CTA Form No. 8 (For DCC)

22-000405-0067

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10965

FUJITEC, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo St., Legazpi Village
Makati City

ATTY. FELY ROSE R. DAGANTA
Bureau of Internal Revenue
Legal Division, Revenue Region 8B-South NCR
2nd Foor, BIR Regional Office Bldg.
No. 313 Sen. Gil Puyat Ave., Makati City

CHAN TAGAPAN SIA LAW OFFICES
Unit F, 5th Floor, CK Building
No. 10 Don A. Roces Ave.,
Barangay Paligsahan, Quezon City

GREETINGS:

You are hereby notified by these presents that on **February 6, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 9, 2026.**

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

REPUBLIC OF THE PHILIPPINES
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FUJITEC, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **10965**

Members:

BACORRO-VILLENA, *Acting Chairperson,* *and*
CUI-DAVID, *JJ.*

Promulgated:
FEB 06 2026, 11:15AM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Motion for Reconsideration (of the Decision dated 07 May 2025)"[1] (**MR**) filed and emailed on 30 May 2025, with petitioner Fujitec Inc.'s (**petitioner**'s) "Comment/Opposition (to respondent's Motion for Reconsideration)"[2] (**Comment**) filed personally on 10 June 2025 and *via* email on 13 August 2025.

The MR assails the Court's Decision[3] promulgated on 07 May 2025 (**assailed Decision**), which partially granted petitioner's Petition for Review and Supplemental Petition for Review. The dispositive portion of which reads:

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1 Division Docket, Volume II, pp. 669-683.
2 Id., pp. 686-716.
3 Id., pp. 636-667.

> ...
>
> **WHEREFORE**, with the foregoing premises, the Petition for Review and Supplemental Petition for Review filed by petitioner Fujitec, Inc. on 26 August 2022 and 10 November 2022, respectively, are hereby **PARTIALLY GRANTED.** Accordingly, the deficiency Income Tax, Value-Added Tax, and Withholding Tax on Compensation for the calendar year ending 31 December 2018, in the aggregate amount of ₱22,351,906.06, as found in the Warrant of Distraint and/or Levy No. RR8B-2022-07-21-00072 dated 02 August 2022, are hereby **CANCELLED** and **SET ASIDE**.
>
> Consequently, respondent Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ORDERED TO REFUND** the amount of ₱28,191,790.45 in favor of petitioner representing erroneously collected taxes.[4]
>
> ...

In the MR, respondent assails the Court's partial grant of petitioner's Petition for Review and Supplemental Petition for Review, arguing that petitioner was validly served with the Preliminary Assessment Notice (**PAN**) and [Final] Assessment Notice/Formal Letter of Demand (**FAN/FLD**). Respondent likewise avers that petitioner's Petition for Review should be dismissed for lack of jurisdiction since it failed to file a valid protest within thirty (30) days from FAN/FLD's receipt. Further, respondent insists that the assessment issued against petitioner has become final, executory and demandable. Finally, respondent contends that the Warrants of Distraint/Levy (**WDL**) are valid, hence petitioner is not entitled to any refund.

Petitioner's Comment repels respondent's arguments as mere rehash of those which were already discussed and considered in the assailed Decision. Additionally, petitioner points out that respondent failed to overcome the burden of proving that it had indeed served petitioner the PAN, FAN/FLD for taxable year 2018 (**TY 2018**).

Finally, petitioner argues that respondent proceeded to collect the taxes from petitioner despite the WDL's nullity, hence it is incumbent upon respondent to refund petitioner all the amount it collected on the basis of its void and inexistent assessment.

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[4] Emphasis in the original text.

We resolve.

At the outset, the Court notes that the instant MR was filed out of time.

Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (**RRCTA**)[5], as amended, provides:

> ...
> SECTION 1. *Who may and when to file motion.* — Any aggrieved party may seek a reconsideration or new trial of any decision, resolution, or order of the Court **by filing a motion for reconsideration** or new trial **<u>within fifteen days from the date of receipt of notice of the decision</u>**, resolution or order of the Court in question.
> ...

The period for filing a Motion for Reconsideration is strictly non-extendible.[6] Failure to file the motion within the prescribed period renders the judgment or final order of the court final and executory.[7]

It is noted that despite respondent's declaration that he or she received the assailed Decision on 15 May 2025, the case records yields that a copy thereof was earlier received by the Office of the Solicitor General (**OSG**) on <u>13 May 2025</u>.[8]

In the case of *Baldovino-Torres vs. Torres,*[9] the Supreme Court reaffirmed its rulings in *National Power Corp. vs. National Labor Relations Commission, et al.*[10] and *Commissioner of Customs vs. Court of Appeals and Philippine Casino Operators Corporation,*[11] clarifying that the fifteen (15)-day reglementary period for filing an MR or a new trial begins from the OSG's date of receipt, as the authorized representative

5 Italics in the original; emphasis and underscoring supplied.

6 See *Habaluyas Enterprises, Inc. and Pedro Habaluyas vs. Judge Maximio M. Japson, et al.,* G.R. No. 70895, 30 May 1986; *Solomon Rolloque, et al. vs. The Honorable Court of Appeals and Apolinario Hidalgo,* G.R. No. 78109, 18 January 1991; *Gregorio De Leon, doing business as G.D.L. Marketing vs. Hercules Agro Industrial Corporation and/or Jesus Chua and Rumi Rungis Milk,* G.R. No. 183239, 02 June 2014.

7 See *Far East Bank & Trust Company vs. Commissioner of Internal Revenue,* G.R. No. 149589, 15 September 2006.

8 Please refer to the receiving stamp on the Notice of Decision dated 08 May 2025; Division Docket, Volume II, p. 635.

9 G.R. No. 248675, 20 July 2022; Citation omitted and emphasis supplied.

10 G.R. Nos. 90933-61, 29 May 1997.

11 G.R. No. 132929, 27 March 2000.

of the Government of the Philippines, including its agencies and instrumentalities, to wit.:

> ...
> 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.**
>
> In the same vein, **the period to file a motion for reconsideration in the present case should be counted from the receipt by the OSG of a copy of the RTC Decision** on April 4, 2017.
> ...

Thus, counting 15 days from 13 May 2025, OSG's date of receipt of the assailed Decision, petitioner only had <u>until 28 May 2025</u> within which to file his or her MR. The instant MR was filed **<u>on 30 May 2025</u>** both *via* electronic mail and registered mail. Hence, the instant MR having been belatedly filed should be dismissed outright.

WHEREFORE, premises considered, respondent Commissioner of Internal Revenue's "Motion for Reconsideration (of the Decision dated 07 May 2025)" filed and emailed on 30 May 2025 is hereby **DENIED** for being filed out of time.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice