

REPUBLIC OF THE PHILIPPINES  
COURT OF TAX APPEALS  
QUEZON CITY

EN BANC

RED FOX GROUP, INC., Duly  
represented herein by its  
Authorized Representative, Ms.  
Ria A. Sablon,

Petitioner,

- versus -

THE COMMISSIONER OF  
INTERNAL REVENUE (CIR),  
BUREAU OF INTERNAL  
REVENUE (BIR),

Respondents.

CTA EB NO. 2504  
(CTA Case No. 9752)

Present:

DEL ROSARIO, PJ,  
CASTAÑEDA, JR.,  
UY,  
RINGPIS-LIBAN,  
MANAHAN,  
BACORRO-VILLENA,  
MODESTO-SAN PEDRO,  
REYES-FAJARDO, and  
CUI-DAVID, JJ.

Promulgated:

JUN 16 2022

*4:10 pm*

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**RESOLUTION**

For resolution is petitioner's **MOTION FOR RECONSIDERATION** filed on November 17, 2021<sup>1</sup> via electronic mail, without respondent's comment despite due notice<sup>2</sup>, seeking the reconsideration of this Court's Resolution<sup>3</sup> dated October 14, 2021, the dispositive portion of which reads:

**"WHEREFORE**, in light of the foregoing considerations, the instant *Petition for Review under Rule 43* is hereby **DISMISSED** for lack of jurisdiction.

**SO ORDERED."**



<sup>1</sup> EB Docket, pp. 129 to 135; The hard copy of petitioner's *Motion for Reconsideration* was received by the Court on November 19, 2021, EB Docket, pp. 136 to 141.

<sup>2</sup> *Records Verification* dated April 5, 2022, EB Docket, p. 145

<sup>3</sup> EB Docket, pp. 122 to 128.

In its *Motion*, petitioner reiterates that the negligence of its counsel amounts to gross negligence, and thus should not bind petitioner. Allegedly, the mistake of its counsel is so blatant as to deprive petitioner of due process and its right to seek review of the deficiency tax assessment. Finally, petitioner pleads for judicial leniency from the Court in the name of substantial justice.

## THE COURT'S RULING

After careful examination and consideration of the instant *Motion*, it is noted that the arguments raised therein are mere reiteration of matters which have already been considered, weighed and resolved in the assailed Resolution.

It bears reiterating that as a general rule, a client is bound by the acts, even mistakes, of his counsel in the realm of procedural technique. There are exceptions to this rule, such as when the reckless or gross negligence of counsel deprives the client of due process of law, or when the application of the general rule results in the outright deprivation of one's property through a technicality.<sup>4</sup>

In this case, the Court *En Banc* finds that the mistake or negligence of petitioner's counsel in failing to file an appeal within the reglementary period as simple negligence and does not fall under the recognized exceptions to the general rule.

Further, it is worth noting that the right to appeal is not a natural right or 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 law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.<sup>5</sup> Thus, considering that petitioner's *Petition for Review* was filed out of time, this Court never acquired jurisdiction thereto. Having no jurisdiction over the present case, this Court cannot perform any action therefor except to dismiss the same.<sup>6</sup>

Finally, it must be stressed that the bare invocation of "the interest of substantial justice" is not a magic wand that will

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<sup>4</sup> *Estate of Felomina G. Macadangdang vs. Lucia Gaviola, et al.*, G.R. No. 156809, March 4, 2009.

<sup>5</sup> *Manila Mining Corporation vs. Lowito Amor, et al.*, G.R. No. 182800, April 20, 2015.

<sup>6</sup> *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

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.<sup>7</sup>

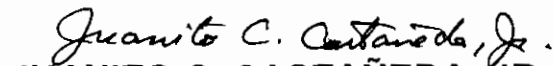
In fine, the Court *En Banc* finds no compelling reason to reconsider, modify or reverse the assailed Resolution.

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

**SO ORDERED.**



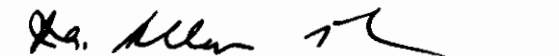
ROMAN G. DEL ROSARIO  
Presiding Justice



JUANITO C. CASTAÑEDA, JR.  
Associate Justice



ERLINDA P. UY  
Associate Justice

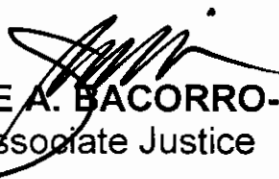


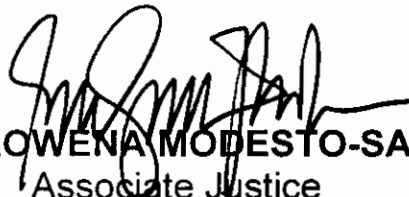
MA. BELEN M. RINGPIS-LIBAN  
Associate Justice

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<sup>7</sup> *Lazaro, et al. vs. Court of Appeals, et al., G.R. No. 137761, April 6, 2000.*

  
**CATHERINE T. MANAHAN**  
Associate Justice

  
**JEAN MARIE A. BACORRO-VILLENA**  
Associate Justice

  
**MARIA ROWENA MODESTO-SAN PEDRO**  
Associate Justice

  
**MARIAN IVY F. REYES-FAJARDO**  
Associate Justice

  
**LANEE S. CUI-DAVID**  
Associate Justice