REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>SPECIAL THIRD DIVISION</u>

MIDTOWN PRINTING CO., INC.
Petitioner,

CTA CASE NO. 10055

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

- versus -

HON. CARLOS G. DOMINGUEZ, in his capacity as Secretary of the Department of Finance, and HON. CAESAR R. DULAY, in his capacity as incumbent Commissioner of Internal Revenue,
Respondents.

Promulgated:

OCT 03 2024
12:32 p.m.

x---x

RESOLUTION

RINGPIS-LIBAN, J.:

Submitted before this Court are the following:

1. petitioner's **Motion for Reconsideration** filed through registered mail on April 23, 2024, and received by the Court on May 29, 2024, with respondent Commissioner of Internal Revenue (CIR)'s **Opposition (Re: Petitioner's Motion for Reconsideration dated 23 April 2024)** filed on July 1, 2024, and respondent Secretary of Finance (SOF)'s **Comment/Opposition (Re: Motion for Reconsideration dated 23 April 2024)** posted on July 23, 2024 and received by the Court on July 30, 2024; and,

2. respondent SOF's **Motion for Additional Time to File Comment** filed through registered mail on July 12, 2024, and received by the Court on July 17, 2024.

In his *Motion for Additional Time to File Comment*, respondent SOF requests an extension of ten (10) days from July 13, 2024, or until July 23, 2024, within which to file his Comment citing Supreme Court Administrative Matter No. 99-2-03-SC as basis thereof.[1]

In the interest of substantial justice, respondent SOF's *Motion for Additional Time to File Comment* is **GRANTED**. Accordingly, his *Comment/Opposition (Re: Motion for Reconsideration dated 23 April 2024)* is **ADMITTED**.

The Court shall now proceed to resolve the merit of petitioner's *Motion for Reconsideration*.

On November 23, 2023, the Court promulgated a Decision upholding respondent SOF's dismissal of petitioner's *Request for Review* for being filed beyond the reglementary period as per Department of Finance (DOF) Department Order (DO) No. 007-02 dated May 7, 2002,[2] the dispositive portion of which is quoted as follows:

> "**WHEREFORE**, premises considered, the present *Petition for Review* is **DENIED** for lack of merit.
>
> **SO ORDERED**."

In its Motion, petitioner primarily asserts that both respondent SOF and the Court misappreciated the applicable facts and law in dismissing its *Request for Review* and denying the *Petition for Review* based purely on technical grounds. Petitioner insists that the questioned Bureau of Internal Revenue (BIR) Ruling No. 421-2013 dated November 14, 2013 is void based on the following grounds: *(i.)* the unduly restrictive interpretation of the term "book" is an excess to respondent CIR's power to interpret tax laws and runs in contravention to the clear provision and intent of the relevant law; *(ii.)* BIR Ruling No. 421-2013 is constitutionally infirm for being violative of petitioner's right to equal protection; and that, *(iii.)* petitioner's constitutionally enshrined right to due process of law was likewise violated in view of the blatant failure to comply with the basic requirement of hearing, notice, and publication. For the said reasons, petitioner maintains that the Court has jurisdiction of the present case since a void judgment (*i.e.*, BIR Ruling) never acquires finality.

Lastly, petitioner argues that the Court also seriously erred in refusing to further delve on the substantive issues raised by petitioner in the *Request for Review*

---

[1] "IN RE: EXTENSION OF TIME TO FILE COMMENT OR APPELLEE'S BRIEF BY THE OFFICE OF THE SOLICITOR GENERAL," February 9, 1999.

[2] "PROVIDING FOR THE IMPLEMENTING RULES OF THE FIRST PARAGRAPH OF SECTION 4 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, REPEALING FOR THIS PURPOSE DEPARTMENT ORDER NO. 005-99 AND REVENUE ADMINISTRATIVE ORDER NO. 1-99."

of BIR Ruling No. 421-2013 when there are compelling justifications to suspend a strict adherence to procedural rules.

On the other hand, in his Opposition, respondent CIR reiterates that the Court cannot, and should not, take cognizance of the present petition simply because of the fact that this case is not one of those occasions which warrant the relaxation of the rules of procedure. Conversely, respondent CIR contends that what is evident in the instant *Motion for Reconsideration* is that petitioner failed to timely file its appeal without giving any justifiable reason that would excuse said belated filing, and which thereby rendered the BIR Ruling in question valid and effective.

Respondent CIR further reiterates that a BIR Ruling requires no publication for its validity since it is only issued at the instance of a requesting party. As such, respondent CIR submits that petitioner's argument that the BIR Ruling No. 421-2013 is procedurally infirm due to its non-publication which violates petitioner's right to due process of law, is unavailing.

Lastly, respondent CIR maintains that petitioner failed to discharge the heavy burden of proving that its income from electric service operation is exempted from income tax, as the allegations contained in the present *Petition for Review* are insufficient to prove petitioner's exemption from the payment of tax.

Meanwhile, in his Comment, respondent SOF states that the Court properly affirmed that petitioner's *Request for Review* was filed out of time. Respondent SOF submits that petitioner received a copy of the assailed BIR Ruling No. 421-2013 on May 16, 2014 and filed its *Request for Review* with the SOF only on April 25, 2016, or nearly two (2) years from its receipt of the said BIR Ruling. Respondent SOF points out that the Section 3 of the DOF DO No. 007-02 dated May 7, 2002 only provides a period of thirty (30) days, from date of receipt of the CIR's adverse ruling, within which the taxpayer may seek its review by the SOF. As such, respondent SOF claims that the Court correctly denied the *Petition for Review* considering that the justifications provided by petitioner in its petition are insufficient to warrant a relaxation of the mandatory and jurisdictional rules on appeal.

After due consideration, the Court finds petitioner's *Motion for Reconsideration* bereft of merit. Notably, the arguments raised by petitioner in the instant Motion are mere reiterations of matters, which have already been considered, weighed, and resolved by the Court in the Decision it assails.

As correctly pointed out by respondent SOF, Section 3 of DOF DO No. 007-02 dated May 7, 2002 provides only a total period of thirty (30) days from the taxpayer's receipt of an adverse ruling from respondent CIR within which to seek its review by respondent SOF, to wit:

> "SECTION 3. *Rulings Adverse to the Taxpayer.* — A taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, **within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance**. The request for review shall be in writing and under oath, and must:
>
> x x x
>
> a) xxx.
> b) contain the heading 'Request for review of BIR Ruling No.______';
> **c) allege and show that the request was filed within the reglementary period;**
>
> x x x
>
> **The Secretary of Finance may dismiss with prejudice a request for review that fails to comply with these requirements.**" *(Emphases supplied)*

From the above, a request for review of a BIR Ruling must be filed within 30 days from the date of receipt of such ruling with the SOF, alleging therein, among others, that the request was filed within the reglementary period. Otherwise, the SOF may dismiss with prejudice said request for review for failure to comply with the requirements.

Time and time again, it has been repeatedly declared by this Court that where the law speaks in clear and categorical language, there is no room for interpretation. There is only room for application. Where the language of a statute is clear and unambiguous, the law is applied according to its express terms, and interpretation should be resorted to only where a literal interpretation would be either impossible or absurd or would lead to an injustice. Moreover, as also held by the Supreme Court in the case of *Ramon M. Alfonso v. Land Bank of the Philippines, et al.*:[3]

> "It is elementary that rules and regulations issued by administrative bodies to interpret the law which they are entrusted to enforce, have the force of law, and are entitled to great respect. Administrative issuances partake of the nature of a statute and have in their favor a presumption of legality. **As such, courts <u>cannot ignore</u> administrative issuances especially when, as in this case, its validity was not put in issue. Unless an administrative order is declared invalid, <u>courts have no option but to apply</u> the same."** *(Emphasis and underscoring supplied.)*

---

[3] G.R. Nos. 181912 & 183347, November 29, 2016; citing *Land Bank of the Philippines v. Leonila P. Celada*, G.R. No. 164876, January 23, 2006.

Herein, petitioner received respondent CIR's BIR Ruling No. 421-2013 on May 16, 2014, counting 30 days therefrom, petitioner only had until June 15, 2014 within which to elevate the said BIR Ruling for review to respondent SOF. Considering that the *Request for Review* was filed only on April 25, 2016, evidently, the same is clearly time-barred. For the same reason, the Court finds respondent SOF's dismissal of petitioner's *Request for Review* of BIR Ruling No. 421-2013, as embodied in his Letter-Resolutions dated September 11, 2018 and December 17, 2018, to be proper.

At this point, the Court likewise emphasizes that the timeframe fixed by law for parties to avail of their legal remedies before competent courts is not a "mere technicality" that can be easily brushed aside.[4] Considering that a petition for review is a form of appeal, non-compliance with the foregoing rule may render the same dismissible. This is in furtherance of the well-settled rule that "the right to appeal is not a natural right or a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost." Verily, compliance with procedural rules is a must, "since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice."[5]

Albeit, this is not to say that the Court is unaware that procedural rules may be relaxed in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed. However, this discretion is only exercised for the most persuasive of reasons –which unfortunately in this case, petitioner has none.

In view of the foregoing disquisitions, the Court finds no compelling reasons to reverse or modify the Decision promulgated on November 23, 2023.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

---

[4] *Hagonoy Market Vendor Association v. Municipality of Hagonoy, Bulacan,* G.R. No. 137621, February 6, 2002.

[5] *Marlon Curammeng y Pablo v. People of the Philippines,* G.R. No. 219510, November 14, 2016.

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice