

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, OF CTA EB No. 1989
(CTA Case No. 9494)

Petitioner, Members:

- versus -

DEL ROSARIO, PJ
CASTAÑEDA, JR.
UY,
FABON-VICTORINO,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, JJ.

MTI ADVANCE TEST
DEVELOPMENT CORP., Promulgated:

Respondent. JUL 17 2020

x ----- 3:28 p.m. x

RESOLUTION

For resolution is petitioner's Motion for Reconsideration posted on August 16, 2019, praying for the reconsideration of the Court *En Banc*'s Resolution dated July 24, 2019, which effectively dismissed the Petition for Review he filed on January 17, 2019, on jurisdictional ground.

In support of his plea for reconsideration, petitioner argues that under Section 4, Rule 43 of the Rules of Court, the Court *En Banc*, upon proper motion filed before the expiration of the reglementary period, may grant an additional period of fifteen (15) days within which to file a petition for review. Further, the same Rules provide that the Court *En Banc* may grant further extension only for the most compelling reason but in no case to extend fifteen (15) days. In the instant case, petitioner requested for a thirty (30)-

day extension from December 18, 2018 or until January 17, 2019, within which to file his Petition for Review with the Court *En Banc*. According to him, his plea for extension was evidently due to certain justifiable and most compelling reasons attendant at the time being, and falls within the exception to the Rules and not merely anchored on heavy volume of work, as held by the Court *En Banc* in the assailed Resolution. Hence, in the interest of substantial justice, he prays that the Court *En Banc* reconsider and set aside the assailed Resolution of July 24, 2019 and admit his Petition for Review filed on January 17, 2019.

On the other hand, respondent, in its Comment/Opposition filed on October 3, 2019, points out that the right to appeal is neither constitutional nor natural but merely a statutory privilege. Thus, petitioner should have availed of such appeal within the manner set by law. Based on the record however, petitioner failed to file his Petition for Review within the prescribed period granted by the Court which did only show his failure to comply with the Order issued by the Court *En Banc* but also was a violation of the Rules of Court. Further, petitioner cannot claim liberality and relaxation of rules since, in order to do so, he must show highly exceptional circumstances to warrant the relaxation of the law.¹ After all, perfection of an appeal within the bounds of the law is not only mandatory but also jurisdictional.

The Court *En Banc* finds the instant Motion to be bereft of merit.

While it may be true that the Rules allow an extension to file a petition for review, it is also crystal clear that the Rules as a rule, only allows an additional period of 15 days within which to file a petition for review, which may be further extended only for the most compelling reason and in no case to exceed 15 days.

In the assailed Resolution, it was already discussed that petitioner's Motion for Extension of Time to File Petition for Review sought not a 15-day, but a 30-day extension of the appeal period, thereby making said Motion faulty at the

¹ *Editha Albor v. Court of Appeals, et al.*, G.R. No. 196598, January 17, 2018.

onset. Further, aside from not following the general rule of moving for only a 15-day extension to file a petition for review, petitioner did not even bother to cite a compelling reason for a 30-day extension, other than his counsel's caseload and the holidays which, as we have repeatedly ruled, hardly qualifies as an imperative cause for moderation of the rules.²

Obviously, petitioner failed to consider a basic principle that appeal is not a matter of right but a mere privilege. Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right but a mere statutory privilege.³ The implication of its statutory character is that the party who intends to appeal must always comply with the procedures and rules governing appeals; or else, the right of appeal may be lost or squandered.⁴

Further, petitioner may not be casually permitted to invoke substantial justice to compensate for various procedural infractions committed in the filing of its Petition for Review, as well as of its Motion for Reconsideration. The use of the words "substantial justice" is not a magic wand that will automatically compel this Court to suspend procedural rules. Procedural rules are not to be belittled or dismissed, simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons, when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.⁵ This is certainly not obtaining in the present case.

² *Bernardo v. People of the Philippines*, G.R. No. 166980, April 4, 2007, 520 SCRA 332, 341-342. See also *Philippine Amusement and Gaming Corporation v. Angara*, G.R. No. 142937, November 15, 2005, 475 SCRA 41, 51; *Marcial v. Hi-Cement Corporation/Union Cement Corporation*, G.R. No. 144900, November 18, 2005, 475 SCRA 388, 396.

³ See *Philippine National Bank v. Commissioner of Internal Revenue*, G.R. No. 172458, December 14, 2011.

⁴ *Duty Free Philippines v. Bureau of Internal Revenue*, G.R. No. 197228, October 8, 2014.

⁵ See *Ti v. Diño*, G.R. No. 219260, November 6, 2017.

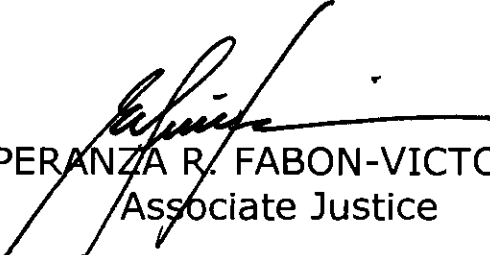
WHEREFORE, petitioner's Motion for Reconsideration posted on August 16, 2019 is **DENIED**, for lack of merit. The assailed Resolution dated July 24, 2019 is **AFFIRMED**.

SO ORDERED.


ROMAN G. DEL ROSARIO
Presiding Justice

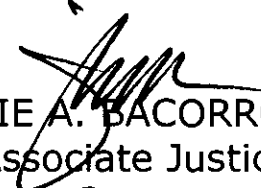

JUANITO C. CASTANEDA, JR.
Associate Justice


ERLINDA P. UY
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate 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