CTA Form No. 8 (For DCC)

25-000301-0028

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11867

MARY JANE D. GALIAS FUNCTIONSMITH SALES AND SERVICES),
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legaspi Village
Makati City

ATTY. ALVIN N. STO. DOMINGO
ATTY. VICTOR RICO P. LOPEZ
Bureau of Internal Revenue - Revenue Region No. 7B
Legal Division, 25th Floor, The Podium West Tower
12 ADB Avenue, Ortigas Center
Mandaluyong City

GALIAS & RIVERA LAW OFFICES
3rd Floor Prestige Tower
F. Ortigas Jr., Road, Ortigas Center,
Pasig City

GREETINGS:

You are hereby notified by these presents that on **May 12, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **May 14, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

MARY JANE D. GALIAS (FUNCTIONSMITH SALES AND SERVICES), Petitioner,	CTA CASE NO. **11867**
	Members:
	BACORRO-VILLENA, *Chairperson*, *and*
- versus -	**CUI-DAVID**, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 12 2026; 4:15PM

x - x

RESOLUTION

For the Court's resolution is petitioner Mary Jane D. Galias (Functionsmith Sales and Services)'s (**petitioner**'s) Motion for Reconsideration[1] (**MR**), filed on 21 January 2026, of the Court's Order[2] dated 13 November 2025 (**assailed Order**) dismissing the case without prejudice on the ground of: (**1**) failure to appear for pre-trial, and (**2**) failure to file the Pre-Trial Brief, by petitioner and counsel.

In the MR, petitioner acknowledges that her failure to attend the scheduled pre-trial and file the Pre-Trial Brief, through counsel, was due to inadvertent oversight, aggravated by the resignation of the senior associate primarily in charge of the case on 12 May 2025, which significantly increased the workload of the remaining members of the legal team.

Petitioner does not deny the procedural lapses on the part of her counsel. Nevertheless, petitioner pleads for relaxation of the rules of procedure, especially in cases of shortcoming by counsel, rather than by the litigant.

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1 Division Docket, p. 132-135.
2 Id., p. 129.

We resolve.

Section 3 of Rule 1 of the Revised Rules of the Court of Tax Appeals[3] (**RRCTA**) states that:

> . . .
> SEC. 3. *Applicability of the Rules of Court.* – The Rules of Court in the Philippines shall apply suppletorily to these Rules.
> . . .

In turn, Rule 18 of the 2019 Rules of Civil Procedure[4] (**RCP**), as amended, provides for the effect of the plaintiff and counsel's failure to: (**1**) file the pre-trial brief, and (**2**) appear at pre-trial:

> . . .
> Section 5. *Effect of failure to appear.* – When duly notified, the failure of the plaintiff and counsel to appear without valid cause when so required[,] pursuant to the next preceding [S]ection, shall cause the **dismissal of the action.** The dismissal shall be **with prejudice, unless otherwise ordered by the court.** A similar failure on the part of the defendant and counsel shall be cause to allow the plaintiff to present his or her evidence ex parte within ten (10) calendar days from termination of the pre-trial, and the court to render judgment on the basis of the evidence offered.
>
> Section 6. *Pre-trial brief.* – The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt thereof at least three (3) calendar days before the date of the pre-trial, their respective pre-trial briefs which shall contain, among others:
>
> a) A concise statement of the case and the reliefs prayed for;
> b) A summary of admitted facts and proposed stipulation of facts;
> c) The main factual and legal issues to be tried or resolved;
> d) The propriety of referral of factual issues to commissioners;
> e) The documents or other object evidence to be marked, stating the purpose thereof;
> f) The names of the witnesses, and the summary of their respective testimonies; and
> g) A brief statement of points of law and citation of authorities.
>
> **Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.**[5]
> . . .

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[3] A.M. No. 05-11-07-CTA.
[4] A.M. No. 19-10-20-SC.
[5] Emphasis supplied.

In the case at bar, on the date of the scheduled Pre-Trial Conference, only counsel for the respondent Commissioner of Internal Revenue (**respondent/CIR**) appeared. Petitioner's counsel of record, Atty. Franchesca Angeline S. Dayrit (**Atty. Dayrit**), failed to appear despite notice.[6] Petitioner, in her MR, does not deny this and acknowledges her counsel's oversight,[7] explaining that the Atty. Dayrit resigned from the law firm of Galias & Rivera Law Offices, thereby increasing the workload of the remaining members of the team.

It is well-settled in jurisprudence that the negligence of counsel binds the client, except in case of reckless or gross negligence of counsel. In *Multi-Trans Agency Phils. Inc., v. Oriental Assurance Corp.,*[8] the Supreme Court explained that:

> . . .
> **It is settled that the negligence of counsel binds the client. This is based on the rule that any act performed by a counsel within the scope of his general or implied authority is regarded as an act of his client.** Consequently, the mistake or negligence of counsel may result in the rendition of an unfavorable judgment against the client. We have, however, **carved out exceptions to this rule; as where the reckless or gross negligence of counsel** deprives the client of due process of law; or where the application of the rule will result in outright deprivation of the client's liberty or property; or where the interests of justice so requires and relief ought to be accorded to the client who suffered by reason of the lawyer's gross or palpable mistake or negligence. In order to apply the exceptions rather than the rule, the circumstances obtaining in each case must be looked into. In cases where one of the exceptions is present, the courts must step in and accord relief to a client who suffered thereby.
> . . .

The Supreme Court went on to define gross negligence as the "want or absence of or failure to exercise slight care or diligence, or the entire absence of care. It examines a thoughtless disregard of consequences without exerting any effort to avoid them."[9] It ruled that the following acts amounted to gross negligence:

> . . .
> The records show that petitioner was declared in default for **failure of its former counsel to file an answer to the complaint** after the motion to dismiss he filed was denied by the trial court. Atty. Austria did not do anything to protect the interests of petitioner. He **neither**

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6 See Order dated 13 November 2025, Division Docket, p. 129.
7 Supra at note 1.
8 G.R. No. 180817, 23 June 2009.
9 Id.

> **opposed the plaintiff's motion to declare his client in default despite due notice thereof; nor filed any motion to set aside** the order declaring his client in default, also after he was apprised of the adverse order. He **failed to inform his client of the fact that he failed to file an Answer and of the Court Order declaring it in default** and allowing plaintiff to present evidence ex parte. He even **misrepresented that he already filed a Motion to Lift Order of Default when confronted by his client** after the latter learned of said Order of Default. As a result of Atty. Austria's inaction, respondent was allowed to present its evidence. Petitioner failed to adduce any evidence to rebut the allegations contained in the complaint. It was deprived of due process. The gross negligence of petitioner's former counsel, coupled with its deprivation of due process, will ultimately result in its deprivation of property.
>
> **For a claim of counsel's negligence to prosper, nothing short of clear abandonment of the client's cause must be shown.** In this case, **the only pleading filed by petitioner's former counsel was a motion to dismiss. After the same had been denied, he did not file anything more until a decision was rendered by the trial court.** This is compounded by the fact that he misrepresented to petitioner that he had filed the proper motion to set aside the order of default. These acts of petitioner's counsel amount to gross negligence.[10]
>
> . . .

Applying this to the instant case, it is apparent that the negligence of petitioner's counsel was **not** gross in nature. The records bear that within the time granted to petitioner to seek reconsideration of the Order, she was able to file the instant MR. As such, there was no clear abandonment of the petitioner's cause, nor thoughtless disregard of the consequences of the failure to file a pre-trial brief and appear at pre-trial.

This effort, notwithstanding, there being mere simple negligence on the part of petitioner's counsel, We are constrained to apply the general rule that **negligence of counsel binds the petitioner in this case**.

In *Sindophil, Inc. v. Republic of the Philippines,*[11] the Supreme Court explained the rationale behind why a litigant who, through counsel, committed procedural lapses must suffer its consequences:

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[10] Emphasis supplied.
[11] G.R. No. 204594, 07 November 2018.

> ...
> "Procedural rules are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules. And while the Court, in some instances, allows a relaxation in the application of the rules, this, we stress, was **never intended to forge a bastion of erring litigants to violate the rules with impunity.** The liberality in the interpretation and application of the rules applies only in proper cases and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to insure an orderly and speedy administration of justice."
> **Procedural rules, therefore, are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party** (Santos vs. Court of Appeals, G.R. No. 92862, July 4, 1991, 198 SCRA 806).[12]
> ...

In *Sioland Development Corporation v. Fair Distribution Center Corporation*[13] ***(Sioland),*** the Supreme Court reiterated that:

> ...
> [P]rocedural rules ensure an orderly and speedy administration of justice and thus, **resort to a liberal application, or suspension of the application of such rules, must remain as the exception.** The Court is well aware of the judicial mandate that rules prescribing the time which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays and the orderly and speedy discharge of judicial business. **Although courts are granted the prerogative to relax compliance with procedural rules of even the most mandatory character** in order to fulfill its duty of reconciling both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard, **the relaxation of rules must be justified by reasons, such as: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and (f) the fact that the other party will not be unjustly prejudiced thereby.** Unfortunately, none of the above reasons exist in the instant case.[14]
> ...

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12 Emphasis supplied.
13 G.R. No. 199539, 09 August 2023.
14 Emphasis supplied.

As in *Sioland*, We find that none of the acceptable reasons for relaxation of the rules of procedure exist in the case at bar. We cannot help but agree with the respondent that mere absence or unavailability of one of the lawyers in a law firm is not enough reason to justify non-compliance with procedural rules, considering that there is more than one counsel of record for the petitioner.

In any case, this Court has already extended liberality to petitioner by ordering that the case be dismissed **without prejudice.** To recall, Section 5, Rule 18 of the RCP states that the dismissal in case of failure to appear at pre-trial and submit the pre-trial brief shall be **with prejudice, unless otherwise ordered by the court**.

The Supreme Court, in *Strongworld Construction Corporation, et al. v. Hon. N.C. Perello, et al.,*[15] elucidated on the difference between a dismissal with prejudice and one *without* prejudice:

> . . .
> We distinguish a **dismissal with prejudice** from a dismissal without prejudice. The former **disallows and bars the refiling of the complaint;** whereas, the same cannot be said of a dismissal without prejudice. Likewise, where the law permits, a dismissal with prejudice is subject to the right of appeal.
> . . .

Considering that the dismissal in this case is **without** prejudice, petitioner is not left without a remedy as she is still entitled to refile the same.

WHEREFORE, premises considered, the petitioner Mary Jane D. Galias (Functionsmith Sales and Services)'s Motion for Reconsideration filed on 21 January 2026 is hereby **DENIED** for lack of merit. Accordingly, this Court's Order dated 13 November 2025 is **AFFIRMED** and the instant case is hereby **DISMISSED WITHOUT PREJUDICE**.

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15 G.R. No. 148026, 27 July 2006.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice