REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SPECIAL SECOND DIVISION

AIG SHARED SERVICES CORPORATION (PHILIPPINES), Petitioner,	CTA CASE NO. 9879
	Members:
- versus -	**BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: ~~AUG 29 2023~~ 4:15 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is the "Motion for Reconsideration (Re: Resolution dated 28 April 2023)"[1] (**MR**) filed by respondent Commissioner of Internal Revenue (**respondent/CIR**) on 18 May 2023, with "Comment [on Respondent's Motion for Reconsideration dated May 17, 2023]"[2] (**Comment**) filed by petitioner AIG Shared Services Corporation (Philippines) (**petitioner/AIG**) on 13 June 2023.

The MR seeks the reversal of the Resolution dated 28 April 2023[3] (**assailed Resolution**) dismissing respondent's Petition for Relief from Judgment for being filed out of time.

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[1] Division Docket, Volume IV, pp. 2004-2024.
[2] Id., pp. 2028-2053.
[3] Id., pp. 1995-2001.

In the MR, respondent avers that he or she received the Entry of Judgment (dated 25 January 2023) on 30 January 2023 and had until 31 March 2023 to file the petition, in compliance with the sixty (60)-day period in Section 3[4], Rule 38 of the Rules of Court, as amended. Anent the second period of six (6) months, respondent claims that as of 29 November 2022, the Decision dated 26 October 2021 was not yet entered hence, the correct reckoning point for the counting of the 6-month period should have been on 25 January 2023 (or the date of Entry of Judgment). Respondent submits that since the Petition for Relief from Judgment was filed on 31 March 2023, the same was thus timely filed.

Respondent also posits that the previous handling lawyer, Atty. Marionn Phillbee Tejada (**Atty. Tejada**), had already failed to report to work even prior to May 2022; hence, the latter's inability to handle the case (or his failure to inform respondent of the case status) warrants the relief sought. Although there are other lawyers assigned in this case, respondent contends that it was Atty. Tejada who had the chief responsibility over matters relating to the case. Respondent then insists that since he or she has no participatory negligence in losing the right to appeal, he or she should not be deprived of due process solely because of Atty. Tejada's "excusable negligence". Citing the case of *Commissioner of Internal Revenue v. Court of Appeals, et al.*[5] (**CA**), respondent states that the government, especially in matters involving taxation, is not bound by the mistakes of its agents.

Lastly, respondent adds that there are also valid grounds to deny petitioner's claim for refund and the Court should not strictly apply the technical rules and afford it the opportunity to establish the merits of the case in the interest of substantial justice.

In its Comment, petitioner declares that respondent should have adopted a more effective mechanism to monitor the progress of the cases and ensure proper turnover among his or her counsels. In addition, petitioner argues that Atty. Tejada's lapses do not constitute "excusable negligence". Besides, respondent was afforded opportunities to raise his or her issues on several occasions (*e.g.*, after receipt of the: (1) Decision dated 26 October 2021; (2) petitioner's "Omnibus Motion 1. for Partial Reconsideration of Decision dated October 26, 2021 2. For

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[4] SEC. 3. *Time for Filing Petition; Contents and Verification.*
[5] G.R. No. 106611, 21 July 1994.

New Trial" (**Omnibus Motion**); (3) Resolution dated 13 December 2021 requiring respondent to comment on the Omnibus Motion; (4) Resolution dated 25 March 2022 submitting the Omnibus Motion for resolution; (5) Resolution dated 21 July 2022 denying the Omnibus Motion; and, (6) Resolution dated 28 November 2022 ordering the issuance of Entry of Judgment). However, he or she still failed to do so. According to petitioner, respondent was already well-aware of Atty. Tejada's persistent failure to report for work, thus, ordinary diligence and prudence should have already prompted him or her to remedy the situation.

As to the time of filing the Petition for Relief from Judgment, petitioner finds no error in the Court's ruling that respondent failed to observe the "double period" requirement under Rule 38 of the Rules of Court, as amended. Petitioner adds that the *CA* case is inapplicable since its factual milieu is substantially different in the instant case.

We resolve.

After considering the parties' arguments, We find no compelling evidence to abandon Our earlier ruling.

At the onset, most of respondent's arguments are mere rehash of those already raised and passed upon in the assailed Resolution denying the Petition for Relief from Judgment. In the case of *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*[6], the Supreme Court declared:

> ...
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> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, **does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards be issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant**; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. **It suffices for the Court to deal generally and**

[6] G.R. No. 109645 (Resolution), 04 March 1996; Emphasis supplied.

> **summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution);** ***i.e.*****, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment**, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.
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> ...

PETITION FOR RELIEF FROM JUDGMENT WAS NOT TIMELY FILED.

We maintain that the Petition for Relief from Judgment was belatedly filed.

For emphasis, We reiterate Section 3, Rule 38 of the Rules of Court, as amended, where it expressly provides that a Petition for Relief from Judgment must be filed within 60 days after petitioner learns of the judgement **and** not more than 6 months after such judgment was entered, to wit:

> ...
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> SEC. 3. *Time for Filing Petition; Contents and Verification.* – A petition provided for in either of the preceding sections of this Rule must be verified, filed within sixty (60) days after the petitioner learns of the judgment, final order, or other proceeding to be set aside, and not more than six (6) months after such judgment or final order was entered, or such proceeding was taken; and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.
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> ...

Respondent vehemently insists that as of 29 November 2022, the Decision dated 26 October 2021 has yet to be entered in the books of judgment, thus the filing of the petition on 31 March 2023 was compliant with the 6-month period.

The Court does not agree.

Clearly, Section 2[7], Rule 36 of the Rules of Court, as amended, states that the *date of finality of the judgment or final order shall be deemed to be the date of its entry*. In *Juliet Vitug Madarang, et al. v. Spouses Jesus D. Morales, et al.*[8], the Supreme Court already held that **the period counted from the finality of judgment or final order is the 6-month period.**

As held in the assailed Resolution, respondent only had <u>until 15 February 2023</u> to file the petition to comply with the prescribed 6-month period:

> ...
>
> Here, it did not escape the Court's attention that respondent merely mentioned the 60-day period from notice of the judgment in invoking the timeliness of the filing of the instant Petition from Relief from Judgment. Respondent remained silent as to the other period to be complied with. It is, however, a matter of record that he or she failed to conform therewith.
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> **Records show further that the 26 October 2021 Decision was entered on 19 August 2022. Accordingly, petitioner has six (6) months therefrom, or until <u>15 February 2023</u>, within which to file the instant petition. However, petitioner filed the instant petition only on <u>31 March 2023</u>.**
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> Notably, respondent allegedly learned of the 26 October 2021 Decision only when he or she received the notice of the Entry of Judgment on 30 January 2023. Assuming for the sake of argument that the same is true, the 6-month period at that time has not yet lapsed as the same expired only on 15 February 2023. **However, respondent opted to exhaust the entire 60-day period before filing the instant petition when he or she could have filed the same prior to the lapse of the 6-month period ending on 15 February 2023, or sometime between 30 January 2023 (when it supposedly learned of the 26 October 2021 Decision) up to 15 February 2023.** By exhausting the entire 60-day period while disregarding the 6-month period, respondent's instant petition is now time barred.

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7 SEC. 2. *Entry of Judgments and Final Orders.* – If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments. The date of finality of the judgment or final order shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment or final order and shall be signed by the clerk, with a certificate that such judgment or final order has become final and executory.

8 G.R. No. 199283, 09 June 2014.

> Thus, pursuant to the above-mentioned case, the Court may dismiss the instant petition outright for failing to comply with the double period required under Section 3, Rule 38 of the Rules of Court.[9]
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> ...

Parties are reminded that strict compliance with these periods is required because provision for a petition for relief from judgment is a final act of liberality on the part of the State, which remedy cannot be allowed to erode any further the fundamental principle that a judgment, order or proceeding must, at some definite time, attain finality in order at last to put an end to litigation.[10] Hence, respondent's failure to timely file the petition for relief from judgment within the reglementary period warrants the outright dismissal thereof.

THE OMISSION OF RESPONDENT'S COUNSEL DOES NOT CONSTITUTE EXCUSABLE NEGLIGENCE.

Again, Atty. Tejada's lapses do not amount to "excusable negligence".

In the case of *Insular Life Savings and Trust Company v. Spouses Felix Mateo Runes, Jr., et al.*[11], the Supreme Court emphasized that clients are bound by the mistakes not only of the handling lawyer but also of the counsel of record (usually a firm or an office):

> ...
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> In this case, it is undisputed that the petitioner's notice of appeal was filed out of time and the denial of its petition for relief from judgment by the RTC was upon its finding that the ground relied upon by the petitioner was not within the contemplation of Rule 38 of the 1997 Rules of Court. The petitioner anchored its petition for relief from judgment on Atty. Rodriguez-Ganitano's "excusable negligence." At the time, Atty. Rodriguez-Ganitano was distraught on account of her father's death and had to attend to several family matters resulting in her failure to seasonably appeal and pay the required appellate docket and other legal fees.

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9 Supra at note 3, pp. 1998-1999; Emphasis supplied; underscoring in the original text.
10 *Edwin Gesulgon v. National Labor Relations Commission, et al.*, G.R. No. 90349, 05 March 1993.
11 G.R. No. 152530, 12 August 2004; Citations omitted and emphasis supplied.

> Unfortunately for the petitioner, **negligence, to be "excusable," must be one which ordinary diligence and prudence could not have guarded against. Atty. Rodriguez-Ganitano's omission could hardly be characterized as excusable, much less unavoidable. As correctly pointed out by the CA, the petitioner's counsel of record at the proceedings in the RTC was the Bihis Law Offices, of which Atty. Rodriguez-Ganitano was an associate. When she was indisposed, any one of the partners or associates of the Bihis Law Offices should have filed the notice of appeal as well as paid the appellate docket and other legal fees on time. The failure of the Bihis Law Offices to do so binds the petitioner. It is settled that clients are bound by the mistakes, negligence and omission of their counsel. While, exceptionally, the client may be excused from the failure of counsel, the circumstances obtaining in the present case, as earlier discussed, do not convince this Court to take exception.**
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> ...

Applying the foregoing and as pointed out in the assailed Resolution, the instant case is or was not being handled by Atty. Tejada alone. The case records bear that other lawyers, namely: Attys. Felix Paul R. Velasco III, Sylvia R. Alma Jose and Ayesha Hania B. Guiling-Matanog are his co-counsels. Thus, if respondent was indeed aware of Atty. Tejada's frequent absences prior to May 2022, then he or she should have advised the co-counsels to monitor and assume the handling of the case.

Verily, relief cannot be granted on the flimsy excuse that the failure to appeal was due to the neglect of respondent's counsel. Otherwise, all that a defeated party would have to do to salvage his or her case would be to claim neglect or mistake on the part of the counsel as a ground for reversing the adverse judgment and there would then be no end to litigation as every shortcoming of counsel could be the subject of challenge by his or her client through another counsel who, if he or she was also found wanting, could be disowned by the same client through another counsel, and so on *ad infinitum*, thereby rendering the court proceedings indefinite.[12]

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12 *PhilHouse Development Corporation and/or Sps. Jovenal and Celia Toring v. Consolidated Orix Leasing & Finance Corporation*, G.R. No. 135287, 04 April 2001.

WHEREFORE, premises considered, the "Motion for Reconsideration (Re: Resolution dated 28 April 2023)" filed by respondent Commissioner of Internal Revenue on 18 May 2023 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
Associate Justice