REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

SNOWY OWL ENERGY INC.,
Petitioner,

CTA CASE NO. **9618**

Members:

- versus -

BACORRO-VILLENA, *Acting Chairperson*
CUI-DAVID, JJ.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
SEP 21 2022 4:19 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution are the following:

1. Respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) Motion for Reconsideration[1] (**MR**) on the Resolution dated 28 July 2021[2] (**Assailed Resolution**), filed *via* registered mail on 25 October 2021[3], with petitioner Snowy Owl Energy Inc.'s (**petitioner**'s/**SOEI**'s) Opposition[4] thereto filed on 25 November 2021; and,

2. Petitioner's "Motion to Release Bond"[5] (**Motion to Release**), filed *via* registered mail on 07 March 2022[6], with respondent's "Comment/Opposition"[7] thereto filed on 12 April 2022.

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1 Division Docket, Volume II, pp. 812-828, with annex.
2 Id., pp. 806-809.
3 Received by the Court on 05 November 2021.
4 Division Docket, Volume II, pp. 830-836.
5 Id., pp. 852-854.
6 Received by the Court on 15 March 2022.
7 Division Docket, Volume II, pp. 859-861.

In his MR[8] on the Assailed Resolution[9], respondent asks this Court to: (**1**) admit its MR[10] on the Court's 03 March 2021 Decision[11] (**Assailed Decision**); (**2**) cancel and set aside the Entry of Judgment[12] issued on 01 September 2021; (**3**) reverse the Assailed Decision; and, (**4**) dismiss the Petition for Review[13] for lack of jurisdiction.

Firstly, respondent argues that the filing of an MR[14] on the Assailed Decision[15] is the sole responsibility of the handling lawyer, *i.e.*, Atty. Juffali A. Abdullah (**Atty. Abdullah**). Citing Revenue Memorandum Circular (**RMC**) No. 25-2010[16], petitioner points out that, in cases appealed before the Court of Tax Appeals (**CTA**) Divisions, it is the Bureau of Internal Revenue (**BIR**) handling lawyer, who, as the lead lawyer, shall appear before the courts and prepare all pleadings, motions and other papers/documents in connection with the case. As such, only Atty. Abdullah can prepare the necessary pleadings and/or motions for the instant case.

Petitioner further claims that assuming *arguendo* that Atty. Abdullah is not the only lawyer who can file the necessary pleadings and/or motions, the responsibility for safekeeping the case documents and/or records and the indorsement thereof for transmittal nonetheless falls on the shoulders of Atty. Abdullah. Consequently, Atty. Abdullah could not transmit the pertinent case documents to another lawyer as he was then incapacitated to do so upon contracting the COVID-19 virus and being on quarantine from 09 March 2021 to 26 March 2021 (during which period the last day for filing an MR on the Assailed Decision fell, *i.e.*, on 23 March 2021).

Secondly, respondent contends that the resulting delay in the proceedings of the case can still be excused in the interest of substantial justice. Respondent reiterates that Atty. Abdullah had no opportunity to prepare the MR on the Assailed Decision within the required period as he was quarantined from 09 March 2021 to 26 March 2021. Such a situation allegedly merits the application of

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8 Supra at note 1.
9 Supra at note 2.
10 Id., pp. 786-792.
11 Id., pp. 765-780.
12 Certifying that the Court's 03 March 2021 Decision had already become final and executory on 24 March 2021, id., pp. 810-811, with cover letter.
13 Filed on 19 June 2017, id., Volume I, pp. 10-23.
14 Supra at note 10.
15 Supra at note 11.
16 *Publishing the Full Text of the Memorandum of Agreement between the Bureau of Internal Revenue (BIR) and the Office of the Solicitor General.*

the Supreme Court's rulings in *Development Bank of the Philippines v. The Honorable Court of Appeals, et al.*[17] and *Negros Slashers, Inc., et al. v. Alvin L. Teng*[18] on the relaxation of procedural rules to afford the parties the opportunity to fully ventilate their cases on the merits.

Respondent likewise cited various Supreme Court issuances[19], which he claims prevented Atty. Abdullah from filing the MR on the Assailed Decision in an earlier manner.

Lastly, respondent reiterates his contention that this Court has no jurisdiction over the instant case considering that the assessment had already become final, executory, and demandable for petitioner's failure to interpose a timely protest. Specifically, herein petitioner received the Formal Letter of Demand (**FLD**) with Assessment Notices[20] on **13 January 2017** but was able to file a protest[21] thereto only on **13 February 2017** (or 31 days thereafter).

Respondent further argues that no law, rule, regulation, or provision expressly states that when the deadline falls on a weekend, the taxpayer has until the next working day to file its protest. He thus claims that there is no basis for applying Section 1[22], Rule 22 of the Revised Rules of Court to extend the deadline for filing of the protest, *i.e.*, on **12 February 2017** (**Sunday**) reckoned from receipt of the FLD[23] on 13 January 2017, to the next business day, *i.e.*, on **13 February 2017** (**Monday**). On that note, the Court should have dismissed the instant Petition for Review[24] for lack of jurisdiction.

On the other hand, petitioner, in its Opposition, counter-argues that the Assailed Decision has attained finality on **24 March 2021**, when respondent failed to file an MR within fifteen (15) days from the latter's receipt of the Assailed Decision on 08 March 2021. According to petitioner, since respondent filed his "Motion to Admit Attached

17 G.R. No. 139034, 06 June 2001.
18 G.R. No. 187122, 22 February 2012.
19 Supreme Court Administrative Circular (AC) Nos. 14-2021, 15-2021, 21-2021, 22-2021, 29-2021 and 33-2021.
20 Exhibit "P-3", Division Docket, Volume I, pp. 25-33.
21 Exhibit "P-5", id., pp. 35-38.
22 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.
23 Supra at note 20.
24 Supra at note 13.

Motion for Reconsideration"[25] (**Motion to Admit MR**) only on **21 May 2021**[26], or **58 days** after the Assailed Decision attained finality and, upon the denial of the said Motion to Admit MR[27] *per* Assailed Resolution[28], an Entry of Judgment[29] was already issued on 01 September 2021, this Court should no longer entertain respondent's MR[30] on the Assailed Resolution.

Contrary to respondent's claim, petitioner remarks that the handling lawyer is not a sole practitioner but rather part of an organization that represents the government in tax cases. Further, respondent cannot rely on RMC No. 25-2010[31] as a plain reading thereof shows that it is an administrative matter issued among and for the benefit of revenue officers of the BIR and, as such, it cannot bind persons outside the BIR, much less this Court.

Petitioner also counter-argues that the delay in the filing of respondent's MR on the Assailed Decision cannot be excused. It maintains that Atty. Abdullah was not the only lawyer who could have prepared and filed the said MR as respondent is represented by the Office of the Solicitor General (**OSG**), which has a multitude of lawyers, and even the BIR has its own internal counsels. In fact, even the Motion to Admit MR[32] indicates Atty. Oscar A. Aguilar (**Atty. Aguilar**), Atty. Alvin N. Sto. Domingo (**Atty. Sto. Domingo**), Atty. Abdullah, and BIR-Revenue Region (**RR**) 7B (East NCR) Legal Division as the handling counsels for respondent.

Additionally, even if the Court disregards Atty. Abdulla's quarantine period in determining when the Assailed Decision attained finality, petitioner points out that respondent's Motion to Admit MR[33] was still filed only on **21 May 2021**, which is **56 days** after the last day of the said quarantine period, *i.e.*, **26 March 2021**.

As regards Administrative Circular (**AC**) No. 14-2021[34] issued by the Supreme Court on 28 March 2021, which respondent claims to

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25 Division Docket, Volume II, pp. 781-785, with Annex "A".
26 Received by the Court on 24 May 2021.
27 Supra at note 25.
28 Supra at note 2.
29 Supra at note 12.
30 Supra at note 1.
31 Supra at note 16.
32 Supra at note 25.
33 Supra at note 25.
34 EXTENSION OF FILING PERIODS FOR PLEADINGS/COURT SUBMISSIONS FOR COURTS IN THE NATIONAL CAPITAL JUDICIAL REGION AND NEARBY PROVINCES

have prevented Atty. Abdullah from timely filing the MR on the Assailed Decision, petitioner notes that such issuance only applies to pleadings and other court submissions that fell due **from 29 March 2021 to 31 March 2021**. Since the 15-day reglementary period for filing of an MR on the Assailed Decision lapsed on **23 March 2021** and the Assailed Decision thereby attained finality on **24 March 2021**, petitioner asserts that AC No. 14-2021[35], which was issued **four (4) days** thereafter, is no longer applicable to this case. And even assuming that AC No. 14-2021 is applicable, it extended the filing of pleadings only until **08 April 2021** and despite that respondent's Motion to Admit MR[36] would still be filed out of time on **21 May 2021**, which is **43 days** after 08 April 2021.

On the issue of jurisdiction, petitioner echoes this Court's ruling that since the last day to file a protest fell on a weekend, *i.e.*, on **12 February 2017 (Sunday)**, the protest was timely filed when it was filed on the next working day, *i.e.*, on **13 February 2017 (Monday)**. It also argues that respondent is estopped from invoking lack of jurisdiction especially since he has actively participated in the proceedings conducted before this Court.

Finally, petitioner contends that respondent can no longer disturb the Assailed Decision as it has already attained finality on 24 March 2021 and to entertain an MR thereto, filed 58 days after the said date of finality, would be prejudicial its right to due process of law.

In view of the finality of the Assailed Decision, petitioner, in its Motion to Release[37], asks this Court to issue an order for the release in its favor of the cash bond in the amount of ₱1,697,835.00, which it had earlier posted as a requirement for suspension of collection of taxes.

Conversely, respondent opposes the release of petitioner's cash bond as there are issues yet to be determined before the same may be released. As such, allowing the release of the cash bond at this juncture would jeopardize the interest of the government.

PLACED UNDER ENHANCED COMMUNITY QUARANTINE FROM MARCH 29 TO APRIL 4, 2021.

35 Supra at note 34.

36 Supra at note 25.

37 Supra at note 5.

We rule below.

After a careful consideration of the parties' arguments in their respective motions, this Court finds no merit in respondent's MR[38] on the Assailed Resolution[39] and it deems petitioner's Motion to Release[40] superfluous in view of the finality of the Assailed Decision and the wording of the dispositive portion thereof.

RESPONDENT'S MOTION FOR RECONSIDERATION (MR) OF THE COURT'S 28 JULY 2021 RESOLUTION IS UNMERITORIOUS.

We disagree with respondent's contention that the filing of an MR on the Assailed Decision is the sole responsibility of the handling lawyer, *i.e.*, Atty. Abdullah. For emphasis, We reiterate our disquisition in the Assailed Resolution[41], *viz*:

> ...
> **The records show that respondent is represented not only by Atty. Abdullah but also by the OSG and Attys. Oscar A. Aguilar and Alvin N. Sto. Domingo (from BIR-Revenue Region 7B).** Notwithstanding, respondent did not promptly avail of the remedies available to it. **He also did not proffer any explanation as to why the other lawyers representing him could not do what Atty. Abdullah could have done under the situation.**[42]
> ...

At this juncture, this Court reiterates that the 15-day period to file an MR under Section 1[43] of Rule 15 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) should be reckoned from receipt of the notice of the decision, resolution or order of the Court in question.

In this case, respondent ascribes his failure to file a timely MR on the Assailed Decision on the following circumstances: (**1**) Atty. Abdullah, the handling lawyer, contracted the COVID-19 virus and went on quarantine from 09 March 2021 to 26 March 2021; (**2**) Atty.

38 Supra at note 1.
39 Supra at note 2.
40 Supra at note 5.
41 Supra at note 2.
42 Emphases supplied.
43 Sec. 1. *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question.

Abdullah had no access to the records relative to the instant case; and, (**3**) Atty. Abdullah could not transmit such records to another lawyer as he was then incapacitated to do so.

The Court is not swayed by respondent's plea for a deviation from the application of the 15-day reglementary period for filing an MR.

Notably, the delay in the filing of an MR on the Assailed Decision on account of the aforementioned circumstances could have been avoided if Atty. Abdullah, by the exercise of due diligence, promptly delegated the preparation and filing thereof to the other lawyers handling the instant case for respondent. Such diligence is expected of all lawyers notwithstanding the challenges brought about by the pandemic. It is incumbent upon him to ensure the continuity of work processes in his office during the implementation of community lockdowns and work-from-home arrangement. In view of Atty. Abdullah's negligence in promptly delegating his responsibilities to the other lawyers representing respondent to allow for the timely filing of an MR on the Assailed Decision, the Court finds no cogent reason to set aside the Assailed Resolution.[44]

As correctly argued by petitioner, the various Supreme Court issuances, starting with AC No. 14-2021[45], could not have prevented Atty. Abdullah from timely filing the MR on the Assailed Decision as AC No. 14-2021 was issued only on **28 March 2021** or **four (4) days** after the finality of the Assailed Decision (*i.e.*, on **24 March 2021**), which transpired immediately after the lapse of the 15-day reglementary period for filing of an MR on the Assailed Decision (*i.e.*, on **23 March 2021**). Aside from that, AC No. 14-2021 expressly provides that it only applies to pleadings and other court submissions that fell due **from 29 March 2021 to 31 March 2021**. Clearly, the said circular does not cover respondent's MR on the Assailed Decision which fell due on 23 March 2021.

Thus, respondent's failure to advance meritorious reasons to support his plea of relaxation of the subject rule will not suffice to override a stringent implementation of the rules. At this juncture, We stress that "[p]rocedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party's substantive rights. Like all rules, they are required to be followed

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44 Supra at note 2.
45 Supra at note 34.

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".[46]

Unfortunately for respondent, by belatedly filing his Motion to Admit[47] (with attached MR[48] on the Assailed Decision[49]), the Assailed Decision already attained finality. Thus, by virtue of the doctrine of immutability and inalterability of a final judgment, the Assailed Decision can no longer be reviewed nor modified, in any respect, even if it is meant to correct an erroneous conclusion of law and facts.[50]

Nevertheless, even assuming *arguendo* that there is sufficient reason to relax the rules of procedure to admit respondent's MR on the Assailed Decision, the said MR would still be denied for lack of merit.

Respondent's MR is anchored solely on the ground that the Court has no jurisdiction over the instant case since petitioner's protest[51] to the FLD[52] was filed out of time. In this regard, respondent insists that Section 1[53], Rule 22 of the Revised Rules of Court cannot be applied to extend the deadline for filing of the protest, *i.e.*, on **12 February 2017** (**Sunday**) reckoned from receipt of the FLD on 13 January 2017, to the next business day, *i.e.*, on **13 February 2017** (**Monday**).

We disagree.

While it is true that there is no law, rule, regulation, or provision specifically allowing the filing of a protest on the next working day when the deadline falls on a weekend, there is, however, a general provision of similar import under Section 28, Chapter VII, Book I of the Administrative Code of 1987, *viz*:

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[46] *People of the Philippines v. Maria Cristina P. Sergio, et al.*, G.R. No. 240053, 09 October 2019, citing the cases of *Philippine Savings Bank v. Josephine L. Papa*, G.R. No. 200469, 15 January 2018, citing *Gabriel Lazaro, et al. v. Court of Appeals, et al.*, G.R. No. 137761, 06 April 2000.
[47] Supra at note 25.
[48] Supra at note 10.
[49] Supra at note 11.
[50] *See People of the Philippines v. Benedicta Mallari, et al.*, G.R. No. 197164, 04 December 2019.
[51] Supra at note 21.
[52] Supra at note 20.
[53] Supra at note 22.

> ...
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> Sec. 28. *Pretermission of Holiday.* — Where the day, or the last day, for doing any act required or permitted by law falls on a regular holiday or special day, the act may be done on the next succeeding business day.
>
> ...

The reason for this injunction is that, as a rule, public and private offices are closed for the transaction of business on Sundays and holidays, and to include these days in the computation of the requisite period would in effect result in the corresponding shortening of the period without any fault on the part of the party required or permitted to make full use thereof. On the other hand, the resulting lengthening or extension of the period is more apparent than real because, generally, no one is supposed to transact any business on Sundays or holidays.[54]

Applying the foregoing, which is consistent with Section 1[55], Rule 22 of the Revised Rules of Court, We sustain our ruling in the Assailed Decision[56] that petitioner's protest[57] to the FLD[58] was not filed out of time. As earlier stated, petitioner received its copy of the FLD on **13 January 2017**. Counting thirty (30) days therefrom, which is the prescriptive period for filing a protest under Section 228[59] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, the last day for filing the protest fell on **12 February 2017**, a Sunday. Thus, under the rule on pretermission of holiday, petitioner could validly file its protest on **13 February 2017**, the next business day, and this was what petitioner actually did.

Since petitioner's protest[60] to the FLD[61] was timely filed, respondent's assessment has not yet become final, executory and

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54 *Emilio L. Galang v. The Workmen's Compensation Commission, et al.*, G.R. No. L-33928, 29 March 1972.

55 Supra at note 22.

56 Supra at note 11.

57 Supra at note 21.

58 Supra at note 20.

59 **SEC. 228**. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings...

...

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final. (Emphasis supplied.)

60 Supra at note 21.

61 Supra at note 20.

demandable at the time the Petition for Review[62] was filed. Accordingly, the assessment against petitioner remained a disputed one and this Court has exclusive appellate jurisdiction to review the same under Section 7(a)(1)[63] of Republic Act (**RA**) No. 1125[64], as amended.

PETITIONER'S MOTION TO RELEASE CASH BOND IS SUPERFLUOUS.

The dispositive portion of the Assailed Decision[65] reads:

> ...
>
> **WHEREFORE**, with the foregoing, the instant Petition for Review filed by petitioner Snowy Owl Energy, Inc. is hereby **GRANTED**. The assessment for deficiency income tax, final withholding tax and compromise penalty in relation to the sub-consultant fees for taxable year 2013 is hereby **CANCELLED** and **SET ASIDE**. <u>Accordingly, the cash bond posted in the amount of ₱1,697,835.00 is **ORDERED** released, subject to the usual accounting procedure</u>.
>
> Further, respondent Commissioner of Internal Revenue or any person acting on his behalf is **ENJOINED** from enforcing collection with respect to the assessment for taxable year 2013 embodied in the Formal Letter of Demand dated 13 January 2017 and Decision dated 08 May 2017 in the amount of ₱2,953,740.90.[66]
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> ...

Having earlier established the finality of the Assailed Decision[67] as of 24 March 2021 for respondent's failure to timely file an MR, and since an Entry of Judgment[68], recording the Assailed Decision as final and executory, was already issued on 01 September 2021, petitioner's subsequent Motion to Release[69] becomes superfluous.

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62 Supra at note 13.

63 **Sec.** 7. *Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments**, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.] (Emphasis supplied.)

64 AN ACT CREATING THE COURT OF TAX APPEALS.

65 Supra at note 11.

66 Citation omitted and underscoring supplied.

67 Supra at note 11.

68 Supra at note 12.

69 Supra at note 5.

WHEREFORE, premises considered, respondent's Motion for Reconsideration of the Resolution dated 28 July 2021, filed on 25 October 2021, is hereby **DENIED** for lack of merit.

As previously ordered in the Decision dated 03 March 2021, which is already final and executory, the cash bond posted in the amount of ₱1,697,835.00 is **ORDERED** released, subject to the usual accounting procedure. Thus, for being superfluous, petitioner's Motion to Release Bond, filed on 07 March 2022, is merely **NOTED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice