

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF
INTERNAL REVENUE,

Petitioner,

CTA **EB NO. 2607**

(CTA Case No. 9329)

Present:

-versus-

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

AG COUNSELORS
CORPORATION,

Respondent.

Promulgated:

JUL 16 2024

X- - - - -

RESOLUTION

MANAHAN, J.:

For resolution is petitioner's *Motion for Reconsideration* filed on February 20, 2024 without petitioner's comment,¹ seeking the reconsideration of the Court's Decision promulgated on February 1, 2024, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, the Petition for Review is **DENIED** on the ground that petitioner availed of the wrong remedy.

SO ORDERED."

¹ Records Verification dated March 16, 2024. *um*

RESOLUTION

CTA EB No. 2607

Page 2 of 5

Petitioner argues that the Court erred in dismissing the Petition for Review on the ground that it availed of the wrong remedy. It avers that the provisions of Rule 41 of the Revised Rules of Court shall apply only insofar as they are not inconsistent with or may serve to supplement the provisions of law that govern the conduct of the proceedings in the Court of Tax Appeals (CTA). Petitioner points to Sections 1 and 3(b) of Rule 8 of the Revised Rules of the CTA (RRCTA) that should govern the conduct of business in the Court. Petitioner narrates that it filed a Petition for Relief from Judgment on March 8, 2021 which was denied in a Resolution dated September 30, 2021 which prompted it to file a Motion for Reconsideration which was again denied by the Court on March 29, 2022. Petitioner emphasizes that the denial of its Motion for Reconsideration was due to lack of merit and not because it availed of the wrong remedy. It contends that by rendering a resolution on its Motion for Reconsideration, the same gave rise to its right to appeal the Resolutions promulgated on September 30, 2021 and March 29, 2022 pursuant to said Sections 1 and 3(b) of Rule 8 of the RRCTA. Petitioner further argues that Section 4(b) of Rule 8 of the RRCTA provides that an appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court *en banc* by a petition for review which it did on May 4, 2022.

RULING OF THE COURT

Upon a careful evaluation of the issues raised by petitioner, the Court finds that the facts and issues raised therein have already been comprehensively passed upon in the assailed Decision.

Petitioner's insistence on the application of the afore-cited Sections 1 and 3(b) of Rule 8 of the RRCTA to supplant the provisions of Rule 41 of the Revised Rules of Court, is misplaced.

Sections 1 and 3(b) of Rule 8 of the RRCTA *generally applies to cases falling under the exclusive appellate jurisdiction of the Court En Banc* which refer or emanate from cases cognizable by the Court in Division specifically enumerated under Section 7(a) of Republic Act (RA) No. 1125 as amended *an*

by RA No. 9282. We quote Sections 1 and 3(b) of Rule 8 of the RRCTA, to wit:

“Rule 8
Procedure in Civil Cases

Section 1. *Review of cases in the Court en banc.* – In cases falling **under the exclusive appellate jurisdiction of the Court en banc**, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. (*Emphasis supplied*)

xxx xxx xxx

Section 3. *Who may appeal; period to file petition-*

(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 a petition for review within fifteen (15) 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.”

The records readily show that petitioner Commissioner of Internal Revenue filed a Petition for Relief from Judgment with the Second Division (Court in Division) on March 8, 2021 which was denied in a Resolution dated September 30, 2021 for failure to comply with the two (2) reglementary periods provided under Section 3, Rule 38 of the Revised Rules of Court.

A Petition for Relief from Judgment is not one of those falling under the exclusive appellate jurisdiction of the Court under Section 7 of RA No. 1125 as amended by RA No. 9282 but is in the nature of a special remedy under Rule 38 of the Revised Rules of Court. The Supreme Court has described a petition for relief from judgment as an equitable remedy that is allowed only in exceptional cases.² As such, the Revised Rules of Court provides that a denial of a petition for relief from

² *Juliet Vitug Madarang and Romeo Bartolome vs. Spouses Jesus D. Morales and Carolina N. Morales*, G.R. No. 199283, June 9, 2014. *an*

judgment is not subject to an appeal as plainly stated in Section 1, Rule 41 of the Revised Rules of Court and we quote:

**“Rule 41
Appeal From the Regional Trial Court**

Section 1. *Subject of appeal.* – An appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by the Rules to be appealable.

No appeal may be taken from:

- (a) **An order denying a petition for relief or any similar motion seeking relief from judgment;**
- (b) An interlocutory order;
- (c) An order disallowing or dismissing an appeal;
- (d) An order denying a motion to set aside a judgment by consent, confession or compromise on the ground of fraud, mistake or duress or any other ground vitiating consent;
- (e) An order of execution;
- (f) A judgment or final order for or against one or more of several parties or in separate claims, counterclaims, cross-claims and third party complaints, while the main case is pending, unless the court allows an appeal therefrom; and
- (g) An order dismissing an action without prejudice.

In any of the foregoing circumstances, the aggrieved party may file an appropriate special civil action as provided in Rule 65.” (*Emphasis supplied*)

Petitioner cannot ignore the fact that the remedy it availed of is subject to the provisions of the Revised Rules of Court with its corresponding limitations.

We find that petitioner did not present any other convincing arguments to warrant a reversal of the assailed Decision. *am*

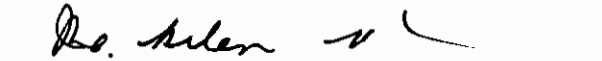
WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* filed on February 20, 2024 is **DENIED** for lack of merit.

SO ORDERED.

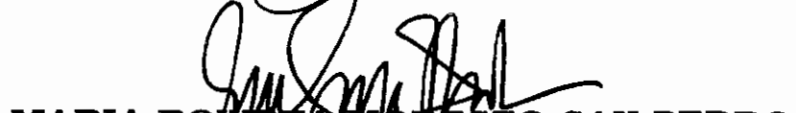

CATHERINE T. MANAHAN
Associate Justice

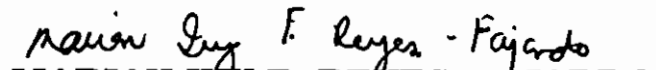
WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


HENRY S. ANGELES
Associate Justice