REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE AND REGIONAL DIRECTOR MARIDUR V. ROSARIO,
Petitioners,

- versus -

JAPAN AIRPORT CONSULTANTS, INC. represented by JAPAN AIRPORT CONSULTANTS, INC.- PHILIPPINE REPRESENTATIVE OFFICE and its Project Manager TADASHI AOI,
Respondent.

CTA EB No. 3060
(CTA Case No. 10592)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, and
ANGELES, *JJ.*

Promulgated:

MAY 05 2025 3:20 pm

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RESOLUTION

On January 7, 2025, petitioner Commissioner of Internal Revenue (CIR) filed his *Motion for Extension of Time to File Petition for Review*, which was granted by the Court in a Minute Resolution dated January 8, 2025, subject to the condition that the motion was filed on time and in compliance with Court of Tax Appeals (CTA) *En Banc* Resolution No. 8-2024. Petitioner filed its *Petition for Review* on January 22, 2025.

Records show that the Bureau of Internal Revenue (BIR) Revenue Region received the Resolution dated December 6, 2024, denying petitioner's *Motion for Reconsideration* (Re: Decision Promulgated on May 23, 2024) on December 23, 2024;[1] whereas, the Office of the Solicitor General (OSG) received the said Resolution on December 11, 2024.

In his *Motion for Extension of Time to File Petition for Review,* petitioner manifested that he received the Resolution dated December 6, 2024 on December 23, 2024; therefore, he had until January 7, 2025 within which to file a Petition for Review before the CTA *En Banc*. In view of petitioner's counsel's heavy workload, he anticipated that he may not be able to file a Petition for Review on January 7, 2025 and requested for another 15 days from January 7, 2025, or until January 22, 2025, within which to file his Petition for Review.[2]

On January 22, 2025, petitioner filed his *Petition for Review.*

The motion was filed out of time.

It is a basic rule of remedial law that a motion for extension of time to file a pleading must be filed before the expiration of the period sought to be extended.[3] The court's discretion to grant a motion for extension is conditioned upon such motion's timeliness, the passing of which renders the court powerless to entertain or grant it.[4]

Here, the OSG received the Resolution dated December 6, 2024 on December 11, 2024; whereas, the BIR Revenue Region No. 8A-Makati City received it on December 23, 2024. Counting 15 days from December 11, 2024, petitioner had until December 26, 2024, to file the Motion for Extension of Time to File a Petition for Review. Petitioner, however, filed the *Motion for Extension of Time to File Petition for Review* only on January 7, 2025.

It is doctrinally entrenched that the right to appeal is a statutory right and the one who seeks to avail of that right must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. Moreover, the perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well. The failure to perfect the appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to

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[1] *Rollo*, pp. 46 to 48.
[2] *Rollo*, pp. 25 to 45.
[3] *Vda. de Victoria v. Court of Appeals*, G.R. No. 147550, January 26, 200.
[4] *Philippine Long Distance Telephone Co., Inc. v. Court of Appeals*, G.R. No. 57079, September 29, 1989.

preclude the appellate court from acquiring the jurisdiction to review the judgment.[5]

In view of the foregoing, the instant *Motion for Extension of Time to File Petition for Review* did not comply with the condition set forth in the Minute Resolution dated January 8, 2025 and is considered filed out of time. Accordingly, it does not extend the period within which to file the Petition for Review. The *Petition for Review* filed by the CIR on January 22, 2025 is, thus, filed out of time.

WHEREFORE, the instant **Petition for Review** is **DISMISSED** for being filed out of time.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[5] *Albor v. Court of Appeals,* G.R. No. 196598, January 17, 2018.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice