REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

*EN BANC*

**COMMISSIONER OF INTERNAL REVENUE,**
Petitioner,

-versus-

**CARGILL TEXTURIZING SOLUTIONS PHILIPPINES, INC.,**
Respondent.

**CTA EB No. 1259**
(CTA CASE No. 8172)

Present:
Del Rosario, PJ
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,and
Ringpis-Liban, JJ.

**Promulgated:**
FEB 27 2015
2:48 p.m.

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# RESOLUTION

Section 3, Rule 1 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, (RRCTA) states that, "The Rules of Court in the Philippines shall apply suppletorily to these Rules."

Section 3, Rule 13 of the Rules of Court provides for the manner of filing. If the pleading filed was not done personally, the date of mailing, as stamped on the envelope or the registry receipt, is considered as the date of filing.[1]

[1] *Padre v. Badillo*, G.R. No. 165423, January 19, 2011, 640 SCRA 50, 62, citing RULES OF COURT, Rule 13, Section 3. Manner of Filing. — The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them by registered mail. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case.

After a careful perusal of the Petition for Review filed by petitioner Commissioner of Internal Revenue (CIR), we noted that the date postmarked on the envelope is January 20, 2015. CIR was given until January 13, 2015 to file the petition. The petition was, therefore, filed beyond the extended period granted by the Court in filing the case.

In the case of *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*[2], the Supreme Court ruled that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional, pertinent portion of this case is quoted hereunder, as follows:

> "It has been ruled that **perfection of an appeal** in the manner and within the period laid down by law is **not only mandatory but also jurisdictional**. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case. At the risk of being repetitious, We declare that the right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law."

**WHEREFORE,** based on the foregoing discussions, the petition is dismissed for being filed out of time.

**SO ORDERED.**

**ROMAN G. DEL ROSARIO**
Presiding Justice

Juanito C. Castañeda Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**LOVELL R. BAUTISTA**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

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[2] G.R. No. 167606, August 11, 2010, 628 SCRA 96, 105.

**ESPERANZA R. FABON- VICTORINO**
Associate Justice

**CIELITO N. MINDARO-GRULLA**
Associate Justice

**AMELIA R. COTANGCO-MANALASTAS**
Associate Justice

**MA. BELEN RINGPIS-LIBAN**
Associate Justice