REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

REGUS SERVICE CENTRE PHILIPPINES B. V.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE
Respondent.

CTA EB NO. 2822
(CTA Case No. 9907)

Present:

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

Promulgated:
OCT 01 2024 4:15

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RESOLUTION

For resolution is petitioner's *Motion for Reconsideration* [1] [Motion] filed on May 24, 2024, with respondent's *Comment/Opposition*[2] filed on July 01, 2024.

To recall, on November 15, 2023, the petitioner filed a *Petition for Review*. Thereafter, the Court *En Banc* issued a *Resolution* dated February 1, 2024[3], ordering the petitioner to explain why its *Petition* should not be dismissed, and to address the observed deficiencies within five (5) days from notice.

On February 12, 2024, the petitioner filed a *Motion for Extension with Partial Compliance (Re: Resolution of Court of Tax Appeals dated 1 February 2024).*[4] Subsequently, on February 19, 2024, the

[1] EB Docket, pp. 80 to 84
[2] Unpaginated.
[3] EB Docket, pp. 33 to 35.
[4] EB Docket, pp. 36 to 46.

petitioner filed a *Compliance (re: Resolution of Court of Tax Appeals dated 1 February 2024)*.[5]

Acting on petitioner's *Compliance*, the Court, on May 02, 2024, promulgated a *Resolution*[6] dismissing the *Petition for Review* filed by the petitioner for failure to provide justifiable cause for the belated submission of the Verification and Certification of Non-Forum Shopping. The dispositive portion of the *Resolution* states:

> **WHEREFORE**, petitioner's *Motion for Extension with Partial Compliance (Re: Resolution of Court of Tax Appeals dated 1 February 2024)*, filed on February 12, 2024 is **DEEMED GRANTED** and **NOTED**.
>
> Petitioner's *Compliance (Re: Resolution of Court of Tax Appeals dated 1 February 2024)*, filed on February 19, 2024 is **NOTED**.
>
> The instant Petition for Review is **DISMISSED** for failure to provide justifiable cause for the belated submission of the Verification and Certification of Non-Forum Shopping.
>
> **SO ORDERED.**

In its *Motion*, petitioner argues that procedural rules may be relaxed for persuasive reasons to relieve a litigant of an injustice not commensurate with its failure to comply with the prescribed procedure. Petitioner submits that the failure to include the Verification and Certification of Non-Forum Shopping when it filed the *Petition for Review* was due to inadvertence or honest oversight of its counsel. Lastly, petitioner states that the several resignations of the petitioner's Tax Manager posed difficulty in the requested documents needed to file an appeal before the Court of Tax Appeals.

Thus, in the said *Motion*, petitioner prays for the Court *En Banc* to *(1)* reverse and set aside the *Resolution* dated May 02, 2024; and, *(2)* assume jurisdiction on the present *Petition for Review* and act on the petitioner's claim for refund of excess/unutilized input value-added tax for the 1st Quarter of calendar year 2016.

On the other hand, the respondent agrees with the Court *En Banc* when it dismissed the case for failure of petitioner to show justifiable cause for the belated submission of the Verification and Certification of Non-Forum Shopping. Respondent posits that petitioner was given an opportunity to show cause on its belated submission. Respondent

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[5] EB Docket, pp. 66 to 74.
[6] EB Docket, pp. 76 to 79.

submits that the rules are clear, and in filing initiatory pleadings, a validly executed Verification and Certification of Non-Forum Shopping is mandatory to be attached thereto. Respondent further submits that there is no sufficient ground for the belated filing of the Verification and Certification of Non-Forum Shopping.

The *Motion for Reconsideration* is **denied** for lack of merit.

At the outset, the Court notes that the assailed *Resolution* was received by petitioner on May 9, 2024.[7] Pursuant to Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), the petitioner has fifteen (15) days from receipt of the *Resolution* or until May 24, 2024, within which to file a motion for reconsideration. On May 24, 2024, the petitioner filed the instant *Motion*. Thus, the *Motion* was timely filed.

Petitioner failed to comply with the requirements for filing a Petition for Review, and with the order of the Court.

As may be recalled, in the *Resolution* dated February 01, 2024, the Court *En Banc*, in the interest of justice, ordered the petitioner to explain why the case should not be dismissed and to address the observed deficiencies in the *Petition for Review*. Pursuant thereto, the petitioner submitted its *Partial Compliance* on February 12, 2024 and requested for an additional period of five (5) days or until February 17, 2024[10], within which to submit the Verification and Certification Against Forum Shopping and certified true copies of the Resident's Agent's Certificate and Special Power of Attorney.

The Court notes, however, that petitioner did not provide an explanation why the case should not be dismissed in view of the observed deficiencies. On February 19, 2024, petitioner submitted another *Compliance*, attaching therewith its Verification and Certification Against Forum Shopping and the certified true copies of the Resident's Agent's Certificate and Special Power of Attorney. It should be emphasized that petitioner, in its *Compliance*, still failed to provide justifiable cause for the belated submission of the Verification and Certification of Non-Forum Shopping.

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[7] EB Docket, Notice of Resolution dated May 3, 2024, p. 75.
[10] February 17, 2024 falls on a Saturday. The next working day is on February 19, 2024.

Sections 4 and 5, Rule 7 of 2019 Revised Rules of Court (RROC), provides the requirement for the submission of verification and certification against forum shopping, in general, thus:

> Section 4. *Verification.* – **Except when otherwise specifically required by law or rule, pleadings need not be under oath or verified**. xxx
>
> Section 5. *Certification against forum shopping.* – **The plaintiff** or principal party **shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief**, or in a sworn certification annexed thereto and **simultaneously filed therewith**: xxx
>
> The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.
>
> **Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice**, unless otherwise provided, upon motion and after hearing. [Emphasis Supplied]

Relative thereto, Section 2, Rule 6 of the RRCTA states:

> SEC 2. *Petition for Review; contents.* – The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. **The petition shall be verified and must contain a certification against forum shopping** as provided in Section 3, Rule 46 of the Rules of Court. xxx

It should also be noted that pursuant to Section 4(b), Rule 8 of the RRCTA, an appeal from a decision or resolution of the Court in Division shall be taken to the Court *En Banc* by a petition for review as provided in Rule 43 of the RROC.

Section 7, Rule 43 of the RROC also provides that failure to comply with the requirements of a petition shall be sufficient ground for the dismissal thereof, *viz*:

> Section 7. ***Effect of failure to comply with requirements.*** – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the

> contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal. [Emphasis Supplied]

Based on the foregoing, the Rules clearly require that a petition shall be verified and must contain a certification against forum shopping which shall be simultaneously filed therewith. Verily, as provided in the RROC, failure to comply with the requirements shall be sufficient ground to dismiss the petition.

In this case, it is very apparent that the petitioner, as early as the filing of its *Petition*, already failed to comply with the Rules which is a sufficient ground for the dismissal of the same. Nevertheless, instead of dismissing the same, the Court *En Banc,* upon its own initiative and in the interest of justice, gave the petitioner an opportunity to provide any compelling reason that would excuse its non-submission of the required verification and certification against forum shopping.

However, the petitioner still failed to comply with the order of the Court *En Banc*. We must stress that it is only through the instant *Motion* that petitioner is belatedly providing its justifications for the non-submission of the required verification and certification. In view thereof, the Court *En Banc* finds that the petitioner failed to comply with the Rules and order of the Court.

There is no compelling reason to warrant the relaxation of the rules.

In its *Motion*, the petitioner states that the Supreme Court, in a number of cases, has excused the belated filing of the required verification and certification of non-forum shopping, citing that special circumstances or compelling reasons make the strict application of the rule clearly unjustified.

While the Court *En Banc* agrees with the petitioner that procedural rules may be relaxed in the interest of justice, the same does not apply here. In the case of *Gregorio De Leon vs. Hercules Agro Industrial Corp.*[12], the Supreme Court ruled that resort to liberal application or suspension of the application of procedural rules should only be invoked under justifiable causes and circumstances, and cannot be accorded absent valid and compelling reasons, to wit:

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[12] G.R. No. 183239, June 2, 2014, citing Building Care Corporation/Leopard Security & Investigation Agency vs. Macaraeg (G.R. No. 198357, December 10, 2012).

> In Building Care Corporation/Leopard Security & Investigation Agency v. Macaraeg, We said:
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> > **It should be emphasized that the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with for the orderly administration of justice.** In Marohomsalic v. Cole, the Court stated:
> >
> > > While procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. **Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances.** While litigation is not a game of technicalities, every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.
> >
> > The later case of Daikoku Electronics Phils., Inc. v. Raza, further explained that:
> >
> > > **To be sure, the relaxation of procedural rules cannot be made without any valid reasons proffered for or underpinning it. To merit liberality, petitioner must show reasonable cause justifying its non-compliance with the rules** and must convince the Court that the outright dismissal of the petition would defeat the administration of substantial justice. x x x. **The desired leniency cannot be accorded absent valid and compelling reasons for such a procedural lapse.** x x x.
>
> We must stress that **the bare invocation of "the interest of substantial justice" line is not some magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled, let alone dismissed simply because their non-observance may have resulted in prejudice to a party's substantial rights. Utter disregard of the rules cannot be justly rationalized by harping on the policy of liberal construction.**

As gleaned from the foregoing jurisprudential pronouncement, it must be underscored that the bare invocation of the "interest of substantial justice" is not some magic wand that warrants automatic suspension of procedural rules.

Granting arguendo that petitioner was able to timely explain its non-submission of the verification and certification, the Court *En Banc*, nonetheless, finds petitioner's explanations as not valid and compelling reasons that would merit the relaxation of the rules.

In the *Motion*, petitioner argues that the procedural lapse was due to the inadvertence or honest oversight of the counsel and that petitioner's counsel has overwhelming client engagements. Due to honest oversight, the petitioner alleged that its counsel has overlooked to attach the Verification and Certification of Non-Forum Shopping when it filed the *Petition for Review* on November 15, 2023. It was also alleged that petitioner's then co-counsel was on a month-long leave when the Court in Division issued its *Resolution* dated October 25, 2023 and while the *Petition for Review* was being prepared. Lastly, petitioner claims that the several changes in the petitioner's Tax Manager, who is its counsel's contact person, posed a communication challenge *sans* proper turn over to the replacing Tax Manager.

We are not convinced.

It is settled that the negligence of a counsel binds the client as any act performed by a counsel within the scope of his or her general or implied authority is regarded as an act of his or her client. As such, a mistake or negligence of counsel that results in the rendition of an unfavorable judgment against the client binds the latter. If every shortcoming of a counsel would be considered a ground to excuse a party's failure to comply with the Rules of Court, this "would render court proceedings indefinite, tentative, and subject to reopening at any time by the mere subterfuge of replacing counsel."[15] Thus, herein petitioner is bound by the mistake, inadvertence, and negligence of its counsel.

It must also be emphasized that jurisprudence is replete with pronouncements that the heavy workload of a lawyer is an insufficient reason to justify the relaxation of procedural rules, the same being relative and often self-serving. If the failure of the petitioner's counsel to cope with his heavy workload would be considered a valid justification to disregard procedural rules, there would be no end to litigations so long as counsel had not been sufficiently diligent or experienced.[16]

With respect to the alleged month-long leave of its co-counsel and the several resignations of petitioner's Tax Manager, the Court *En*

[15] Estrella vs. SM Prime Holdings, Inc., G.R. No. 257814. February 20, 2023.
[16] Commissioner of Internal Revenue v. Court of Tax Appeals, G.R. No. 203403, November 14, 2018.

Banc finds the same as neither justifiable causes nor compelling reasons to relax the application of the rules. Such self-serving explanations which are easily alleged are unacceptable reasons for relaxing the observance of procedural rules.

First, the leave taken by the co-counsel is of no moment considering that there is still another counsel who was able to prepare and file the *Petition for Review* on November 15, 2023.

Second, the alleged changes in petitioner's Tax Manager is irrelevant to its failure to submit the required verification and certification. Even if the Tax Manager was the purported contact person of petitioner's counsel, it was already admitted in the *Motion* that petitioner's counsel failed to attach the required verification and certification due to his inadvertence or oversight and overwhelming client engagements, and not because of his failure to communicate with the petitioner's Tax Manager. More importantly, there is no denying as averred in the *Motion*, that upon submission of the *Motion for Extension with Partial Compliance,* the original or certified true copies of the Verification and Certification of Non-Forum Shopping, Resident Agent's Certificate and Special Power of Attorney were being retrieved from the counsel's files and records, not from the petitioner's Tax Manager.

Time and again, it has been held that perfection of an appeal in the manner and within the period permitted by law is mandatory and jurisdictional such that failure to do so renders the judgment of the court final and executory. The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[21]

Based on the foregoing, the Court *En Banc* finds no reason to reverse its *Resolution* dated May 02, 2024. Accordingly, petitioner's failure to comply with the Rules and order of the Court is a sufficient ground for the dismissal of its *Petition*.

WHEREFORE, premises considered, the *Motion for Reconsideration* filed by petitioner on May 24, 2024 is hereby **DENIED** for lack of merit.

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[21] Herarc Corporation, Realty v. The Provincial Treasurer of Batangas, G.R. No. 210736, September 05, 2018.

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

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice