REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

BERONG NICKEL CORPORATION,
Respondent.

CTA *EB* NO. 3017
(CTA Case No. 10319)

Present:

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

Promulgated:
JUL 0 1 2026 10:

x- -x

RESOLUTION

***CUI-DAVID, J.*:**

At bar is petitioner's *Motion for Reconsideration (Re: Decision promulgated on December 17, 2025)*[1] [***Motion***], filed on January 8, 2026, assailing the *Decision* dated December 17, 2025, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **DISMISSED** for having been filed out of time and for lack of merit.
>
> Accordingly, the *Decision* dated June 11, 2024 and *Resolution* dated October 3, 2024, of the Court's Second Division are **AFFIRMED.**
>
> **SO ORDERED.**[2]

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1 *En Banc* (*EB*) Docket. pp. 91-105.
2 *Id. at* 88.

The assailed *Decision* dismissed the *Petition for Review* and sustained the Court in Division's Decision dated June 11, 2024 and Resolution dated October 3, 2024, which canceled and set aside the undated Formal Letter of Demand and Final Decision on Disputed Assessment dated July 1, 2020. Said assessment imposed a deficiency final withholding tax on respondent in the aggregate amount of ₱117,062,117.83 for taxable year 2015.

The Court *En Banc* found that: (1) the present *Petition for Review* was filed out of time, as petitioner erroneously relied on the date of receipt by the Bureau of Internal Revenue's (BIR) deputized counsel of the assailed Resolution on October 11, 2024, instead of the date of receipt by the Office of the Solicitor General (OSG), petitioner's principal counsel, on October 9, 2024; and (2) the Court in Division did not err in canceling the assessment for violation of respondent's right to due process.

In seeking reconsideration, petitioner raises the following grounds in the *Motion*:

I

WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN CONSIDERING THE RECEIPT OF THE OFFICE OF THE SOLICITOR GENERAL (OSG) AS THE RECKONING PERIOD TO APPEAL, NOT UPON RECEIPT OF THE BIR LITIGATION DIVISION

II

WHETHER OR NOT THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND OF VAT PAID ON ITS IMPORTATION OF GOODS (OTHER THAN CAPITAL GOODS) AMOUNTING TO ₱3,720,321.72[3]

Petitioner argues that, pursuant to a Memorandum of Agreement (MOA) between the OSG and the BIR, the Litigation Division of the BIR serves as counsel representing the CIR before the Court of Tax Appeals (CTA). Allegedly, the MOA was signed by the BIR and the OSG to clearly define the respective responsibilities of the OSG and the BIR in the handling of tax cases.

[3] *Id.* at 91-92.

Citing the MOA, petitioner submits that the OSG has deputized BIR lawyers to handle cases appealed before the CTA *En Banc*.

Petitioner further asserts that, since it is the BIR handling lawyer who prepares the necessary papers in connection with the case, it is only proper that service of court issuances should first be made upon the appropriate BIR legal office, specifically, the Litigation Division, before service upon the OSG. This, petitioner claims, would enable the BIR handling lawyer to adequately prepare the necessary pleadings and arguments to be submitted before the Court.

Petitioner claims that he does not contest the status of OSG as the statutory counsel of the BIR. He claims, however, that the issue involved here is the alleged deprivation of due process on the part of the BIR, asserting that the CIR was denied the opportunity to fully present his arguments and was unduly burdened by technicalities at every stage of the proceedings.

Assuming *arguendo* that the present *Petition for Review* was filed out of time, petitioner argues that the CTA has the prerogative to relax the rules of procedure to best serve the interest of justice and fair play, provided there are compelling reasons to do so. Petitioner further insists that there was no negligence on the part of his counsel, as the BIR handling lawyers merely relied on the terms of a validly executed MOA. Allegedly, denying due course to the *Petition for Review* would effectively amount to a denial of due process, depriving the BIR of the opportunity to defend its case before the courts, and constituting a grave abuse of discretion on the part of the Court *En Banc*. Petitioner also argues that the dismissal of the case was grounded not on a blatant violation of procedural rules, but on a mere technicality, which, in his view, has been sufficiently addressed by the MOA.

In sum, petitioner submits that, in view of the special circumstances prevailing between the OSG and the BIR, the CTA should relax its technical rules, admit the filed *Motion for Extension,* and give due course to the subsequently filed *Petition for Review*.

As regards the violation of respondent's right to due process, petitioner posits that the essence of due process is simply to be heard, or, as applied to administrative proceedings, an opportunity to explain one's side or an opportunity to seek reconsideration of the action or ruling complained of.

Petitioner points out that, when the Letter of Authority (LOA) was issued on April 19, 2017, the requirement to issue a Notice of Informal Conference (NIC) had already been removed pursuant to Revenue Regulations (RR) No. 18-2013. Petitioner asserts that, notwithstanding the absence of an NIC prior to the issuance of the Preliminary Assessment Notice (PAN), respondent was still apprised of the proposed deficiency assessments, as evidenced by the correspondence exchanged between the handling revenue officers and respondent's authorized representative. Petitioner further notes that respondent even made payments on other deficiency taxes prior to the issuance of the PAN.

Petitioner insists that mere reiteration of the contents of the PAN in the FLD does not indicate that petitioner did not consider respondent's reply to the PAN. He explains that the FLD is a replica of the PAN because respondent failed to refute petitioner's findings on meritorious grounds, as respondent did not provide any supporting documents adequate to substantiate its claim

Petitioner opines that the lapses, if any, committed by petitioner should not be allowed to overshadow the fact that respondent failed to pay the correct taxes as indicated in its assessment. Respondent's failure to prove its claim allegedly shows that the assessment is undisputed.

Petitioner also emphasizes that assessments are presumed correct and made in good faith and that it is incumbent upon the taxpayer to prove otherwise.

By way of *Comment (on Petitioner's Motion for Reconsideration Dated January 8, 2026)*[4] [***Comment***] filed on February 18, 2026, respondent manifests at the outset that the Decision dated June 11, 2024 had already become final and executory due to petitioner's failure to file an appeal on time. Respondent further submits that petitioner raised no new matter or argument in the *Motion,* as the issues raised therein had already been considered and resolved in the assailed *Decision.* Thus, respondent maintains that the assailed *Decision* must stand.

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4 *Id.* at 120-135.

Respondent also contends that petitioner failed to present any compelling reason that would justify a relaxation of procedural rules.

Petitioner's *Motion* is bereft of merit.

After a thorough review of petitioner's *Motion* and respondent's *Comment*, the Court *En Banc* finds no cogent reason to deviate from the assailed *Decision*.

The Court *En Banc* notes that petitioner raised issues and arguments that have already been passed upon and discussed exhaustively in the assailed *Decision*. Petitioner failed to present any substantial or compelling argument that would warrant a modification or reversal of the Court *En Banc's* findings and conclusions in the assailed *Decision*.

Petitioner's reliance on the provisions of its MOA with the OSG, in insisting that the reckoning date of the period to appeal should be the BIR handling lawyer's receipt of the assailed Resolution of the Court in Division, fails to convince. This position runs contrary to the categorical pronouncements of the Supreme Court in *National Power Corporation v. National Labor Relations Commission*,[5] *Commissioner of Customs v. Court of Tax Appeals*,[6] *Baldovino-Torres v. Torres*,[7] which uniformly held that **service upon the OSG, as the principal counsel, is controlling—not service upon deputized lawyers.** The MOA between the OSG and the BIR cannot prevail over established Supreme Court jurisprudence.

The Supreme Court, by tradition and in our system of judicial administration, is the final arbiter of all justiciable controversy. There is only one Supreme Court from whose *decisions* all other courts should take their bearings.[8] Thus, until and unless the Supreme Court reverses its ruling on the matter in *National Power Corporation v. National Labor Relations Commission, Commissioner of Customs v. Court of Tax Appeals, Baldovino-Torres v. Torres,* the Court *En Banc* sees no reason not to apply them.

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[5] G.R. Nos. 90933-61, May 29, 1997 [Per J. Romero, Second Division].
[6] G.R. No. 132929, March 27, 2020 [Per J. Mendoza, Second Division].
[7] G.R. No. 248675, July 10, 2022 [Per J. Inting, Third Division].
[8] *Commissioner of Internal Revenue v. Michel J. Lhuilier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

Further, it bears emphasis that a motion for reconsideration containing mere reiterations or rehashes of grounds and arguments previously considered, weighed, and resolved by the Court before the decision sought to be reconsidered is rendered, does not require a new judicial determination.[9]

The Supreme Court's pronouncement in *Social Justice Society (SJS) Officers v. Lim*[10] is instructive:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc**. (Emphasis supplied, citation omitted)

Furthermore, the Supreme Court in *Shangri-La International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*[11] ruled:

> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCl is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.

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9 *People v. Agacer*, G.R. No. 177751, January 7, 2013 [Per J. Del Castillo, Special First Division] citing *People v. Larrañaga*, G.R. Nos. 138874–75, July 21, 2005 [Per Curiam, *En Banc*]; *Mendoza-Ong v. Hon. Sandiganbayan*, G.R. Nos. 146368–69, October 18, 2004 [Per J. Quisumbing, Special Second Division].

10 G.R. Nos. 187836 & 187916, March 10, 2015 [Per J. Perez, *En Banc*].

11 G.R. No. 159938, January 22, 2007 [Per J. Garcia, First Division].

> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. **As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.** (Emphasis supplied)

Viewed in this light, the Court deems it unnecessary to reiterate its prior discussions in the assailed *Decision,* as doing so would amount to mere redundancy.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated on December 17, 2025)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Maria Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

x--x

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice