REPUBLIC OF THE PHILIPPINES
***Court of Tax Appeals***
QUEZON CITY

***En Banc***

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| **NATIONAL POWER CORPORATION,**<br>*Petitioner,* | **CTA *EB* NO. 1293**<br>(CTA AC No. 106) |
| -*versus*- | Present:<br>***Del Rosario, P.J.,***<br>***Castañeda, Jr.,***<br>***Bautista,***<br>***Uy,***<br>***Casanova,***<br>***Fabon-Victorino,***<br>***Mindaro-Grulla,***<br>***Ringpis-Liban,*** *and*<br>***Manahan, JJ.*** |
| **MUNICIPALITY OF LAGUINDINGAN AND MUNICIPAL TREASURER OF LAGUINDINGAN, MISAMIS ORIENTAL,**<br>*Respondents.* | Promulgated:<br>JAN 10 2017 4:05 p.m. |

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# ***RESOLUTION***

***BAUTISTA, J:***

For resolution is the Motion for Reconsideration (Of the Decision dated August 2, 2016)[1] ("Motion for Reconsideration") filed by petitioner on August 31, 2016; with respondents' Opposition/Comment to the Motion for Reconsideration Filed By The Petitioner National Power Corporation[2] ("Comment") filed on October 28, 2016 by registered mail.

This relates to the Petition for Review[3] seeking the nullification of the Decision[4] promulgated on October 10, 2014 and the Resolution[5]

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[1] *Rollo, CTA EB No. 1293, Motion for Reconsideration,* pp. 207-212.
[2] *Id., Comment,* pp. 226-230.
[3] *Id., Petition for Review,* pp. 64-79, with annexes.
[4] *Records, CTA AC No. 106, Assailed Decision,* pp. 174-187; penned by Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. del Rosario and Associate Justice Erlinda P. Uy

promulgated on February 25, 2015 of the First Division of the Court of Tax Appeals ("Court in Division"), which effectively reversed and set aside the Decision dated April 25, 2012 and the Order dated March 25, 2013, both rendered by the Regional Trial Court ("RTC")-Branch 44 of Initao, Misamis Oriental, and dismissed the appeal filed by petitioner in Civil Case No. 2010-930 for lack of jurisdiction.

On August 2, 2016, the Court *En Banc* promulgated a Decision[6], the dispositive portion thereof reads as follows:

> **WHEREFORE**, the instant Petition for Review is hereby **DENIED** for lack of merit. Accordingly, the First Division's Decision promulgated on October 10, 2014 and Resolution promulgated on February 25, 2015 are hereby **AFFIRMED**.
>
> **SO ORDERED.**

In its Decision, the Court *En Banc* held that the RTC has no jurisdiction to decide petitioner's appeal. It discussed that before a local assessment case is elevated to a court of competent jurisdiction, it is mandatory for the taxpayer to first file a protest against the deficiency assessment, in accordance with *Section 195 of the 1991 Local Government Code ("LGC")*; that the RTC failed to pass upon the issue of jurisdiction and did not consider the prescriptive periods provided under *Section 195 of the 1991 LGC;* and that, as explained by the Court in Division, the periods are mandatory and failure to comply with the sixty (60)-day waiting period violates the doctrine of exhaustion of administrative remedies, rendering the petition premature and without a cause of action, with the effect that the RTC will not acquire jurisdiction over petitioner's petition. Therefore, the Court *En Banc* found no reason to reverse the Court in Division's Decision and Resolution. Considering the foregoing, the Court *En Banc* likewise deemed it unnecessary to discuss the other remaining issues for being moot and academic.

In petitioner's Motion for Reconsideration, it avers that it timely filed an appeal with the RTC pursuant to *Section 195 of the LGC;* and that the alleged premature filing must be excused on the grounds of

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concurring; the Court in Division granted the Petition for Review, and reversed and set aside the Decision and the Order of the Regional Trial Court ("RTC").

[5] *Records, Assailed Resolution*, pp. 221-226; penned by Associate Justice Cielito N. Mindaro-Grulla, with Presiding Justice Roman G. del Rosario and Associate Justice Erlinda P. Uy concurring.

[6] *Rollo, CTA EB No. 1293, Decision*, pp. 194-206.

substantial justice. While in their Comment, respondents counter that it has been established by the Court in Division and the Court *En Banc* that petitioner indeed failed to comply with the mandatory statutory periods provided by law; that the premature filing cannot be excused on the ground of substantial justice since no miscarriage will result from the denial of the petition; that petitioner abandoned its protest by prematurely filing the petition with the RTC; that taxes are the lifeblood of the Government; and that non-collection of said taxes will result in substantial and great injustice against the Filipino people and not only against respondents.

The Court *En Banc* finds no merit in petitioner's Motion for Reconsideration.

A perusal of the contents of petitioner's Motion for Reconsideration shows that most of the grounds raised therein are the same ones found in its Memorandum. Reproduced hereunder are petitioner's arguments, as appearing in the August 2, 2016 Decision:

> ***Petitioner's arguments***
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> xxx xxx xxx
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> Lastly, petitioner alleges that the Court in Division erred in concluding that it prematurely filed its appeal with the RTC; that *Section 195 of the 1991 LGC* states that a taxpayer dissatisfied with a local treasurer's denial or inaction on his protest over an assessment has thirty (30) days [from the receipt of denial or lapse of the sixty (60)-day period for the local treasurer to decide] to file its appeal to the court of competent jurisdiction; and that due to respondents' refusal to resolve the protest alleging no jurisdiction over it, its appeal on May 4, 2010 was proper.[7]

Petitioner's prayer for the application of the principles of substantial justice in its favor deserves scant consideration. While technical rules may be relaxed for the furtherance of justice and to benefit the deserving, there must underlying considerations which warrant a disregard of procedural technicalities to favor substantial justice.[8] As discussed in the case of *Magsino v. de Ocampo, et. al., G.R. No. 166944, August 18, 2014, 733 SCRA 202,* to wit:

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[7] *Rollo, Petitioner's Memorandum,* pp. 138-155.
[8] *Magsino v. de Ocampo, et. al.,* G.R. No. 166944, August 18, 2014, 733 SCRA 202.

The petitioners ought to be reminded that the bare invocation of "the interest of substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed simply because their nonobservance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.

Nor should the rules of procedure be held to be for the benefit of only one side of the litigation, for they have been instituted for the sake of all.

The petitioner did not deserve the liberal application of the rules of procedure that he was seeking. Indeed, the dismissal of his petition for review was in full accord with the following pronouncement upon a similar provision in the Rules of Court made in *Atillo v. Bombay*, as follows:

> The mandatory tenor of Section 2(d), Rule 42 with respect to the requirement of attaching clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts is discernible and well settled. In this case, the mandatory or directory nature of the requirement with respect to the attachment of pleadings and other material portions of the record is put in question.
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> The phrase "of the pleadings and other material portions of the record" in Section 2(d), Rule 42 is followed by the phrase "as would support the allegations of the petition" clearly contemplates the exercise of discretion on the part of the petitioner in the selection of documents that are deemed to be relevant to the petition. xxx. The crucial issue to consider then is whether or not the documents accompanying the petition before the CA sufficiently supported the allegations therein.[9]

Based on the foregoing, the Court *En Banc* finds no merit in petitioner's allegations of errors. It must be noted that the periods

[9] Underscoring ours.

provided in *Section 195 of the 1991 LGC* are mandatory in nature, which petitioner failed to follow. The Motion for Reconsideration likewise did not raise any new argument that would merit reconsideration of the said Decision.

**WHEREFORE**, petitioner's Motion for Reconsideration (Of the Decision dated August 2, 2016) is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**LOVELL R. BAUTISTA**
Associate Justice

***WE CONCUR:***

**ROMAN G. DEL ROSARIO**
Presiding Justice

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

Ma. Belen
**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

(Took No Part)
**CATHERINE T. MANAHAN**
Associate Justice