REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

METROPOLITAN CEBU WATER DISTRICT, Petitioner,	C.T.A. EB CASE NO. 1211 (CTA CASE NO. 8158)
	Present:
- versus -	DEL ROSARIO, *PJ* CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, COTANGCO-MANALASTAS, *and* RINGPIS-LIBAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 28 2015 11:36 a.m.

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RESOLUTION

***Fabon-Victorino, J.*:**

In the Resolution dated October 28, 2014, the Court dismissed the instant Petition for Review for failure of petitioner to attach to its Petition for Review a board resolution indicating the authority of its representative to sign the verification and certification against forum shopping and to submit legible certified true copies of the assailed Decision dated March 25, 2014 as well as the Resolution dated July 11, 2014 in CTA Case No. 8158.

Aggrieved, petitioner filed this Motion for Reconsideration with Manifestation dated November 19, 2014, praying to reverse and set aside the October 28, 2014 Resolution.

Petitioner avers that the dismissal of the case was flawed as it was based purely on technicalities. It explains that the lack of the required authority of its representative to sign the verification and the certification against forum shopping and its failure to submit legible certified true copies of the assailed Decision and Resolution were purely due to inadvertence. To cure the infirmities, petitioner attached to its Motion for Reconsideration the Board Resolution No. 071-2014 indicating the required authority of its representative which according to petitioner should be deemed substantial compliance with the rules pursuant to established jurisprudence that subsequent compliance with this particular requirement is acceptable. Petitioner likewise invokes substantial justice as a ground to set aside technicalities and to decide the case on the merits.

On its inability to attach legible certified true copies of the assailed Decision and Resolution, petitioner argues that it interpreted the requirement to mean as submission of clearly legible duplicates. Moreover, it really did not have the originals of the assailed Decision and Resolution at the time it filed the instant Petition for Review before the *Court En Banc,* however, petitioner asks for the indulgence of the Court since petitioner's office is in Cebu City, rendering the process of securing the required documents from the Court toilsome. In any event, petitioner annexed to its Motion for Reconsideration certified true copies of the assailed Decision and Resolution dated March 25, 2014 and July 11, 2014, respectively.

Apart from the foregoing issues, petitioner added that the Court has acquired jurisdiction over the case since it allegedly filed its Petition for Review before the Court in Division within thirty (30) days from receipt of the respondent's decision denying its protest.

Besides, its non-payment of the filing fees was only due to a belief in good faith that it was exempt from the payment thereof by virtue of Section 46 of Presidential Decree (PD) No. 198, otherwise known as the Provincial Water Utilities Act of 1973. Anyhow, upon notice, it immediately paid the required filing fees within the period granted which should likewise be considered sufficient compliance with the rules.

Petitioner also advances the opinion that respondent's Formal Letter of Demand (FLD) cannot be considered as having become final and executory, contrary to the ruling of the Court in Division since it requested for a reconsideration of the FLD with BIR Region No. 13, Cebu City on December 27, 2007.

Assuming that its protest was not seasonably filed, its Petition with the Court in Division should not be dismissed on mere technicalities given the prevailing policy in courts of justice that rules of technicality must yield to the broader interest of substantial justice. If the fate of the case will be based on technicalities and not on the merits, petitioner will suffer injustice for it will lose a huge amount of money.

Despite notice, respondent failed to file comment or register any opposition,[1]hence, the incident was submitted for the resolution of the Court.

One thing is clear and unmistakable in petitioner's arguments assailing the Resolution of October 28, 2014 - aside from excusable negligence for which it invokes the liberality of the Court, petitioner failed to cite any telling details and legal mooring to justify what it labelled as inadvertence. The submission of the authority of the parties' representative to sign the verification and certification against forum shopping, and to secure the certified true copies of the assailed Decision and Resolution, in time for the filing of the initiatory pleading is too basic to ignore or trivialize.

Likewise incredible is petitioner's alleged flawed understanding or interpretation of the requirement to file legible copies of the assailed Decision and Resolution. It is simply not a valid excuse for the lapses committed. The Court cannot just veer away from the long established legal tenet that the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it.[2] On this regard, the following ruling of the Final Arbiter of legal issues is instructive:

[1] See Record Verification dated April 8, 2015
[2] Daikoku Electronics Phils., Inc. vs. Alberto J. Raza, G.R. No. 181688, June 05, 2009

> "Some may argue that adherence to these formal requirements serves but a meaningless purpose, that these may be ignored with little risk in the smug certainty that liberality in the application of procedural rules can always be relied upon to remedy the infirmities. This misses the point. We are not martinets; in appropriate instances, we are prepared to listen to reason, and to give relief as the circumstances may warrant. However, when the error relates to something so elementary as to be inexcusable, our discretion becomes nothing more than an exercise in frustration."[3]

While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances, which are certainly lacking in the case at bar. While litigation is not a game of technicalities, every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.[4] To allow these procedural lapses to remain unnoticed is to let the wheel of justice to grind exceedingly slow to the prejudice of compliant litigants who are equally entitled to speedy disposition of their respective cases.

In any event, even if the Court relaxes the relevant rules of procedure, the petition remains to be dismissible on jurisdictional ground.

Petitioner disputes respondent's assessment as contained in the Formal Letter of Demand (FLD) dated November 16, 2007 and received on even date. On this regard, Section 228 of the National Internal Revenue Code (NIRC), as amended, provides, thus:

[3] Francisco A.G. De Liano, Alberto O. Villa-Abrille, Jr., and San Miguel Corporation vs. Hon. Court of Appeals and Benjamin A. Tango, G.R. No. 142316, November 22, 2001
[4] Gregorio De Leon, Doing Business As G.D.L. Marketing vs. Hercules Agro Industrial Corporation and/or Jesus Chua And Rumi Rungis Milk., G.R. No. 183239, June 02, 2014

> "SEC. 228. *Protesting of Assessment*. – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: x x x
>
> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise; otherwise, the assessment shall become final.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)- day period; otherwise, the decision shall become final, executory and demandable."

Pursuant to the foregoing provision, a request for reconsideration must be filed with respondent within thirty (30) days from the taxpayer's receipt of the tax deficiency assessment, otherwise, the decision becomes final, unappealable, hence, demandable. A tax assessment that has become final, executory and enforceable for failure of the taxpayer to assail the same as provided in Section 228 can no longer be contested.[5]

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[5] Oceanic Wireless vs. Commissioner of Internal Revenue, G.R. NO. 148380, December 09, 2005

The record shows that petitioner received the FLD on November 16, 2007, thus it had thirty (30) days or until December 16, 2007 to move for its reconsideration. However, petitioner filed its request for reconsideration addressed to Jose N. Tan, CESO V, Regional Director, BIR Region No. 13, Cebu City only on December 27, 2007 or eleven (11) days beyond the 30-day reglementary period. Thus, for failure to timely assail the FLD, it became final and executory by operation of law, consequently, already beyond the competence of the Court.

Corollary to the foregoing, Section 228 provides that the taxpayer adversely affected by the decision or inaction by respondent may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the adverse decision, or from the lapse of the one hundred eighty (180)-day period for respondent to act, otherwise, the decision shall become final, executory and demandable.

Petitioner admits that it received respondent's Decision dated June 7, 2010 denying its request for reconsideration of the FLD on July 7, 2010. Thus, it had thirty (30) days from receipt or until August 6, 2010 to appeal such denial to the Court. The record shows that petitioner filed its Petition for Review through registered mail on August 5, 2010, however, it did not pay the filing and docket fees depriving the Court of jurisdiction over the case.

The right to appeal is purely a statutory right. Not being a natural right or a part of due process, the right to appeal may be exercised only in the manner and in accordance with the rules provided therefor. For this reason, payment of the full amount of the appellate court docket and other lawful fees within the reglementary period is mandatory and jurisdictional.[6]

It is well-established that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. This is so because a court acquires jurisdiction over the subject matter of the action only upon the payment of the correct amount of docket fees regardless of the actual date of filing of the case in court. The payment of the full

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[6] Tan vs. Link, G.R. No. 172849, December 10, 2008

amount of the docket fee is a requirement *sine qua non* for the perfection of an appeal. **The court acquires jurisdiction over the case only upon the payment in full of the prescribed docket fees.**[7]

In this case, while petitioner filed its Petition for Review with the Court in Division on August 5, 2010 or one day before the 30-day period of appeal expired, it paid the required docket fees only on September 13, 2010 or 38 days beyond the reglementary period to appeal to this Court.

In fine, petitioner's failure to comply with the 30-day statutory period barred the appeal and deprived the Court its jurisdiction to entertain and determine the correctness of the assessment.[8]

Finally, while jurisprudence has sometimes deemed the belated payment of docket fees as sufficient compliance in the filing of appeals, nonetheless it has been held on the matter that reliance on jurisprudence that the application of the technical rules of procedure would be relaxed if the same was subsequently complied with is not justified. The liberal application of rules of procedure for perfecting appeals is still the exception, and not the rule; and it is only allowed in exceptional circumstances to better serve the interest of justice.[9]

WHEREFORE, the Motion for Reconsideration with Manifestation dated November 19, 2014 filed by petitioner Metropolitan Cebu Water District, is hereby **DENIED**, for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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[7] Meatmasters International vs. Lelis Integrated, G.R. NO. 163022, February 28, 2005
[8] RCBC vs. CIR, G.R. NO. 168498, June 16, 2006
[9] Ruiz vs. Delos Santos, G.R. No. 166386, January 27, 2009

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

LOVELL R. BAUTISTA
Associate Justice

(On Leave)
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

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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