

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

HERMA SHIPPING AND
TRANSPORT CORPORATION,
Petitioner,

CTA CASE NO. 9561

- versus -

Members:

HONORABLE NICANOR
FAELDON, IN HIS CAPACITY
AS COMMISSIONER OF THE
BUREAU OF CUSTOMS,
Respondent.

UY, *Chairperson*, and
RINGPIS-LIBAN, II.

Promulgated:

JUN 20 2019

2:40 p.m.

X ----- X

RESOLUTION

For resolution are the following:

- 1) Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 20, 2019 via registered mail, received by the Court on May 28, 2019;
- 2) Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 27, 2019 via registered mail, received by the Court on May 30, 2019;
- 3) Respondent's "Motion for Further Extension of Time to File Memorandum" filed on May 24, 2019 via registered mail, received by the Court on May 30, 2019;
- 4) Respondent's "Motion for Further Extension of Time to File Memorandum" filed on June 06, 2019;
- 5) Petitioner's "Ex-Parte Manifestation and Compliance" filed on June 06, 2019; and

- 6) Respondent's "Comment/Opposition (Omnibus Motion for Leave of Court: a. To Ship-break or Dismantle M/T Malolos; and b. To Reduce Surety Bond dated March 19, 2019)" filed on May 30, 2019 via registered mail, received by the Court on June 10, 2019.

Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 20, 2019 via registered mail, "Motion for Further Extension of Time to File Comment/Opposition" filed on May 27, 2019 via registered mail, and Respondent's "Comment/Opposition (Omnibus Motion for Leave of Court: a. To Ship-break or Dismantle M/T Malolos; and b. To Reduce Surety Bond dated March 19, 2019)" filed on May 30, 2019 via registered mail, received by the Court on June 10, 2019

On May 23, 2019, a Resolution¹ was issued:

- 1) Denying Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 08, 2019;
- 2) Denying Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 14, 2019;
- 3) **Granting Petitioner's "Omnibus Motion for Leave of Court: a. To Ship-break or Dismantle M/T Malolos; and b. To Reduce Surety Bond";**
- 4) Ordering Petitioner to keep the Court apprised of the progress of the ship-break or dismantling of M/T Malolos;
- 5) Ordering Petitioner to file a surety bond in accordance with the Supreme Court Circular Re: Guidelines on Corporate Surety Bonds, in the reduced amount of Php24,897,000.00, within ten (10) days from receipt; and

¹ Docket, pp. 6867-6872.

- 6) Submitting the case for decision, pursuant to the Resolution dated April 11, 2019.

Thus, We find that the following pleadings had been rendered **MOOT** by the May 23, 2019 Resolution of this Court:

- 1) Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 20, 2019 *via* registered mail, received by the Court on May 28, 2019;
- 2) Respondent's "Motion for Further Extension of Time to File Comment/Opposition" filed on May 27, 2019 *via* registered mail, received by the Court on May 30, 2019; and
- 3) Respondent's "Comment/Opposition (Omnibus Motion for Leave of Court: a. To Ship-break or Dismantle M/T Malolos; and b. To Reduce Surety Bond dated March 19, 2019)" filed on May 30, 2019 *via* registered mail, received by the Court on June 10, 2019.

Respondent's "Motion for Further Extension of Time to File Memorandum" filed on May 24, 2019 via registered mail, received by the Court on May 30, 2019 and Respondent's "Motion for Further Extension of Time to File Memorandum" filed on June 06, 2019

On February 19, 2019, a Resolution² was issued resolving Respondent's Formal Offer of Evidence and ordering parties to file their respective memoranda within thirty (30) days from receipt.

Records reveal that Respondent received the said resolution on February 26, 2019.³ Thus, he had until March 28, 2019 within which to file his Memorandum.

However, instead of filing a Memorandum, Respondent filed *via* registered mail on March 28, 2019 a "Motion to Suspend Period to File Memorandum", praying that the period to file memorandum be suspended in

² *Id.*, pp. 6745-6746.

³ *Id.*, p. 6744.

the meantime, and he be given a fresh period of thirty (30) days from receipt of the Resolution resolving Petitioner's Omnibus Motion to file the said memorandum.

On April 11, 2019, a Resolution⁴ was issued denying Respondent's "Motion to Suspend Period to File Memorandum". In the interest of justice however, respondent was given a fresh period of ten (10) days from receipt of the Resolution to file memorandum.

Records show Respondent received the said resolution on May 14, 2019. Thus, Respondent had only until May 24, 2019 within which to file his Memorandum.

And yet on May 24, 2019, Respondent filed a "Motion for Further Extension of Time to File Memorandum" *via* registered mail, praying for an extension of fifteen (15) days from May 24, 2019 or until June 08, 2019, within which to file the required memorandum. Moreover, on June 06, 2019, Respondent filed another "Motion for Further Extension of Time to File Memorandum", praying for another extension of thirty (30) days from June 08, 2019 or until July 08, 2019.

We find Respondent's prayer for another extension of forty-five (45) days⁵ as unnecessary and unwarranted. It must be emphasized that the Court had already granted Respondent enough leeway. In fact, Respondent had a total of eighty-seven (87) days within which to file his Memorandum, due to the previous incidents in the instant case:

Date	Incident	Description	Period of days within which to file memorandum
February 19, 2019	Resolution	Parties were ordered to file their respective memoranda within thirty (30) days from receipt. The said resolution was received by Respondent on February 26, 2019.	Thirty (30) days
March 28, 2019	Respondent's "Motion to Suspend Period to File Memorandum" filed <i>via</i> registered mail	Respondent prayed that the period to file memorandum be suspended in the meantime.	<i>Essentially, an extension of fourteen (14) days</i>

⁴ *Id.*, pp. 6840-6841.

⁵ Fifteen (15) days plus thirty (30) days extension.

April 11, 2019	Resolution	Denied Respondent's "Motion to Suspend Period to File Memorandum". In the interest of justice, Respondent was given a fresh period of ten (10) days from receipt to file memorandum. The said resolution was received by Respondent on May 14, 2019.	<i>Essentially, an extension of thirty-three (33) days</i>
May 24, 2019	<i>Deadline for Respondent's Memorandum</i>		Ten (10) days
Total number of days given to Respondent to file memorandum			Eighty-seven (87) days

It must be emphasized that the grant of additional time to file any pleading is not granted as a matter of right but addressed to a court's sound discretion and that lawyers should never presume that their motions for extension of time will be granted as a matter of course, or for the length of time sought.⁶

Rules of Procedure must be faithfully complied with and should not be discarded with the mere expediency of claiming substantial merit. As a corollary, rules prescribing the time for doing specific acts or for taking certain proceedings are considered absolutely indispensable to prevent needless delays and to orderly and promptly discharge judicial business. By their very nature, these rules are regarded as mandatory.⁷

Considering that Respondent's memorandum was originally due on March 28, 2019, and that Respondent has already been granted in actuality an additional period of fifty-seven (57) days⁸ from the original due date, Respondent has had more than ample time to submit its memorandum. **Both Respondent's "Motion for Further Extension of Time to File Memorandum" filed on May 24, 2019 via registered mail, received by the Court on May 30, 2019 and Respondent's "Motion for Further Extension of Time to File Memorandum" filed on June 06, 2019 are DENIED.**

Petitioner's "Ex-Parte Manifestation and Compliance"

⁶ Aurora B. Go vs. Elmer Sunbanun, Georgie S. Tan, Doris Sunbanun and Richard Sunbanun, G.R. No. 168240, February 09, 2011.

⁷ Laguna Metts Corporation vs. Court of Appeals, et al., G.R. No. 185220, July 27, 2009.

⁸ Eighty-seven (87) days minus thirty (30) days.

On May 23, 2019, a Resolution⁹ was issued granting Petitioner's Omnibus Motion for Leave of Court to Reduce Surety Bond, the dispositive portion of which provides:

“WHEREFORE, Petitioner's “Omnibus Motion for Leave of Court: a. To Ship-break or Dismantle M/T Malolos; and b. To Reduce Surety Bond” is **GRANTED**. Petitioner is allowed to ship-break or dismantle M/T Malolos, with the condition that Petitioner keep the Court apprised of the progress of such ship-break or dismantling.

Petitioner is also **ORDERED** to file a surety bond, taken from a reputable surety company, duly accredited by the Supreme Court **in the reduced amount** of Twenty-four Million, Eight Hundred, Ninety-seven Thousand Pesos (Php24,897,000.00)¹⁰, **within ten (10) days from receipt** hereof, together with the required supporting documents as specified in Supreme Court Circular Re: Guidelines on Corporate Surety Bonds¹¹, as follows:

- 1) Certified copy of a valid Certificate of Accreditation and Authority issued by the Office of the Court Administrator;
- 2) Copy of the Certificate of Compliance with Circular No. 66 of the Insurance Commission duly certified by the Insurance Commission;
- 3) Proof of payment of legal fees under the Rules of Court and the documentary stamp tax (thirty centavos [P 0.30] on each four pesos [P4.00] or fractional part thereof, of the premium charged, pursuant to Section 187 Title VII of Rep. Act No. 8424) and Value Added Tax (VAT) under the National Internal Revenue Code;
- 4) Photocopy of the Certificate of Accreditation and Authority issued by the Court Administrator containing the photograph of the authorized agent (after presentation to the Clerk of Court of the original copy thereof as Copy of the Certificate of Accreditation and Authority containing the photograph of the agent); and

⁹ Docket, pp. 6867-6872.

¹⁰ Appraisal Report for Herma Shipping and Transport Corp., M/T Malolos, February 28, 2019, Docket, pp. 6754-6766.

¹¹ A.M. No. 04-7-02-SC, July 20, 2004.

- 5) Secretary Certificate containing the specimen signatures of the agents authorized to transact business with the courts.

The surety bond must be a continuing bond which shall remain effective until the case is finally decided, resolved or terminated by this Court, without necessity of renewal on a yearly basis, and without its validity being dependent on the payment of a renewal premium pursuant to Section 177 of the Insurance Code.

Failure to comply with the above requirements shall cause the setting aside of this Resolution granting Petitioner's Omnibus Motion.

On June 06, 2019, Petitioner filed an "*Ex Parte* Manifestation and Compliance" securing Endorsement No: HO-0092376-oo-RA to form part of Bond No: 0092376 IC No. G(16) 19748, for the posting of the reduced amount of the Surety Bond dated July 16, 2018 issued by Pioneer Insurance & Surety Corporation and submitting the required supporting documents, in compliance with the May 23, 2019 Resolution.

WHEREFORE, Petitioner's "*Ex Parte* Manifestation and Compliance" is **NOTED**.

In view of Petitioner's compliance with the conditions laid down in the May 23, 2019 Resolution, the reduced amount for the surety bond is approved.

Also, in view of the fact that all matters in the instant case are finally settled, this case is submitted for decision anew for the guidance of all the parties.

SO ORDERED.


ERLINDA P. UY
Associate Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice