REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

NANOX PHILIPPINES, INC.,
Petitioner,

- **versus** -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 1629
(CTA Case No. 8433)

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, and
MODESTO-SAN PEDRO, *JJ.*

Promulgated:
AUG 28 2019 4:13PM

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RESOLUTION

UY, *J.*:

For resolution is petitioner's **"MOTION FOR RECONSIDERATION (to the Amended Decision dated 16 April 2019)"** filed on May 22, 2019, with respondent's **"OPPOSITION (Re: Motion for Reconsideration)"** filed on June 24, 2019, seeking the reconsideration of the Court *En Banc*'s Amended Decision dated April 16, 2019, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the instant *Motion for Reconsideration* is **GRANTED**. Accordingly, the Court *En Banc*'s Decision dated November 24, 2018 is hereby **MODIFIED** to read as follows:

'**WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review* is **DISMISSED**.

Accordingly, the Decision dated November 24, 2016 and the Resolution dated March 2, 2017, both rendered by the Court in Division in CTA Case No. 8433 are **AFFIRMED**.

SO ORDERED.'

SO ORDERED."

In the instant *Motion for Reconsideration*, petitioner avers that a strict application of the rules can be relaxed in the interest of justice; that the strict compliance with the rules should be suspended pro hac vice in view of the peculiar circumstance of the present case and in the interest of substantial justice, considering that a right to property is at stake. Allegedly, a strict application of the rules would have an effect of making valid an assessment which should have been voided in the first place, and the same would indubitably result to the deprivation of petitioner's right to property because it will then be held liable to pay the amount stated on the subject assessment. The subject situation could not have been what the rule-making authority envisioned when it mandated the strict application of the rules of procedure.

On the other hand, in his *Opposition*, respondent contends that a party seeking for the suspension of the Rules of Court comes to court with the heavy burden of proving that he deserves to be accorded exceptional treatment. Every plea for a liberal construction of the Rules must at least be accompanied by an explanation why the party-litigant failed to comply with the rules and by a justification for the requested liberal construction. In this case, petitioner presented no exceptional circumstance or compelling reason to warrant the reversal of the assailed decision. A bare invocation of the interest of substantial evidence will not suffice to override the stringent implementation of the rules; and that substantial justice would be better served by denying petitioner's motion for reconsideration as this would result to the observance of orderly procedures in the Court.

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THE COURT *EN BANC*'S RULING

We deny petitioner's *Motion for Reconsideration* for lack of merit.

Petitioner, in its motion, has not advanced the most persuasive of reasons, nor has it shown demonstrable merit, to justify the suspension of Section 3, Rule 2 of the Revised Rules of the Court of Tax Appeals (RRCTA), in the instant case.

Furthermore, it must be pointed out that the affirmative voting requirement followed by the Court *En Banc* in the assailed Amended Decision was made on the basis, not only of the said Section 3, Rule 2 of the RRCTA, but also of Section 2 of Republic Act (RA) No. 1125, as amended by RA No. 9503. Needless to state, the said law must be obeyed.

The Court *En Banc* cannot simply grant the plea that the procedural rules be relaxed based on the general averment of the interest of substantial justice. It should not be forgotten that the first and fundamental concern of the rules of procedure is to secure a just determination of every action. Procedural rules are designed to facilitate the adjudication of cases. Courts and litigants alike are enjoined to abide strictly by the rules.[1]

The liberal interpretation and application of rules apply only in proper cases of demonstrable merit and under justifiable causes and circumstances. While it is true that litigation is not a game of technicalities, it is equally true that every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.[2]

The bare invocation of "the interest of 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

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[1] *Toshiba Information Equipment (Phils.), Inc. vs. Commissioner of Internal Revenue*, G.R. No. 157594, March 9, 2010.

[2] Supra.

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with the decree of his thoughtlessness in not complying with the procedure prescribed.[3]

To reiterate, this Court finds no legal basis to deviate from its assailed ruling, as this was rendered in accordance with the procedural guidelines set forth not only under Section 3, Rule 2 of the Revised Rules of the Court of Tax Appeals (RRCTA), but also under Section 2 of Republic Act (RA) No. 1125, as amended by RA No. 9503.

WHEREFORE, in light of the foregoing considerations, the instant Motion *for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(I maintain my Dissenting Opinion)
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

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[3] *Lazaro, et al., vs. Court of Appeals, et al.*, G.R. No. 137761, April 6, 2000.