

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY ASSESSOR AND CITY
TREASURER, CITY GOVERNMENT
OF MALOLOS, BULACAN,

Petitioners,

CTA EB NO. 2709
(CTA AC No. 241)

Present:

DEL ROSARIO, P.J.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, JJ.

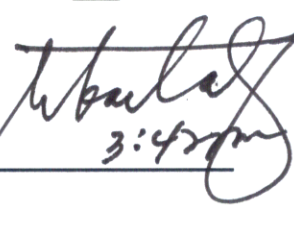
- versus -

NATIONAL FOOD AUTHORITY,
Represented by ELVIRA C.
OBAÑA, Regional Director of
NFA-Region III,

Respondent.

Promulgated:

MAY 22 2023

A handwritten signature in black ink is written over a horizontal line. Below the signature, the date and time '3:42pm' are written in blue ink.

X ----- X

RESOLUTION

The *Compliance*¹ filed by petitioners on March 21, 2023, pursuant to the *Resolution*² dated February 28, 2023, is **NOTED**.

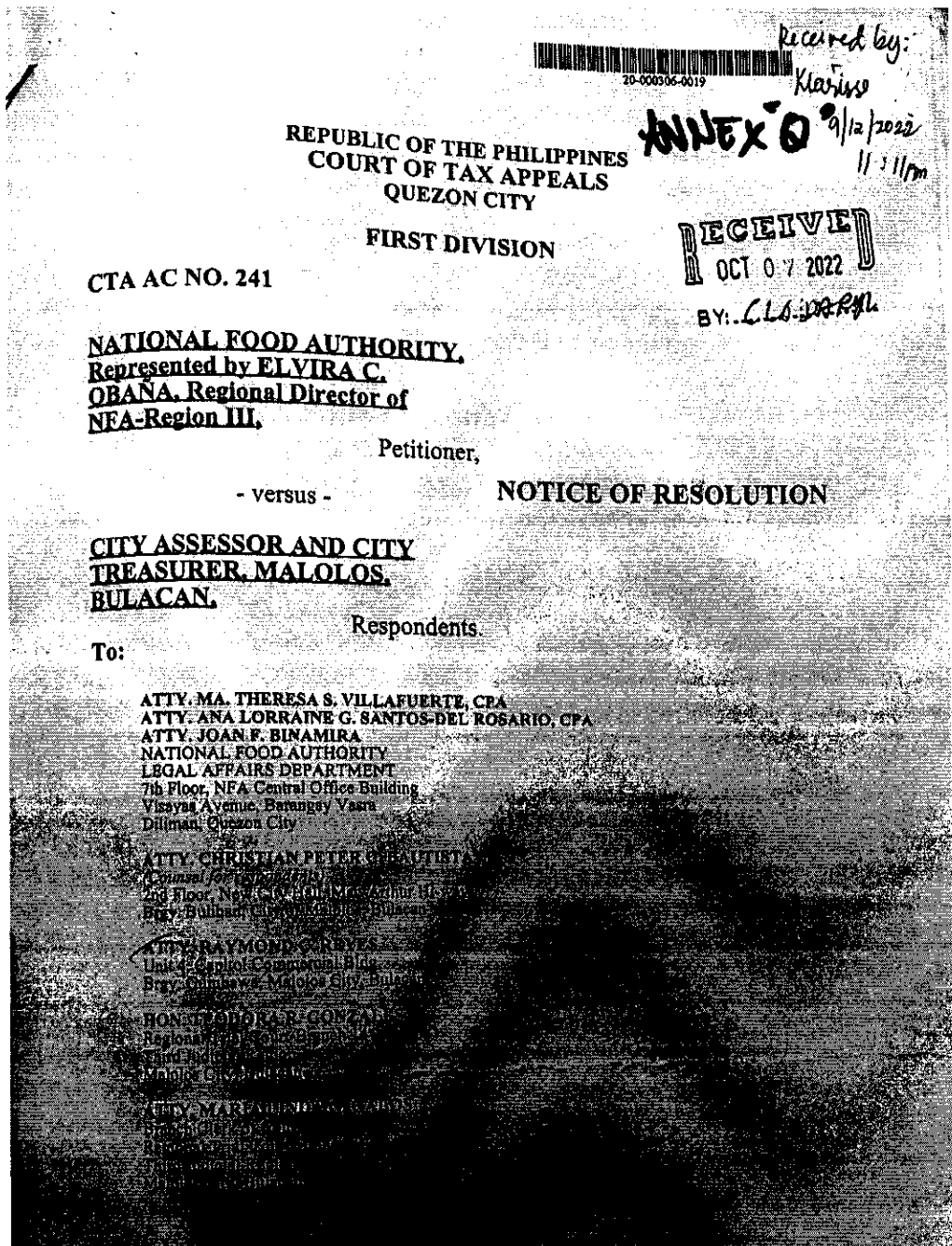
In the said *Compliance*, petitioners allege that the **Notice of Resolution dated August 22, 2022** in CTA AC No. 241 was received by the secretary of the former City Legal Officer on September 12, 2022, and received by the City Legal Office (CLO) on October 7, 2022. Said dates of receipt are marked as Annex "A" and

¹ EB Docket, p. 275.

² In the *Resolution* dated February 28, 2023, petitioner was ordered to submit proof as to the date of receipt by petitioner's counsel of record, Atty. Christian Peter C. Baustista, in CTA AC No. 241 entitled "*National Food Authority, Represented by Elvira C. Obaña, Regional Director of NFA-Region III, petitioner v. City Assessor and City Treasurer, Malolos, Bulacan, respondents*", of the assailed *Resolution* dated August 18, 2022, EB Docket, pp. 271 to 273.

"A-1", respectively, in the attached photocopy of the said *Notice of Resolution* dated August 22, 2022³ issued in CTA AC No. 241, notifying the parties that the *Resolution* dated August 18, 2022 has been rendered in CTA AC No. 241.

Upon perusal thereof, the Court observes as follows: on the top right hand portion thereof, there is a handwritten note which reads "*Received by: Klarisse 9/12/2022 11:11 AM*",⁴ and a stamp which reads "*Received OCT 07 2022 BY: CLO: DARYL*".⁵



³ EB Docket, pp. 277 to 278. An original copy of the said *Notice of Resolution* is attached to the *Petition for Review*, pp. 76 to 77.

⁴ Identified as Annex "A" in petitioners' *Compliance*.

⁵ "*CLO: DARYL*" is handwritten; identified as Annex "A-1" in petitioners' *Compliance*.

Evidently, the date of receipt by Atty. Christian Peter C. Bautista (counsel of record of respondents, City Assessor and City Treasurer of Malolos, Bulacan, in CTA AC No. 241) of the assailed *Resolution* dated August 18, 2022 issued in CTA AC No. 241, was on September 12, 2022.

Hence, in light of the foregoing observations, the Court *En Banc* shall now proceed to determine the timeliness of the instant *Petition for Review* filed on October 24, 2022.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals provides:

"RULE 8
PROCEDURE IN CIVIL CASES

SEC. 3. *Who may appeal; period to file petition.* —

xxx xxx xxx

(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." (*Emphasis supplied*)

In the instant case, petitioners aver that they only received the *Resolution* dated August 18, 2022 on October 7, 2022 when a copy thereof was forwarded to the CLO by the secretary of Atty. Bautista. According to petitioners, Atty. Bautista is no longer connected with the City Government of Malolos since July 1, 2022.⁶

Petitioners assert that the instant *Petition for Review* was filed within the prescribed period, which is fifteen (15) days from receipt of the CLO of the copy the *Resolution* dated August 18, 2022 on October 7, 2022, or until October 22, 2022. Considering that October

⁶ Timeliness of the Petition, *Petition for Review*, EB Docket, p. 3.

22, 2022 fell on a Saturday, the *Petition for Review* filed on October 24, 2022 was allegedly filed on time.

Petitioners are mistaken.

It bears reiterating that notice sent to **counsel of record** is binding upon the client.⁷ Here, petitioners' (then respondents') counsel of record in CTA AC No. 241 when the Notice of Resolution dated August 22, 2022 was sent, was Atty. Bautista. It is also worth noting that when the CLO received a copy of the *Resolution* dated August 18, 2022 on October 7, 2022, Atty. Bautista was still the counsel of record considering that Atty. Darwin D. Clemente only filed an *Entry of Appearance* in CTA AC No. 241 on October 10, 2022.

In *Francis C. Cervantes v. City Service Corporation and Valentin Prieto, Jr.*,⁸ the Supreme Court held that when a party is represented by counsel of record, service of notices must be made upon such attorney. Any notice to any other lawyer, not the counsel of record, is not notice in law, to wit:

“The rule is —

Where a party appears by attorney in an action or proceeding in a court of record, **all notices required to be given therein must be given to the attorney of record; and service of the court's order upon any person other than the counsel of record is not legally effective and binding upon the party, nor may it start the corresponding reglementary period for the subsequent procedural steps that may be taken by the attorney.** Notice should be made upon the counsel of record at his exact given address, to which notice of all kinds emanating from the court should be sent in the absence of a proper and adequate notice to the court of a change of address.

When a party is represented by counsel of record, service of orders and notices must be made upon said attorney; and notice to the client and to any other lawyer, not the counsel of record, is not notice in law.” (*Emphasis and underscoring supplied*)

In this case, considering that Atty. Bautista was the counsel of

⁷ *Francisco A. Labao v. Lolito N. Flores, et al.*, G.R. No. 187984, November 15, 2010.

⁸ G.R. No. 191616, April 18, 2016.

record of herein petitioners when the Notice of Resolution dated August 22, 2022 was sent, the receipt thereof by his secretary on September 12, 2022 was the reckoning point for the counting of the fifteen (15)-day period to file a *Petition for Review* before the Court *En Banc*, and not the receipt of the CLO of the copy of the *Resolution* dated August 18, 2022 on October 7, 2022. As such, the fifteen (15)-day period to appeal to the Court *En Banc* lapsed on September 27, 2022.

Thus, the instant *Petition for Review* filed on October 24, 2022 was filed out of time.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* filed on October 24, 2022 is **DISMISSED** for having been filed out of time.

SO ORDERED.



ROMAN G. DEL ROSARIO
Presiding Justice



ERLINDA P. UY
Associate Justice



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
MARIAN IVY F. REYES-FAJARDO
Associate Justice

Laneé S. Cui-David
LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice