REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1658** (CTA Case No. 8657)
	Present:
-versus-	Del Rosario, *P.J.*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Ringpis-Liban, and Manahan, *JJ.*
EMERSON ELECTRIC (ASIA) LIMITED - ROHQ, Respondent.	**Promulgated:** JUL 05 2017 11:31 a.m.

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RESOLUTION

For resolution is a Motion to Admit Petition for Review filed by petitioner Commissioner of Internal Revenue (CIR) on May 26, 2017.

Records indicate that, on March 22, 2017,[1] the CIR received a copy of the Resolution of Court of Tax Appeals (CTA) Third Division, which denied his Motion for Reconsideration of the December 21, 2016 Decision.

[1] Par. 3, Motion to Admit Petition for Review, Rollo, p. 1; Notice of Resolution, Annex B of the attached Petition for Review, Rollo, p. 36.

J/

Accordingly, under Section 4, Rule 8 of the Revised Rules of the CTA[2] and Section 4, Rule 43 of the Rules of Court,[3] the CIR had fifteen (15) days or *until April 6, 2017* within which to file his Petition for Review.

However, allegedly due to inadvertence occasioned by the transfer of petitioner's office, the Resolution was mislaid. Thus, petitioner was able to file his Motion to Admit Petition for Review only on May 26, 2017, upon discovery of the Resolution.

It bears emphasis that the failure to *timely* perfect an appeal cannot simply be dismissed as a mere technicality, for it is jurisdictional. Thus, the Supreme Court, in *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*,[4] upheld the dismissal of a *late* appeal under Rule 43 in this wise:

> "It has been ruled that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, We declare that the right to appeal is not a natural right nor 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 the law.
>
> Public policy and sound practice demand that judgments of courts should become final and irrevocable at some definite time fixed by law. Such rules are necessary incidents to the proper, efficient and orderly discharge of judicial functions. Just as a losing party has the privilege to file an appeal within the prescribed period, so does the winner also have the correlative right to enjoy the fruits of his victory. Failure to meet the requirements of an appeal deprives the appellate court of jurisdiction to entertain any appeal. Undeniably, there are exceptions to this rule. Petitioner, however, did not present any circumstances that would justify the relaxation of said rule.

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2 **"RULE 8**
PROCEDURE IN CIVIL CASES

xxx xxx xxx

SEC. 4. *Where to appeal; mode of appeal.* – xxx xxx xxx

(b) 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 by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. (n)"

3 **"RULE 43**
Appeals From the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals

xxx xxx xxx

Section 4. *Period of appeal.* — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (n)"

4 *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, April 11, 2010.

It need not be overemphasized that it is the responsibility of the counsel to check and keep track of the period of time left to file an appeal. He cannot escape from the inflexible observance of this rule which is jurisdictional. The rules, particularly on the statutory requirement for perfecting an appeal within the reglementary period provided, must be strictly followed. If an appeal is not taken within the period prescribed therefor, the judgment becomes final and the court loses all jurisdiction over the case." (*underscoring supplied; citations omitted*)

In view of the foregoing, the Court resolves to *deny* petitioner's motion for lack of merit and *dismiss* the Petition for Review for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

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

LOVELL R. BAUTISTA
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 RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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