REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA *EB* No. 2060** (CTA Case No. 8751)
	Present:
-*versus*-	**DEL ROSARIO,***P.J.* **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
THE COURT OF TAX APPEALS SPECIAL THIRD DIVISION AND KILUSANG MAGKAIBIGAN MULTI-PURPOSE COOPERATIVE, *Respondents.*	Promulgated: JUN 10 2021 3:13 p.m.

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RESOLUTION

MANAHAN, J.:

For resolution is petitioner's *Motion for Reconsideration Re: Decision dated 7 December 2020* filed on December 22, 2020, with respondent's *Opposition (To the Motion for Reconsideration dated December 15, 2020)* posted on February 3, 2021 and received by the Court on February 24, 2021.

Petitioner seeks the reconsideration of the Decision of the Court promulgated on December 7, 2020, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the *Petition for Certiorari* filed by petitioner CIR on May 9, 2019 is **DENIED.**
>
> **SO ORDERED.**"

Petitioner raises the following grounds for his Motion for Reconsideration, to wit:

1. The respondent Court acted with grave abuse of discretion, amounting to lack or excess of jurisdiction in ruling that the fact upon which petitioner anchors his cause of action does not establish the existence of mistake or excusable negligence.

2. Petitioner should not be made to suffer the consequences of the negligence of counsel.

3. Petitioner complied with the jurisdictional period to file the petition under Rule 38.

Petitioner's Arguments

Petitioner echoes its arguments in its Petition for Certiorari with the Court *En Banc* and asserts that public respondent Court of Tax Appeals (CTA) Special Third Division (Court in Division) acted with grave abuse of discretion in ruling that the negligence of his counsel does not warrant the ruling issued by the Court. Petitioner consistently maintains that his failure to timely file an appeal from the Court's Resolution dated April 19, 2017 was due to the alleged disorganized work environment then prevailing at the Litigation Division of the Bureau of Internal Revenue (BIR) coupled with the heavy workload of the lawyers, thus, causing the petitioner's counsel to miss receiving important documents such as the aforesaid Resolution of the Court.

Petitioner repeated his contention that he should not be made to suffer the consequences of the negligence of his counsel and cites the following exceptions where such should not bind the client, namely: 1) where reckless or gross negligence of counsel deprives the client of due process; 2) when its application will result in outright deprivation of client's liberty and property, and 3) when the interest of justice so requires. Petitioner then reiterates his plea to allow him to revive his right to appeal which has been lost due to the alleged "excusable negligence" of his counsel.

Petitioner remains firm that the Petition for Relief from Judgment that he filed in response to the Court's Resolution ordering the Entry of Judgment to this case, was timely filed under Rule 38 of the Revised Rules of Court, hence, it was erroneous on the part of the Court *En Banc* to deny the same on the basis of late filing.

Private Respondent's Counter Arguments

Private respondent, on the other hand, assails petitioner's Motion for Reconsideration for being *pro forma* because it failed to cite which portion of the Decision is erroneous for being contrary to law or evidence. Further, private respondent points out that the arguments raised by petitioner in the instant Motion for Reconsideration are mere rehash of the grounds which were already passed upon by the Court *En Banc* in its Decision dated December 7, 2020 and emphasized that the arguments supporting the first ground of the Motion for Reconsideration were merely lifted almost verbatim from the Petition for Certiorari filed by petitioner with the Court *En Banc*.

Private respondent agrees with the assailed Decision and Resolution of the Court *En Banc* dated December 7, 2020 which concluded that the Petition for Relief from Judgment was filed out of time because it failed to comply with the two periods provided by Section 3 of Rule 38 of the Revised Rules of Court as fortified by applicable jurisprudence wich were cited in the assailed Decision.

Likewise, private respondent expressed its assent to the assailed Decision which ruled that the CTA Special Third Division did not commit grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the assailed Resolutions dated August 28, 2018 and March 7, 2019.

RULING OF THE COURT *EN BANC*

We find petitioner's contentions bereft of merit.

Aside from petitioner's arguments being a mere rehash or a duplication of the arguments raised in his Petition for Certiorari and which were extensively disposed of in the assailed Decision, it is well to emphasize that blaming heavy workload and an alleged disorganized work environment on his counsel's failure to make a timely appeal against a Resolution of the Court is unconvincing and inadequate to warrant an exception to the rule that the mistakes or negligence of counsel binds the client. To consider such factors as "excusable negligence" is opening a Pandora's box that would condone all delayed filing of court pleadings based on such flimsy reasons.

We reiterate the Court in Division's findings that "foresight would have dictated that a system be put in place to ensure continuity of work processes during the administrative restructuring and that the new handling lawyers receive notices in cases that have been newly assigned to them." In addition, we cannot overemphasize that it is incumbent upon counsels to observe due diligence in handling their assigned cases, including assidously keeping track of their latest developments and status.

As to the Petition for Relief from Judgment filed by petitioner, we remain firm in our affirmance of the Court in Division's ruling that this has been filed beyond the period prescribed under Section 3 of Rule 38 of the Revised Rules of Court. We repeat our ruling supported by jurisprudence that a party filing a Petition for Relief from Judgment must strictly comply with the two reglementary periods: a) the petition must be filed within sixty (60) days from knowledge of the judgment, order or other proceeding to be set aside; and b) within a fixed period of six (6) months from entry of such judgment, order or other proceeding.[1]

In the assailed Decision, the Court narrated that the BIR Litigation Division received a copy of the Decision of the Court in Division dated November 16, 2016 (CTA Case No. 8751) on November 21, 2016. A Motion for Reconsideration was then filed by petitioner on December 6, 2016 seeking reconsideration of the decision of the Court in Division. On April 19, 2017, the Court in Division issued a Resolution denying petitioner's Motion for Reconsideration. A copy of the Resolution was received by the BIR Litigation Division on April 24, 2017. Based on the provisions of Section 3 of Rule 38 of the Revised Rules of Court and counting 60 days from April 24, 2017, petitioner had until June 23, 2017 within which to file the Petition for Relief from Judgment.

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[1] *Dr. Fe Lasam vs. PNB, et.al.*, G.R. No. 207433, December 5, 2018.

However, records show that petitioner only filed its Petition for Relief from Judgment with the Court on May 11, 2018 which was way beyond the period prescribed.

Based on the foregoing premises, we likewise find no merit to the Petition for Certiorari filed by petitioner and we see no cogent reason to modify our ruling that there was no grave abuse of discretion amounting to lack or excess of jursidiction committed by the Court in Division when it issued the assailed Resolutions dated August 28, 2018 and March 7, 2019.

We agree with private respondent that the issues and grounds raised by petitioner in the instant motion were rehashed arguments which were already passed upon and resolved by the Court *En Banc* in the assailed Decision dated December 7, 2020, hence we find no valid justification to reverse or modify the same.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration Re: Decision dated 7 December 2020* filed on December 22, 2020, is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I maintain my Concurring and Dissenting Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice