REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SIENNALYN GOLD MINING CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. UDK-SP 044

Members:

UY, *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

APR 27 2023 4:25 pm

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RESOLUTION

On March 30, 2023, petitioner filed a *Motion for Reconsideration* of the Resolution dated March 17, 2023, dismissing the case for non-payment of docket fees.

Petitioner invokes the liberality principle that litigations should be decided on the merits and not on technicalities and that litigants should be afforded the amplest opportunity for the proper and just disposition of their causes, free from the constraints of technicalities.

However, jurisprudence tells us that the requirement of an appeal fee is not a mere technicality.[1] Concomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules adequately.[2] Anyone seeking exemption from the application of the Rules has the burden of proving that exceptionally meritorious instances exist which warrant such departure.[3]

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[1] *Enriquez v. Enriquez,* G.R. No. 139303, August 25, 2005; *Meatmasters International Corporation v. Lelis Integrated Development Corporation*, G.R. No. 163022, February 28, 2005.
[2] *Navarro, et al. v. Metropolitan Bank and Trust Company, et al.*, G.R. No. 138031, May 27, 2004.
[3] *Tamayo v. Tamayo*, G.R. No. 148482, August 12, 2005, citing *Republic vs. Court of Appeals*, G.R. No. 129846, January 18, 2000; *La Salette College v. Pilotin*, G.R. No. 149227, December 11, 2003; *Barangay 24 of Legazpi City v. Imperial*, G. R. No. 140321. August 24, 2000.

Here, petitioner failed to establish any sufficient reason or compelling evidence to warrant a relaxation of the mandatory rule on the payment of appellate docket fee.

Petitioner was unable to justify its delay in the payment of docket fees to the satisfaction of the Court. In fact, petitioner still insists in its motion that the WDL should not be used as a basis for the assessment and computation of the filing fee despite the guidelines embodied in Rule 141 of the Rules of Court. Further, petitioner stresses that the Court *only* gave petitioner 15 days from receipt of the Resolution dated February 2, 2023, to pay the docket fee.

The right to appeal is merely statutory, and a party seeking to avail of that right must comply with the statute or rules.[4] Petitioner must abide by the following requirements laid down in the Rules.

Section 1, Rule 7[5] of the Revised Rules of the Court of Tax Appeals (RRCTA) expressly provides that the procedure in the Court in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals under the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court.

In relation thereto, Sections 3 and 4, Rule 8 of the RRCTA states that a petition for review under Rule 42 of the Rules of Court shall be filed from a decision or ruling of the Commissioner of Internal Revenue on disputed assessments within thirty (30) days after receipt of a copy of the said decision or ruling, *viz.*:

> SEC. 3. *Who may appeal; period to file petition.* – (a) **A party adversely affected by a decision, ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the

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[4] *Villamor v. Heirs of Tolang*, G.R. No. 144689, June 9, 2005.

[5] SEC. 1. *Applicability of the Rules of the Court of Appeals, exception.* – The procedure in the Court *en banc* or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules.

> period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. ... (*Emphasis supplied*)
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> SEC. 4. *Where to appeal; mode of appeal.* – (a) **An appeal from a decision or ruling** or the inaction **of the Commissioner of Internal Revenue on disputed assessments** or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, **shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court**. The Court in Division shall act on the appeal. (*Emphasis supplied*)

In turn, Section 1, Rule 42 of the Rules of Court provides that the filing of an appeal must be accompanied by payment of the docket fees to the clerk of court, to wit:

> SEC. 1. *How appeal taken; time for filing.* **A party** desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction **may file a verified petition for review** with the Court of Appeals, **paying at the same time to the clerk of said court the corresponding docket and other lawful fees**, ... The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration ... **Upon proper motion ..., 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.** (*Emphasis supplied*)

And finally, Section 3, Rule 42 of the Rules of Court provides that non-compliance "with any of the foregoing requirements regarding the payment of the docket and other lawful fees, ... shall be sufficient ground for the dismissal thereof."

Here, petitioner sought an extension of 60 days to pay its docket fee. This is not allowed under the Rules. While Sections 3(a) and 4(a), Rule 8 of the RRCTA do not provide a period for extension of filing a petition for review, its related rules as stated earlier, *i.e.*, Section 1, Rule 42 of the Rules of Court,[6] allows an extension of only 15 days to file a petition for review on the

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[6] SEC. 1. *How appeal taken; time for filing.* — ... **Upon** proper motion <u>and</u> the **payment of the full amount of the docket and other lawful fees and the deposit for costs 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.**

condition that the docket fees have been paid. No further extension shall be granted except for the most compelling reason.

To recall, the Court did not immediately dismiss the case despite the lapse of the 30-day reglementary period to file the instant petition on January 5, 2023.[7] Instead, the Court, in its Resolution dated February 2, 2023, on petitioner's *Ex-Parte Manifestation and Motion to Reduce Filing Fee and to Admit Petition for Review on Certiorari*, which was filed only on January 10, 2023, gave petitioner an additional period of 15 days to pay the docket fees.

In its motion, petitioner bemoans that the Court *only* gave it **15 days** from receipt of the Resolution dated February 2, 2023, to pay the docket fees.[8]

Seemingly, petitioner is blaming the Court for its inability to pay the docket fees within the 15 days given to it. The Court cannot tolerate this. Petitioner never cited any compelling reason to warrant the 60-day extension, or until April 25, 2023, to pay the docket fees aside from pointing out that the amount is substantial and that the DOJ case against it, allegedly involving the same assessment as in this case, was dismissed.

Giving petitioner 110 days or nearly four (4) months following the expiration of the reglementary period to take an appeal cannot be countenanced for having no basis in law and jurisprudence.

It is clear that the Court did not acquire jurisdiction over petitioner's appeal except to order its dismissal.[9]

Besides, the Supreme Court differentiated the effect of non-payment versus insufficient payment of docket fees in this manner:

> Accordingly, subsequent decisions now uniformly hold that "when insufficient filing fees are initially paid by the plaintiffs and there is no intention to defraud the government, the *Manchester* rule does not apply."

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[7] Pars. 3.1-3.2, Petition for Review on Certiorari, Docket – Vol. I.
[8] Par. 11, Motion for Reconsideration, Docket – Vol. I.
[9] See *Cu-Unjieng v. Hon. Court of Appeals*, G.R. No. 139596, January 24, 2006, citing *Far Corporation v. Magdaluyo*, G.R. No. 148739, November 19, 2004.

> In line with this legal paradigm, prevailing case law demonstrates that "**[t]he non-payment of the prescribed filing fees at the time of the filing of the complaint or other initiatory pleading fails to vest jurisdiction over the case in the trial court**. Yet, where the plaintiff has paid the amount of filing fees assessed by the clerk of court, and the amount paid turns out to be deficient, the trial court still acquires jurisdiction over the case, subject to the payment by the plaintiff of the deficiency assessment."[10] (*Emphasis supplied*)

As there is non-payment of docket fees despite the considerable lapse of the 30-day reglementary period and the additional 15-day period given to petitioner, it divested the Court of its jurisdiction to hear the case.

It must be emphasized that invocation of substantial justice is not a magical incantation that will automatically compel this Court to suspend procedural rules. Rules of procedure are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[11]

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

SO ORDERED.

(On Leave)
ERLINDA P. UY
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

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[10] *Ramones v. Spouses Guimoc, Jr.*, G.R. No. 226645, August 13, 2018.
[11] *Far Corporation v. Magdaluyo*, G.R. No. 148739, November 19, 2004.