REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PROVINCIAL GOVERNMENT OF BOHOL (Bohol),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11138

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

JUN 2 2 2023

1:30 p.m.

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RESOLUTION

Before this Court is a **Petition for Review** filed on April 12, 2023 through registered mail and received by the Court on April 25, 2023.

Petitioner assails the Final Decision on Disputed Assessment (FDDA) issued by the Bureau of Internal Revenue, which denied petitioner's Protest, and assessed petitioner with deficiency taxes in the total amount of Php33,546,688.82.[1]

Petitioner alleges that, under Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, it may appeal the denial of the respondent within thirty (30) days from receipt of the said decision, which states:

> "SECTION 228. Protesting of Assessment. – x x x
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> "If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said

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[1] Docket, p. 1.

> decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable. (Emphasis Supplied)

In the instant petition, petitioner states that, it received the copy of the FDDA on March 8, 2023; thus, it has thirty (30) days from the said date or until April 7, 2023 within which to file its appeal to the Court of Tax Appeals (CTA),[2] pursuant to Section 11 of Republic Act 1125,[3] as amended by Republic Act No. 9282,[4] and Section 3 of Rule 8 of Revised Rules of the Court of Tax Appeals (RRCTA), which provide:

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by a decision**, ruling or inaction **of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
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> **Appeal 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** or in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon. A Division of the CTA shall hear the appeal: Provided, however, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case *en banc*.
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> xxx xxx xxx" *(Emphases Supplied.)*
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> **"RULE 8**
> **Procedure in Civil Cases**
>
> **xxx xxx xxx**
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> SECTION 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

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[2] *Id.*, 4.
[3] AN ACT CREATING THE COURT OF TAX APPEALS, June 16, 1954.
[4] 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, March 30, 2004.

> 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. *(Emphasis Supplied.)*

In computing time, Section 1 of Rule 22 of the 2019 Amendments to the 1997 Rules on Civil Procedure[5] provides:

> RULE 22
> Computation of Time
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> SECTION 1. *How to Compute Time.* — In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. **If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day**. *(Emphasis Supplied.)*

Applying the foregoing provisions, this Court agrees with petitioner that the last day within which to file the Petition for Review was on April 11, 2023. Considering that April 7, 2023 fell on a Good Friday, the next working day was on April 11, 2023.[6]

A perusal of the instant petition reveals that it was filed thru registered mail on April 12, 2023. The filing of the Petition for Review, therefore, is one (1) day late.

This 30-day period within which to file an appeal is jurisdictional and failure to comply therewith would bar the appeal and deprive the CTA of its jurisdiction to entertain and determine the correctness of the assessments.[7] Such period is not merely directory but mandatory and it is beyond the power of the courts to extend the same.[8]

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[5] A.M. NO. 19-10-20-SC, Supreme Court Resolution dated October 15, 2019 approving the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure (Effective May 1, 2020).
[6] April 8, 2023 is a Saturday, April 9, 2023 is Easter Sunday and April 10, 2023 is the Day of Valor, which is a national holiday.
[7] *Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.
[8] *Id.*

WHEREFORE, premises considered, the instant Petition for Review is **DISMISSED**, for being filed out of time.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice