

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

FIRST DIVISION

**MALAYAN ZURICH INSURANCE
COMPANY, INC.**

Petitioner,

- versus -

C.T.A. CASE NO. 6900

Members:

ACOSTA, Chairman
BAUTISTA, and
CASANOVA, JJ

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

DEC 13 2004

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RESOLUTION

For resolution is petitioner's "Motion for Reconsideration" filed on September 21, 2004 seeking for a review of this Court's Resolution promulgated on September 9, 2004 which denied petitioner's Manifestation with Motion (for Consolidation) and, thereby, dismissing this instant case on the ground of failure to prosecute.

Respondent filed its Opposition (Re: Motion for Reconsideration) on October 22, 2004.

Petitioner avers that it was not aware of the scheduled hearing for its motion which was reset to September 3, 2004 from the original scheduled date of August 13, 2004. It maintains that due to the "cleaning job" done by its hired office janitors, some

of its files were either misplaced/lost or transferred to another room without its knowledge. Consequently, it was not able to attend the scheduled hearing on September 3, 2004 for reasons beyond its control.

This Court does not agree.

On July 15, 2004, petitioner filed a Manifestation with Motion (for Consolidation) with regard to consolidating this instant case and CTA Case No. 6997. Both cases were pending before this Court involving the same parties, facts and issues. The said motion was set to be heard on August 13, 2004. However, due to the failure of herein petitioner to file the same motion in CTA Case No. 6997, such motion was reset to be heard on September 3, 2004 with order for petitioner to file the said wanting motion.

It is evident from the records of the case that petitioner was well informed of the scheduled hearing on September 3, 2004 as evidenced by its counsel's signature of conformity found on the back page of the Notice of Hearing. As such, petitioner cannot deny the fact that it knew that there was going to be a hearing of its motion on September 3, 2004.

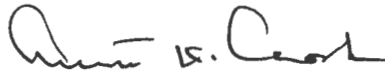
Furthermore, petitioner's counsel cannot use as an excuse the negligence of its staffs or hired janitors. It must be stressed that it is the undertaking of petitioner's counsel's to properly coordinate with their staffs or hired work. To allow petitioner's counsel to hide behind the inattentiveness of its staffs or hired work would permit anybody to utilize as an excuse such negligence or faults of their staffs for any slackness in their work.

Thus, this is clearly a case of gross disregard for the orders of the Court on the part of the petitioner. Its unjustifiable action of delaying the proceedings of this Court

is evidently not tolerated.

WHEREFORE, this court's Resolution promulgated on September 9, 2004 is hereby **AFFIRMED**. The present case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice


LOVELL R. BAUTISTA
Associate Justice


CAESAR A. CASANOVA
Associate Justice