the rule that the timely filing of an appeal is not only mandatory, but jurisdictional. The failure to do so does not confer jurisdiction to the appellate body confronted therewith. Thus:

> To stress, the right to appeal is merely statutory and one who seeks to avail of it must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party has the correlative right to enjoy the finality of a decision in his favor.[20] (Citations omitted)

On a final note, it is worthy to emphasize that the Supreme Court, in *National Power Corporation vs. Spouses Lorenzo L. Laohoo and Visitacion Lim-Laohoo, et al.*,[21] held as follows:

> "**The failure of the petitioner to perfect an appeal within the period fixed by law renders final the decision sought to be appealed. <u>As a result, no court could exercise appellate jurisdiction to review the decision</u>.** It is settled that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. Otherwise, there will no end to litigation and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.

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[18] G.R. No. 147550, January 26, 2005 [Per J. Carpio Morales, Third Division].
[19] Citations omitted.
[20] *Apex Mining Co., Inc., v. Commissioner of Internal Revenue*, G.R. No. 122472, October 20, 2005 [Per J. Garcia, Third Division].
[21] G.R. No. 151973, July 23, 2009.

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> xxx While every litigant must be given the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities, **the failure to perfect an appeal within the reglementary period is not a mere technicality. <u>It raises a jurisdiction problem, as it deprives the appellate court of its jurisdiction over the appeal.</u>** After a decision is declared final and executory, vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case. After all, a denial of a petition for being time-barred is tantamount to a decision on the merits.
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> In *Peña v. Government Service Insurance System*,[22] We held that **there are certain procedural rules that must remain inviolable, like those setting periods for perfecting an appeal**, for it is doctrinally entrenched that **the right to appeal is a statutory right, and one who seeks to avail oneself of that right must comply with the statute or rules.** These rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed, as they are considered indispensable interdictions against needless delays and for an orderly discharge of judicial business.

WHEREFORE, the instant Petition for Review is **DISMISSED** for lack of jurisdiction in view of petitioner's failure to file his *Motion for Extension of Time to File Petition for Review* within the fifteen (15)-day reglementary period as provided in the RRCTA.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[22] G.R. No. 159520, September 19, 2006.

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice