REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PROCTER & GAMBLE PHILIPPINES, INC. [AS THE ASSIGNEE OF PROCTER & GAMBLE DISTRIBUTING (PHILIPPINES), INC.],
Respondent.

CTA EB NO. 2422
(CTA Case No. 9634)

Present:

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

Promulgated:
NOV 28 2022 3:18 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.

For the Court *En Banc*'s resolution is petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Reconsideration [re: Decision dated June 22, 2022]"[1] (**MR**) filed on 13 July 2022, with respondent Procter & Gamble Philippines, Inc. [as the Assignee of Procter & Gamble Distributing (Philippines), Inc.'s] (**respondent**'s/**PGPI**'s) "Comment (Re: Motion for Reconsideration dated July 13, 2022)" (**Comment**) filed *via* electronic mail on 23 August 2022.[2]

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[1] *Rollo*, pp. 148-159.
[2] Also filed *via* registered mail on 23 August 2022 and received by Court on 01 September 2022; id., pp. 165-193.

The MR seeks the reversal of this Court's Decision[3] (**assailed Decision**) dated 22 June 2022. The dispositive portion of the assailed Decision reads:

> ...
>
> **WHEREFORE**, the foregoing considered, the Amended Petition for Review filed by petitioner Commissioner of Internal Revenue on 11 February 2021 is hereby **DISMISSED** for lack of jurisdiction. Accordingly, the assailed Decision dated 09 July 2020 in CTA Case No. 9634, entitled *Procter & Gamble Distributing (Philippines), Inc. v. Commissioner of Internal Revenue* is **DEEMED** final and executory.
>
> **SO ORDERED.**
>
> ...

To recall, the Court in the assailed Decision agreed with the First Division's findings in its Resolution dated 14 December 2020[4] which dismissed petitioner's Motion for Partial Reconsideration[5] (**MPR**) for being filed out of time. In the assailed Decision, the Court made the following observations, *viz:*

> ...
>
> First, there is no legal basis for petitioner's assertion that the reglementary period for filing his MPR to the assailed Decision should be counted not from his actual receipt, but from the receipt of the BIR's Litigation Division. It is noteworthy that petitioner has cited neither law nor jurisprudence to support his contention.
>
> Second, petitioner admits in his Amended Petition for Review that the MPR's belated filing was due to the BIR's own error. As alleged by petitioner himself, the BIR's centralized receiving section for its Legal Group, the BIR's Internal Investigation Division (**IID**) failed to affix the receiving date to petitioner's copy of the assailed Decision.
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> ...
>
> Furthermore, even assuming for the sake of argument that petitioner's delay was excusable, it is equally required that his arguments be impressed with merit for the Court *En Banc* to relax the observance of the reglementary periods and allow the belated filing of an MPR or an appeal. Unfortunately, even a repeated and careful review of the records, the Court *En Banc still* finds

[3] Id., pp. 125-139.
[4] Division Docket, Volume II, pp. 678-683.
[5] Id., pp. 655-661.

> petitioner's claims to be inadequate to warrant a reversal of the First Division's assailed actions.[6]
>
> ...

In the instant motion, petitioner argues that the Court *En Banc* should have bypassed its error in the interest of justice. Petitioner insists on the Supreme Court's decisions setting aside procedural technicalities to give way to substantive justice. Particularly cited are the cases of *Paz Reyes Aguam v. Court of Appeals, et al.*[7] (**Aguam**), *Pablo D. Acaylar, Jr. v. Danilo G. Harayo*[8] (**Acaylar**), *William Endeliseo Barroga v. Data Center College of the Philippines, et al.*[9] (**Barroga**) and *Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue*[10](**PPFC**). Petitioner also contends that respondent's claim for refund should not have been granted since the CIR was not given an opportunity to act on the administrative claim.

On the other hand, respondent echoes the conclusions of fact and law reached by the Court *En Banc* in the assailed Decision.

We resolve.

In *Aguam*, the Supreme Court excused the delayed filing of an appellant's brief. In doing so, the Supreme Court found that the technical lapse was due to the clerk of the appellate court's own error of sending the notice to file the appellant's brief to the appellant's counsel instead of the party-appellant as procedural rules require.

In *Acaylar*, the Supreme Court also condoned a litigant's failure to state the material dates provided that the latter's receipt of the assailed resolution was duly alleged in the petition. Therefore, in *Acaylar*, despite an error in the allegations, the appeal was actually timely filed.

In *Barroga*, a litigant's failure to state material dates in its petition was likewise condoned as the same were reflected in the former's motion for partial consideration.

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6 Citation omitted.
7 G.R. No. 137672, 31 May 2000.
8 G.R. No. 176995, 30 July 2008.
9 G.R. No. 174158, 27 June 2011.
10 G.R. No. 141973, 28 June 2005.

Meanwhile, in *PPFC*, a party's error in resorting to a motion for reconsideration (**MR**) of a decision while it prayed for the submission of additional evidence was considered as a duly filed motion for new trial (**MNT**). In *PPFC*, the motion was, nevertheless, timely filed despite the mistake in the caption of the motion.

The above rulings show that, except in *Aguam*, no actual violation of procedural rules had actually taken place. While *Acaylar*, *Barroga* and *PPFC* demonstrate irregularities which were all too insubstantial to warrant the harshness of dismissal especially so that all pleadings in question (in these cases) were timely filed.

At this juncture, it is worth noting that the time for filing an appellant's brief, as in the case of *Aguam*, is purely governed by the Rules of Court[11]; particularly, Section 7, Rule 44[12] thereof. Such is not the case with filing an MR against the decision of the Court of Tax Appeals' (**CTA's**) Division. Although the period to file it is reflected in Section 1, Rule 15[13] of the Revised Rules of the Court of Tax Appeals[14] (**RRCTA**), the same is nevertheless completely derived from a statute.

Section 11 of Republic Act (**RA**) No. 9282[15], which expanded this Court's jurisdiction, specifically limits the period for filing an MR or MNT, to wit:

> ...
> SEC. 11. Who May Appeal; Mode of Appeal; Effect of Appeal. –
> ...

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11 As amended by A.M. No. 19-10-20-SC.

12 **Sec. 7.** *Appellant's brief.* — It shall be the duty of the appellant to file with the court, within forty-five (45) days from receipt of the notice of the clerk that all the evidence, oral and documentary, are attached to the record, seven (7) copies of his legibly typewritten, mimeographed or printed brief, with proof of service of two (2) copies thereof upon the appellee.

13 **SEC. 1.** *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question.

14 A.M. No. 05-11-07-CTA.

15 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> All other cases involving rulings, orders or decisions filed with the CTA as provided for in Section 7 shall be raffled to its Divisions. A **party adversely affected by a ruling, order or decision of a Division of the CTA may file a motion for reconsideration of new trial before the same Division of the CTA within fifteen (15) days from notice thereof:** Provide, however, That in criminal cases, the general rule applicable in regular Courts on matters of prosecution and appeal shall likewise apply.[16]
>
> ...

It is elementary that jurisdiction is provided by law. In this case, the Court's exercise of authority is premised on a party's compliance with the statutory period for filing an MR with the CTA's Division. Therefore, a party's failure to file the same within said period places the matters raised therein beyond judicial review. In *Alfredo J. Non, et al. v. Office of the Ombudsman, et al.*[17], the Supreme Court explained, thusly:

> ...
> Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law. Otherwise stated, **jurisdiction must exist as a matter of law. Only a statute can confer jurisdiction on courts and administrative agencies.**
>
> If we were to follow respondents' reasoning — that until the Court comes up with implementing rules, the application of R.A. No. 10660 shall be put on hold — then the letter of the law would be rendered nugatory by the mere expediency of the Court's non-issuance of such rules. This is clearly not the intention of the framers of the law in placing the proviso, neither would the Court countenance such a scenario. The Court cannot enlarge, diminish, or dictate when jurisdiction shall be removed, given that the power to define, prescribe, and apportion jurisdiction is, as a general rule, a matter of legislative prerogative.
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> ...
> Jurisdiction is a matter of substantive law. Thus, an action may be filed only with the court or tribunal where the Constitution or a statute says it can be brought. Objections to jurisdiction cannot be waived and may be brought at any stage of the proceedings, even on appeal. When a case is filed with a court which has no jurisdiction over the action, the court shall motu proprio dismiss the case.
> ...

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16 Emphasis supplied.
17 G.R. No. 251177, 08 September 2020; Citation omitted and emphasis supplied.

With the above principles in mind, the Court *En Banc* could not extend the statutory period for filing an MR requires lest it violate its own procedural rules and usurp legislative authority in a clear act of judicial overreach.

Furthermore, petitioner's appeal was not dismissed solely on technical grounds. While it is true that the Court *En Banc* ultimately dismissed petitioner's petition on the ground of lack of jurisdiction, it nevertheless endeavored to discuss the relevant issues; yet unfortunately for petitioner, it still found no reversible error in the First Division's actions.

As regards petitioner's insistence that respondent failed to substantiate its claim, one will find the disquisitions in the assailed Decision adequate to address this matter. Thus, the Court shall no longer belabor itself with another exhaustive discussion on this same issue.

To avoid superfluity, the Court may deal with rehashes of similar arguments summarily in keeping with the Supreme Court's ruling in the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[18], to wit:

> ...
> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, ART. VIII, Constitution); i.e., the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the

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18 G.R. Nos. 109645 & 112564, 04 March 1996.

> judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
>
> ...

The above principle is further reiterated in the more recent case of *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[19] where the Supreme Court held, thusly:

> ...
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired course of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.
>
> ...

WHEREFORE, the foregoing considered, petitioner's "Motion for Reconsideration (re: Decision dated June 22, 2022)" filed on 13 July 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[19] G.R. No. 159938, 22 January 2007; Citation omitted.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON OFFICIAL BUSINESS
CATHERINE T. MANAHAN
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