CTA Form No. 8 (For DCC)

25-000634-0016

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 370

MARCOPPER MINING CORPORATION,

Appellant,

- versus -

HON. EMARIE ANN F. PASTORAL, in her capacity as the ACTING PROVINCIAL TREASURER OF MARINDUQUE, THE PROVINCIAL GOVERNMENT OF MARINDUQUE, MUNICIPAL TREASURER AND ASSESSOR OF BOAC, MUNICIPAL TREASURER AND ASSESSOR OF STA. CRUZ, MUNICIPAL TREASURER AND ASSESSOR OF MOGPOG, MUNICIPAL TREASURER and ASSESSOR OF TORRIJOS AND THE PROVINCIAL ASSESSOR OF MARINDUQUE,

Appellees.

NOTICE OF RESOLUTION

To:

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HON. EMMANUEL R. RECALDE
Presiding Judge
Thru: MR. ELMIR H. MIRAFUENTE
OIC / Acting Branch Clerk of Court
Regional Trial Court
Fourt Judicial Region
Branch 38
Boac, Marinduque

GREETINGS:

You are hereby notified by these presents that on **March 31, 2026,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 6, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL FIRST DIVISION

MARCOPPER MINING CORPORATION,
Appellant,

CTA AC NO. **370**
(Civil Case No. 23-7)

- versus -

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ.*

THE PROVINCIAL GOVERNMENT OF MARINDUQUE, HON. EMARIE ANN F. PASTORAL, in her capacity as the **ACTING PROVINCIAL TREASURER OF MARINDUQUE, MUNICIPAL TREASURER AND ASSESSOR OF BOAC, MUNICIPAL TREASURER AND ASSESSOR OF STA. CRUZ, MUNICIPAL TREASURER AND ASSESSOR OF MOGPOG, MUNICIPAL TREASURER AND ASSESSOR OF TORRIJOS,** and **THE PROVINCIAL ASSESSOR OF MARINDUQUE,**
Appellees.

Promulgated:
MAR 3 1 2026, 3:05PM

x - x

RESOLUTION

Before the Court is appellant Marcopper Mining Corporation's (**MMC**'s) "Motion for Reconsideration and to Admit Petition for Review" (**MR**) filed on 29 October 2025 *via* LBC and emailed on even date, seeking reconsideration of the Court's Resolution dated 09 October 2025 which denied MMC's Notice of Appeal for being an improper remedy.

In its MR, MMC principally invokes substantial justice and due process, alleging that the challenged real property tax (**RPT**) liability did not validly accrue because the local assessor/treasurer allegedly failed to send or serve the mandatory notices and/or orders of payment. Along with its Motion, MMC submitted a Verified Petition for Review.

We resolve.

The instant MR fails to persuade.

Appeal is a statutory privilege and must be exercised only in the manner and within the period prescribed by law.[1]

Section 11 of Republic Act (**RA**) No. 9282[2] provides that "[a]ppeal shall be made by filing a **petition for review** under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA within thirty (30) days from the receipt of the decision or ruling." The statute does not provide for an ordinary appeal by notice of appeal as a mode to elevate civil cases to the CTA.

Corollary thereto, Sections 3(a) and 4(a), Rule 8[3] of the Revised Rules of the Court of Tax Appeals (**RRCTA**) state:

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1 See *Ebrencio F. Indoyon, Jr., Municipal Treasurer, Lingig, Surigao del Sur v. Court of Appeals, Twenty-Second Division, Cagayan de Oro City*, G.R. No. 193706, 12 March 2013.

2 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.

3 Rule 8 - Procedure in Civil Cases.

> ...
> SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a **Regional Trial Court in the exercise of its original jurisdiction** may appeal to the Court **by petition for review** filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.
>
> ...
>
> SEC. 4. *Where to appeal; mode of appeal.* —
>
> (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the **Regional Trial Court in the exercise of their original jurisdiction**, shall be taken to the Court by **filing before it a petition for review as provided in Rule 42 of the Rules of Court**. The Court in Division shall act on the appeal.
> ...

Even appellant's own cited jurisprudence does not advance its cause. As early as 2014, in *National Power Corporation v. Municipality of Navotas*,[4] the Supreme Court already clarified the proper mode of appeal to the CTA, thus:

> ...
> In fine, if a taxpayer is not satisfied with the decision of the **CBAA or the RTC**, as the case may be, the taxpayer may file, within thirty (30) days from receipt of the assailed decision, **a petition for review with the CTA** pursuant to Section 7(a) of R.A. 9282. In cases where the question involves the amount of the tax or the correctness thereof, the appeal will be pursuant to Section 7(a)(5) of R.A. 9282. When the appeal comes from a judicial remedy which questions the authority of the local government to impose the tax, Section 7(a)(3) of R.A. 9282 applies. Thereafter, such decision, ruling or resolution

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4 G.R. No. 192300, 24 November 2014.

may be further reviewed by the CTA *En Banc* pursuant to Section 2, Rule 4 of the Revised Rules of the CTA, to wit:...

...

Thus, MMC's filing of a Notice of Appeal is an improper mode of appeal.

Even if the Court were to treat MMC's MR as an appeal to liberality, the attempt to cure the defect by attaching a Verified Petition for Review still fails. **MMC did not pay the prescribed docket and other lawful fees.** This omission proves decisive.

Sections 1, 3 and 8 of Rule 42 of the Rules of Civil Procedure (**RCP**), as amended, state:

> ...
>
> Section 1. *How appeal taken; time for filing.* — A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, **paying at the same time to the clerk of said court the corresponding docket and other lawful fees**, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.
>
> ...
>
> Section 3. *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 thereof**.
>
> ...
>
> Section 8. *Perfection of appeal; effect thereof.* — (a) **Upon the timely filing of a petition for review and the payment of the**

> **corresponding docket and other lawful fees, the appeal is deemed perfected as to the petitioner.**
> ...

Since MMC still did not tender any docket and other lawful fees to this Court even upon the filing of the instant MR, the procedural defect was not cured.

Undisputably, MMC's appeal was not perfected because of its failure to timely file the proper petition and to pay the docket and other lawful fees before the proper court, which is the CTA. Consequently, the Regional Trial Court (**RTC**) Decision dated 27 December 2024[5] and Resolution dated 04 April 2025[6] had long become final and executory.[7]

MMC's invocation of "substantial justice" does not change the result.

We are not unaware that the Supreme Court has recognized that, in exceptional cases, procedural rules may be relaxed in the exercise of equity jurisdiction, such as the case of *La Sallian Educational Innovators Foundation v. Commissioner of Internal Revenue*[8] (**La Sallian**). However, *La Sallian* does not support MMC's position. There, the petitioner **completely paid the required docket and legal fees and showed that the delay was attributable to circumstances on record** (*i.e.*, the CTA computed the fees only after receipt), and the issues implicated a constitutionally anchored claim of tax exemption; the Court thus found the procedural lapse incommensurate to the grave injustice that would result.

Here, in stark contrast, **MMC did not pay any filing fees at all for the tendered Petition for Review, even at the reconsideration stage. This is not a mere slight delay after full payment or a defect attributable to the court's computation; it is a total non-compliance with a basic requirement tied to the perfection of appeal.** Without clear proof of payment (or a valid fee exemption), MMC's plea for liberality is unsupported by the kind of compelling circumstances recognized in jurisprudence.

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5 RTC Records, Volume VIII, pp. 4762-4772.
6 Id., Volume IX, pp. 4895-4898.
7 See *Boardwalk Business Ventures, Inc. v. Villareal*, G.R. No. 181182, 10 April 2013.
8 G.R. No. 202792, 27 February 2019.

Even assuming *arguendo* that MMC could hurdle the foregoing fatal procedural defects, the Court finds a more fundamental impediment: the action MMC filed before the RTC is one that, by its nature and the issues it tenders, should have first been brought through the administrative appellate remedies under the Local Government Code (LGC) of 1991 before the Local Board of Assessment Appeals (LBAA) and, thereafter, the Central Board of Assessment Appeals (CBAA).

In *National Power Corporation v. Provincial Government of Bulacan*,[9] the Supreme Court stressed that questions involving the correctness of an assessment, including exemption claims requiring factual determination, must first pass through the administrative process. The Supreme Court further underscored that no protest may prosper without prior payment of the tax and absent compliance, judicial recourse becomes premature.

A perspicacious reading of MMC's "Petition [With Extremely Urgent Motion for Issuance of Temporary Restraining Order and/or Writ of Preliminary Injunction]"[10] filed before the RTC reveals that the issues involved are unmistakably factual in character. These include: (**1**) whether valid Notices of Assessment (**NA**s) were ever issued and duly served for the subject properties and periods (form, contents and proof of service); (**2**) whether the 1997 Real Property Tax Order of Payments (**RPTOPs**) (Part A dated 02 May 1997; Part B dated 05 May 1997) could only take effect on 01 January 1998 (and not retroact to 1994–1997), together with the actual enactment date and application of the 1993 Schedule of Market Values (**SMV**) *vis-à-vis* the Local Assessment Regulations (**LAR**) No. 1-92 assessment calendar; (**3**) whether MMC in fact ceased operations on 25 March 1996 and, from the second (2nd) quarter of 1996, the Bureau of Local Government Finance (**BLGF**)-directed reclassification of land to "mineral" and the dropping of machineries/production structures from the taxable roll were implemented [including the scope of the 22 January 2016 implementation and the revised/annotated tax declarations (**TD**s) such as 05-35100 to 05-35107]; (**4**) whether the hydraulic excavator (TD No. 05-27148) and the 12 haul trucks (TD No. 05-27149) are mobile equipment not subject to real property tax and/or were transferred to the exempt roll effective 01 April 1996; (**5**) whether the siltation dam (Row 19) was taxable only within the limited period alleged, the precise amounts paid under protest, any resulting overpayments, and its removal from the taxable roll after 01 April 1996; (**6**) whether MMC is

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9 G.R. No. 207140, 29 January 2025.
10 RTC Records, Volume I, pp. 5-101.

the owner of the Torrijos property covered by TD No. 06881; (**7**) whether, for the various property groups (Rows 1–4, 5–12, 13–18, 20–62, 63–120, 121–139 of the List of Properties, *inter alia*), there existed any NA/RPTOPs covering the specific years claimed; (**8**) whether payments were in fact made and officially receipted up to the 4th quarter of 2019 (and how they were applied under Section 250 of the LGC of 1991); and (**9**) whether the "subsequently discovered" items identified after December 2020 (*per* 15 October 2021 letter) were ever the subject of valid NA and the actual dates of discovery/assessment relative to the five (5)-year periods. These matters demand evidentiary examination and factual determination.

Such questions fall squarely within the technical competence of the specialized review bodies, *i.e.*, the LBAA and the CBAA. The LBAA and the CBAA, by reason of their mandate of ascertaining the facts relative to the appeal from the action of the local assessor, have acquired expertise on specific matters within their jurisdiction. The statutory design entrusts these bodies with the primary authority to determine these matters before judicial intervention may be sought. These matters should have first been ventilated before the proper administrative fora pursuant to the doctrine of exhaustion of administrative remedies.[11]

While direct judicial recourse may be allowed where the issue involves pure questions of law or patent lack of authority, MMC's allegations do not present such a situation. Instead, they involve mixed questions of fact and law relating to the correctness and implementation of the assessment. Hence, prior resort to administrative remedies was indispensable.

All told, MMC employed an improper mode of appeal, failed to perfect any substitute remedy through payment of docket fees and bypassed the mandatory administrative process prescribed by the LGC of 1991. These defects, taken together, foreclose reconsideration.

WHEREFORE, in light of the foregoing, appellant Marcopper Mining Corporation's "Motion for Reconsideration and to Admit Petition for Review," filed on 29 October 2025, is hereby **DENIED** for lack of merit.

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11 See *National Power Corporation v. Provincial Government of Bulacan*, supra at note 9.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice