REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

TOLEDO HOLDINGS CORPORATION, *Petitioner,*	**CTA CASE NO. 9375**
	Members: **UY,** *Chairperson* **RINGPIS-LIBAN,** *and* **MODESTO-SAN PEDRO,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 23 2021 11:52 a.m.

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RESOLUTION

For this Court's resolution is respondent's Petition for Relief from Judgment ("Petition") filed on 20 November 2020,[1] with petitioner's Comment/Opposition (to Petition for Relief) ("Comment") filed on 11 January 2021.[2]

In the Petition, respondent alleges the following:

1. There is a valid reason for respondent's failure to file his appeal with the Court *En Banc.*

   a. The failure to file the Petition for Review before the Court *En Banc* on time was due to excusable negligence.

   b. On 5 March 2020, respondent's counsel, Atty. Marionn Phillbee M. Tejada received the Resolution, dated 3 March 2020. This Resolution denied respondent's Motion for Reconsideration of the Decision, dated 15 October 2019, which ruled to cancel the deficiency tax assessments issued against petitioner for the taxable year 2011.[3]

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[1] Records, Vol. 2, pp. 757-779.
[2] Records, Vol. 2.
[3] *Id.*, p. 761.

c. On 16 March 2020, respondent's counsel went to Batangas City for a personal visit to a friend. He was then isolated and trapped in Batangas City starting from 17 March 2020 due to the nationwide imposed quarantine measures brought about by the COVID-19 pandemic.

d. It was only around the month of May when quarantine measures were relaxed that he was able to obtain a laptop to perform his duties and obligations as a lawyer of respondent's Litigation Division.

e. Unfortunately, despite having access to such device, he was unable to remember/notice the lapse of the period to file the Petition for Review before the Court *En Banc* for the instant case, mostly due to the fact that he had several cases assigned to him and that all the hard copies of pleadings and court orders, decisions, and resolutions, including the Resolution, dated 3 March 2020, were left in the Litigation Division office in Quezon City.

f. Respondent's counsel was only able to return to Metro Manila on 12 July 2020 and report for duty on 15 July 2020 after having acquired the necessary negative swab test result.

g. Despite having returned to the office, he was still not able to file the requisite Petition for Review before the Court *En Banc* involving the present case as he had a voluminous number of pleadings, court decisions, orders, resolutions, and memoranda that had piled up due to his legally forced exile from work. The subject Resolution was lost in the pile of paperwork at his work desk which contained documents dated from March to July. Considering that he had equally urgent deadlines to attend to, he was unable to find the said Resolution and draft and file a Petition for Review before the Court *En Banc*.

h. As a result thereof, respondent's counsel was not able to file a Petition for Review before the Court *En Banc* questioning this Court in Division's Decision, dated 15 October 2019, and Resolution, dated 3 March 2020. He, or anyone, could not have prepared for and prevented this circumstance even in the exercise of extraordinary diligence.

i. Hence, respondent was surprised that a Resolution, dated 8 October 2020, was issued by this Court in Division effectively declaring that the Decision, dated 15 October 2019, and the Resolution, dated 3 March 2020, had become final and executory and that an entry of judgment would be issued.

j. One cannot be made to be always on alert and be prepared for the possibility of being stranded in an unfamiliar place and be able to instantly cope with the stress and constant fear surrounding one's safety and security for a seemingly indefinite period of time. Considering that the spread of a contagious virus, or COVID-19, in this case, is a matter that cannot be guarded against by the exercise of ordinary diligence and prudence, the unfortunate circumstance of having been legally quarantined and isolated in a strange unfamiliar place for several months during the pandemic falls under excusable negligence.

k. The negligence of the handling counsel in failing to file the Petition for Review before the Court *En Banc* within the period given should not prejudice the rights and interests of the respondent. It bears stressing that the rule which states that the mistakes of counsel bind the client may not be strictly followed where observance of it would result in outright deprivation of the client's liberty or property or where the interest of justice so requires. This was declared by the Supreme Court in the case of ***Callangan v. People of the Philippines***.[4]

l. Moreover, in ***Sarraga, Sr. v. Banco Filipino Savings and Mortgage Bank***,[5] the Supreme Court provided that:

> "A client may reasonably expect that his counsel will make good his representations and has the right to expect that his lawyer will protect his interests during the trial of his case. For the general employment of an attorney to prosecute or defend a case or proceeding ordinarily vests in a plaintiff's attorney the implied authority to take all steps or do all acts necessary or incidental to the regular and orderly prosecution and management of the suit, and in a defendants attorney, the power to take such steps as he deems necessary to defend the suit and protect the interests of the defendant."

m. Applying the foregoing, therefore, and given that respondent's Litigation Division had to receive numerous Notices, Resolutions, and Orders daily during the quarantine period, ordinary diligence and prudence could not have guarded the untoward situation that happened.

n. Hence, there is basis in granting the present Petition.

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[4] G.R. No. 153414, 27 June 2006.
[5] G.R. No. 143783, 9 December 2002.

2. Respondent has a meritorious defense.

   a. In the Decision, dated 15 October 2019, and the Resolution, dated 3 March 2020, this Court in Division cancelled the deficiency tax assessment issued against petitioner on the ground that the said assessment was void as it was issued without a valid Letter of Authority ("LOA").

   b. This Court in Division ruled that the Memorandum of Assignment ("MOA") subject of the present case did not give sufficient authority to the revenue officers to audit petitioner's books of accounts.

   c. On the contrary, respondent is of the position that the MOA issued in the present case may be construed as a valid LOA.

   d. In ***Commissioner of Internal Revenue v. San Miguel Foods, Inc.***,[6] the Court *En Banc* ruled that in cases of re-assignment/transfer of audit investigation, a document which transfers a revenue officer's authority to examine and assess a taxpayer to another may be construed as an equivalent of a new LOA. As long as a document contains all the elements establishing a contract of agency between petitioner or his duly authorized representative, and the new revenue officer are present, it may be construed as a valid LOA.

   e. In the present case, the MOA clearly contains an intention of establishing a new contract of agency between respondent and revenue officers Pedrosa and Caling. Considering the foregoing, the MOA properly conferred authority to said revenue officers to continue the audit investigation of petitioner's books of accounts. Thus, it may be construed as a valid LOA.

   f. Respondent disagrees with the reasoning of this Court in Division that, assuming the MOA may be construed as a LOA, the same is still invalid as it was merely signed by an "OIC-Chief of the RLTAD."

   g. Admittedly, the person who signed the MOA, Mr. Edwin T. Guzman, is neither respondent nor a Regional Director or an Assistant Commissioner / Head Revenue Executive Assistant.

   h. While under ***Revenue Memorandum Order No. 29-07 ("RMO 29-07")***, only the Assistant Commissioner / Head Revenue Executive Assistants are authorized to issue LOAs

[6] CTA *EB* No. 1880, 6 August 2019.

as they are the equivalent of a Regional Director in the Large Taxpayers Service, the same rule is not applicable to MOAs. For MOAs, the signatory may be any authorized Revenue Official or Head of the Investigating Office.

i. As such, the MOA in the present case was lawfully issued. Consequently, it conferred authority to revenue officers Pedrosa and Caling to examine petitioner's books of accounts.

3. Technicalities take a backseat in the interest of justice. There is no doubt that the substantial ends of justice and equitable remedy shall forthwith be served in the present case by recalling the instant entry of judgment and allowing herein respondent to avail of the remedy to file an appeal.

In its Comment, petitioner counter argues, as follows:

1. Respondent does not have a valid ground to file the instant Petition.

   a. In ***City of Dagupan v. Ester F. Maramba***,[7] the Supreme Court ruled that for excusable negligence to be a valid ground for a petition for relief, it must be so gross that ordinary diligence and prudence could not have guarded against it. Further, the excusable negligence must be imputable to the party-litigant and not to his or her counsel whose negligence binds his or her client. The binding effect of counsel's negligence ensures against the resulting uncertainty and tentativeness of proceedings if clients were allowed to merely disown their counsel's conduct.

   b. In the case at bar, respondent's counsel was allegedly stranded at Batangas City having no access to a laptop, computer or internet. However, he is not without an option to either make a phone call or even text message his superiors that he was stranded in Batangas City. After all, Batangas City is a developed province where telephone lines, cellphone signals, or even mobile data are existent.

   c. Moreover, the enhanced community quarantine, which started 16 March 2020, did not have an immediate implementation. The government and other media outlets advised the general public at least two (2) days prior to implementation.

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[7] G.R. No. 174411, 2 July 2014.

d. A petition for relief from judgment is an equitable remedy and is allowed only in exceptional cases. It is not available if other remedies exist, such as a motion for new trial or appeal.

e. To set aside a judgment through a petition for relief, the negligence must be so gross that ordinary diligence and prudence could not have guarded against it. This is to prevent parties from reviving the right to appeal already lost through inexcusable negligence.

f. In the present Petition, respondent admitted that he received the Resolution, dated 3 March 2020, which denied his Motion for Reconsideration of the Decision, dated 15 October 2019, on 5 March 2020. Following this, respondent had fifteen (15) days from receipt of the adverse resolution, or until 20 March 2020, within which to file his Petition for Review before the Court *En Banc*.

g. Nonetheless, due to the lockdown restrictions brought about by the COVID-19 pandemic, ***Section 4 of Supreme Court Administrative Circular No. 39-2020*** provided that the filing of petitions, appeals, complaints, motions, pleadings, and other submissions that fell due up to 31 May 2020 before the courts in areas under Modified Enhanced Community Quarantine was extended for thirty (30) calendar days, counted from 1 June 2020, but pleadings and other court submissions may still be filed by the parties within the reglementary period on or before 31 May 2020 through electronic means, if preferred and able.

h. Following this, respondent had until 1 July 2020 to file his Petition for Review before the Court *En Banc*, or a total of one hundred seven (107) days from 16 March 2020 to have checked the deadlines, assigned another lawyer for the case, and prepared for the aforesaid Petition for Review. However, he failed to do so entirely through his own fault.

i. Even assuming that respondent's counsel was able to return to work only last 12 July 2020, it remains that he was already aware even prior to his date of travel to Batangas City on 16 March 2020 that a Resolution, dated 3 March 2020, was received on 5 March 2020 effectively denying respondent's Motion for Reconsideration of the Decision, dated 15 October 2019. Yet, he did nothing when he returned to work.

j. Consequently, respondent does not have a valid ground to file the instant Petition because the negligence allegedly committed does not constitute excusable negligence.

2. Respondent does not have a meritorious defense.

    a. The present assessment is void due to lack of a valid LOA.

    b. Revenue officers must be authorized by a valid LOA in order for them to lawfully examine the books of accounts and other accounting records of a taxpayer.

    c. Instead of a valid LOA, a MOA and a Notice for Continuance of Audit/Investigation were issued directing revenue officers Pedrosa and Caling to continue the audit and examination of petitioner's books of accounts for taxable year 2011.

    d. Contrary to petitioner's position, a MOA does not cloth the revenue officers named therein with sufficient authority to audit or examine a taxpayer's books of accounts. This is clear under ***Revenue Memorandum Order No. 43-90***, which clearly requires the issuance of a new LOA for transfer of cases to another set of revenue officers.

    e. As there was no new LOA issued in favor of revenue officers Pedrosa and Caling, their audit and examination of petitioner's books of accounts is unauthorized. Consequently, any assessment produced by such audit and examination is null and void.

    f. In view of the non-filing of respondent of a Petition for Review before the Court *En Banc* within the prescribed period, the Decision by this Court in Division, dated 15 October 2019, has already become final and executory.

After going through the arguments above, We rule to **DISMISS** the instant Petition.

To begin with, the Petition for Relief was clearly filed out of time.

A petition for relief from judgment must be filed within sixty (60) days after petitioner learns of the judgment, final order, or proceeding and not more than six months after such judgment or final order was entered or such proceeding was taken. ***Section 3 of Rule 38 of the Revised Rules of Civil Procedure*** mandates this, to wit:

> "Section 3. Time for filing petition; contents and verification. – A petition provided for in either of the preceding sections of this Rule **must be** verified, **filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more**

> **than six (6) months after such judgment or final order was entered, or such proceeding was taken;** and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be."
> (Emphasis, Ours)

The mandatory nature of these periods is such that in ***Madarang, et al. v. Spouses Morales***,[8] the Supreme Court clearly warned as follows:

> "The double period required under Section 3, Rule 38 is jurisdictional and should be strictly complied with. **A petition for relief from judgment filed beyond the reglementary period is dismissed outright.** This is because a petition for relief from judgment is an exception to the public policy of immutability of final judgments. (Emphasis, Ours)

In the instant case, respondent, through counsel, admitted that he received a copy of the Resolution, dated 3 March 2020, which denied his Motion for Reconsideration of the Decision, dated 15 October 2019, on 5 March 2020. Thus, he had sixty (60) days after such date when he learned of the Resolution to be set aside, or until 4 May 2020, within which to file the Petition for Relief.

Clearly, then, the filing of the instant Petition for Relief on 20 November 2020, or seven (7) months after the 4 May 2020 due date, was out of time. Following the dictates of ***Madarang***, above, the Court has no choice but to dismiss the Petition for Relief outright for being filed beyond the reglementary period.

Second, respondent had the remedy of appeal available to him, barring the filing of a Petition for Relief. Indeed, it must be emphasized that a Petition for Relief from Judgment is an equitable remedy and is allowed only in exceptional cases. It is not available if other remedies exist, such as a motion for new trial or appeal.[9]

Here, from the Resolution of the Court in Division, respondent could have filed a Petition for Review before the Court *En Banc*. He had fifteen (15) days from receipt of a copy of the questioned Resolution within which to do so. Before the expiration of the reglementary period, the Court may even grant an additional period not exceeding fifteen (15) days from the expiration of the original period within which to file said Petition for Review.[10]

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[8] G.R. No. 199283, 9 June 2014.
[9] *Ibid.*
[10] See Rule 8, Sec. 3(b), Revised Rules of the Court of Tax Appeals.

As mentioned, with respondent's admission of having received a copy of the subject Resolution on 5 March 2020, he had fifteen (15) days from such receipt, or until 20 March 2020, within which to file a Petition for Review before the Court *En Banc* to appeal this Court in Division's ruling, yet he failed to avail of this available remedy of appeal.

Third, the negligence attendant in this case does not open the avenue for a Petition for Relief.

It has been established that if the petition for relief is filed on the ground of excusable negligence of counsel, parties must show that their counsel's negligence could not have been prevented using ordinary diligence and prudence.[11]

The Court notes that following his receipt of the subject Resolution, respondent's counsel was allegedly stranded in Batangas from 16 March 2020 to 12 July 2020 because Metro Manila was placed under enhanced community quarantine ("ECQ"), effectively placing the area under restrictive lockdown to contain the spread of the COVID-19 virus.[12]

The Court equally notes that as a consequence of the ECQ, courts, including the Court of Tax Appeals, which are located in Metro Manila, were physically closed and the deadlines for filing of petitions and appeals, complaints, motions, pleadings, and other court submissions in such courts were ultimately extended by virtue of the following issuances:

Supreme Court Issuance	Coverage	Period of Extension
Administrative Circular No. 31-2020	Petitions and appeals, complaints, motions, pleadings, and other court submissions that fall due during the period from 15 March 2020 until 15 April 2020	Thirty (30) days from 16 April 2020
Administrative Circular No. 34-2020	Petitions and appeals, complaints, motions, pleadings and other court submissions that fall due up to 30 April 2020	Thirty (30) days from 1 May 2020
Administrative Circular No. 36-2020	Petitions and appeals, complaints, motions, pleadings and other court submissions that fall due up to 15 May 2020	Thirty (30) days from 16 May 2020

[11] See Note 10.
[12] Proclamation No. 929, 16 March 2020.

Administrative Circular No. 40-2020	Petitions, appeals, complaints, motions, pleadings and other court submissions that fall due up to 31 May 2020	Thirty (30) days from 1 June 2020

Considering that respondent had until 20 March 2020 within which to file his Petition for Review, he was effectively given an extension of thirty (30) days from 16 April 2020 by Administrative Circular No. 31-2020. Even if the Court were to afford maximum liberality to respondent and apply all the subsequent Circulars extending the deadlines for filing, he ultimately had until 1 July 2020, or a total of one hundred three (103) days from the original 20 March 2020 deadline, to file a Petition for Review before the Court *En Banc* to appeal the Decision, dated 15 October 2019, and the Resolution, dated 3 March 2020, yet he still failed to do so.

To set aside a judgment through a petition for relief, the negligence must be so gross "that ordinary diligence and prudence could not have guarded against." This is to prevent parties from "reviv[ing] the right to appeal [already] lost through inexcusable negligence."[13] Was respondent's failure to file the Petition for Review such that ordinary diligence and prudence could not have guarded against it? The Court does not find it so. In this age of connectivity, certainly modes of communication were available to his counsel who could have used the same to ensure the filing of such appeal.

Moreover, the Supreme Court had previously directed respondent to adopt mechanisms, procedures, or measures that can effectively monitor the progress of cases being handled by its counsels to prevent similar disadvantageous incidents against the government in the future.[14] Accordingly, he is bound by his counsel's alleged negligence in this case.

Finally, in view of the foregoing, the Court cannot heed the plea for liberal construction of the rules. Indeed, the bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. It cannot be gainsaid that obedience to the requirements of procedural rules is needed if we are to expect fair results therefrom and utter disregard of the rules cannot justly be rationalized by harking on the policy of liberal construction.[15]

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[13] See Note 10, citing Guevarra v. Bautista, 593 Phil. 20, 26 (2008).
[14] Commissioner of Internal Revenue vs. Kepco Ilijan Corporation, G.R. No. 199422, 21 June 2016.
[15] Miranda v. Social Security Commission, et al., G.R. No. 238104, 27 February 2019.

Considering the above dispositions, the other issues raised need no longer be discussed.

WHEREFORE, the instant Petition is hereby **DISMISSED** at respondent's costs.

SO ORDERED.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice