

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

EN BANC

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

**CTA EB No. 1276
(CTA Case No. 8324)**

Present:

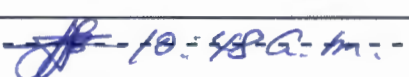
- versus -

**SYMMETRY PHILIPPINES, INC.,
Respondent.**

**DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA,
FABON-VICTORINO,
MINDARO-GRULLA,
COTANGCO-MANALASTAS, and
RINGPIS-LIBAN, JJ.**

Promulgated:

NOV 02 2015

X -----  ----- X

RESOLUTION

UY, J.:

For resolution is petitioner's "**MOTION FOR RECONSIDERATION**"¹ filed by registered mail on August 5, 2015, seeking reconsideration of this Court's Resolution dated July 3, 2015, the dispositive portion of which reads:

"WHEREFORE, premises considered, the Motion for Extension of Time is **DENIED**, for being filed out of time, and the Petition for Review is hereby **DISMISSED**, likewise for being filed out of time and for petitioner's failure to comply with the proof of service requirement under Section 5, Rule 43 of the 1997 Rules of Civil Procedure in relation to Section 4 (b), Rule 8 of the

¹ Docket, pp. 52 to 61.

RRCTA.

SO ORDERED."

In the instant Motion, petitioner raises the following grounds, to wit:

1. The Registry Receipt clearly shows that the "Motion for Extension of Time to File Petition for Review" and the "Petition for Review" were timely filed on February 9, 2015 and February 24, 2015, respectively;
2. The failure to attach the required Affidavit of Service is not fatal if the Registry Receipt attached to the Petition clearly shows service to the other party.

In support thereof, petitioner attached two (2) Postmaster's Certifications, both dated August 4, 2015, certifying that registered letter no. AC01743641 ZZ allegedly containing petitioner's Motion for Extension of Time was posted on February 9, 2015 (Annex "B"); while registered letter no. AC 022416963 allegedly containing the instant Petitioner for Review, was posted February 24, 2015 (Annex "D").

This Court notes, however, that while petitioner could have easily attached to her Motion for Reconsideration, the requisite Affidavits of Service mandated by Section 13, Rule 13 of the 1997 Rules of Civil Procedure, she nonetheless, still failed to do so.

In any case, this Court is inclined to give credence to the Postmaster's Certifications, in light of the legal presumption, based on wisdom and experience, that official duty has been regularly performed. The Postmasters Certification is sufficient evidence of the fact of mailing.²

Considering the foregoing, this Court applies a more liberal interpretation of the Rules of Court in order to better serve the interest of substantial justice, and to allow the just determination of the present controversy on its merits, rather than on the grounds of strict technicality. After all, a liberal construction of the rules may be invoked in situations in which there may be some excusable formal deficiency or error in a pleading, provided that the invocation thereof does not subvert the essence of the proceeding, but at least connotes a reasonable attempt at compliance with the rules.³ Besides,

² *Tacloban II Neighborhood Association, Inc. vs. Office of the President, et al.*, G.R. No. 168561, September 26, 2008.

³ *Swedish Match Philippines, Inc. vs. The Treasurer of the City of Manila*, G.R. 181277, July 3, 2013, citing *Mediserv, Inc. vs. Court of Appeals*, G.R. No. 161368, April 5, 2010.

fundamental is the precept that rules of procedure are meant not to thwart but to facilitate the attainment of justice; hence, their rigid application may, for deserving reasons, be subordinated by the need for an apt dispensation of substantial justice in the normal course. They ought to be relaxed when there is subsequent or even substantial compliance, consistent with the policy of liberality espoused by Rule 1, Section 6.⁴

WHEREFORE, premises considered, the Resolution dated July 3, 2015 is hereby **SET ASIDE** and the Petition for Review dated February 24, 2015 is **REINSTATED**.

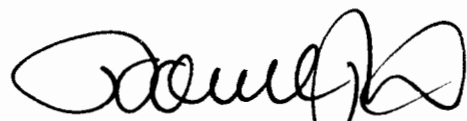
Accordingly, without necessarily giving due course to the Petition for Review, respondent is ordered to file its Comment thereto, not a Motion to Dismiss, within ten (10) days from receipt hereof.

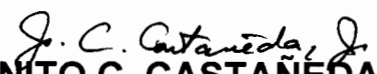
Upon the filing thereof, or expiration of the period for filing the same, the instant petition shall be deemed submitted for resolution, unless the Court *En Banc* decides to require the parties to submit their respective memoranda.

SO ORDERED.


ERLINDA P. UY
Associate Justice

WE CONCUR:


ROMAN G. DEL ROSARIO
Presiding Justice


JUANITO C. CASTAÑEDA, JR.
Associate Justice


LOVELL R. BAUTISTA
Associate Justice


CAESAR A. CASANOVA
Associate Justice

(On Leave)
ESPERANZA R. FABON-VICTORINO
Associate Justice

⁴ *Felix Martos vs. New San Jose Builders, Inc.*, G.R. No. 192650, October 24, 2012.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

(On Leave)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

(On Leave)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice