REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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NUEVA ECIJA I ELECTRIC COOPERATIVE, INC. (NEECO I),
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2187
(CTA Case No. 9563)

Present:

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

Promulgated:

JUN 23 2022 11:40am

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RESOLUTION

UY, J.:

For resolution is petitioner's ***MOTION FOR RECONSIDERATION*** filed on November 29, 2021,[1] without respondent's comment despite due notice as per Records Verification Report dated March 9, 2022 issued by Records Officer Leocadia D. Victoria of the Judicial Records Division of this Court.[2]

In the said *Motion*, respondent prays that the Court *En Banc*'s Decision promulgated on September 21, 2021, be reversed and set aside, the dispositive portion of which reads:

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[1] EB Docket, pp. 204 to 250

[2] EB Docket, p. 255.

"**WHEREFORE**, in light of the foregoing considerations, the *Petition for Review* is **DISMISSED** for lack of jurisdiction. Accordingly, the assailed Decision dated July 23, 2019 and Resolution dated October 24, 2019, both rendered by the Court in Division in CTA Case No. 9563 are **AFFIRMED**.

SO ORDERED."

Petitioner's arguments:

In its *Motion for Reconsideration*, petitioner argues that the assailed Decision violated its constitutional right to due process as it is clear from the records, that there was a defect in the manner by which the Court a quo served a copy of the Decision dated July 23, 2019.

According to petitioner, Section 9, Rule 13 of the Rules of Court requires that judgments should be served either personally or by registered mail. In this case, the Decision dated July 23, 2019 was served by private courier and was handed to a person who is neither an agent of petitioner nor a person authorized to receive court processes on its behalf.

Further, petitioner argues that the Court in Division improperly applied the *Lascona Land Co. vs. Commissioner of Internal Revenue*[3] *(Lascona case).* Petitioner submits that practicality and equity require that petitioner be entitled to a fresh period of one hundred eighty (180) days from the filing of the appeal to elevate the decision to the respondent.

Lastly, petitioner asserts that the assailed income tax assessment issued against petitioner is void ab initio as it is contrary to law.

THE COURT *EN BANC'S* RULING

After a careful evaluation of petitioner's arguments in its motion, the Court *En Banc* finds that there are no novel issues raised that

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[3] G.R. No. 171251, March 5, 2012.

would warrant the reversal of the Decision dated September 21, 2021. The arguments raised therein have already been sufficiently passed upon and discussed in the assailed Decision.

Nevertheless, the contention of petitioner that it was deprived of due process of law is devoid of merit.

We maintain that based on the records of this case, it is clear that a copy of the July 23, 2019 Decision of the Court in Division, though sent through LBC courier, was received on July 26, 2019. While petitioner insists that a copy of the said Decision by the Court in Division was allegedly received by petitioner's counsel only on July, 30, 2019, We find no sufficient proof to establish that petitioner's counsel indeed received a copy of the said Decision of the Court in Division on July 30, 2019.

On the contrary, petitioner admits that by mistake the copy of the said decision was received on July 26, 2019 by a certain "Jen".[4] Said recipient apparently knew petitioner's counsel or the office of petitioner's counsel as the said decision was thereafter forwarded to the latter on July 30, 2019.

Thus, the receipt on July 26, 2019 based on the records is deemed the receipt of the copy of the Decision dated July 23, 2019 by petitioner's counsel.

In *Ligaya Mendoza, et al., v. The Honorable Court of Appeals (Eight Division), et al.,*[5] citing *Balgami v. Court of Appeals,*[6] the Supreme Court's pronouncement regarding the need to devise a system to ensure that official communications from the courts are timely and promptly received is instructive, to wit:

> " x x x. In *Balgami v. Court of Appeals*, the Court instructed the counsels to devi[s]e a system to ensure that official communications would be promptly received by them, lest, they will be chargeable with negligence, thus:
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> x x x. **The law office is mandated to adopt and arrange matters in order to ensure that official or**

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[4] Par. 37, Petition for Review, EB Docket, p.9.
[5] G.R. No. 182814, July 15, 2015.
[6] 487 Phil. 1012, 113 (2004)

> **judicial communications sent by mail would reach the lawyer assigned to the case.** The court has time and again emphasized that the negligence of the clerks, which adversely affect the cases handled by lawyers, is binding upon the latter. The doctrinal rule is that negligence of the counsel binds the client, because otherwise, there would never be an end to a suit so long as new counsel could be employed who could allege and [prove] that prior counsel had not been sufficiently diligent, or experienced, or learned."

To reiterate, having received the assailed Decision on July 26, 2019, petitioner had fifteen (15) days therefrom, or until August 10, 2019 (Saturday), to file its motion for reconsideration. Since August 12, 2019 (Monday) was declared a non-working holiday, petitioner had until August 13, 2019 (Tuesday), the next working day, to file its motion for reconsideration before the Court in Division. However, petitioner filed its Motion for Reconsideration before the Court in Division on August 14, 2019 by registered mail. Thus, the motion was filed out of time. Consequently, as correctly ruled by the Court in Division, the assailed Decision dated July 23, 2019 and Resolution dated October 24, 2019 have become final and executory.

It is important to bear in mind that a judgment becomes final by operation of law.[7] The finality of a decision becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or no motion for reconsideration or new trial is filed. The Court need not even pronounce the finality of the decision as the same becomes final by operation of law.[8] A decision that has acquired finality becomes immutable and unalterable. A final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land.[9]

Anent petitioner's argument that the 180-day period should be reckoned from the filing of the request for reconsideration before respondent Commissioner of Internal Revenue (CIR), which effectively entitles petitioner to a fresh period of 180 days and that the *Lascona* case is not applicable to the present case, the same deserves scant consideration.

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[7] *Spouses Poblete v. Banco Flipino Savings and Mortgage Bank et al.,* G.R. No. 228620, June 15, 2020.
[8] *Disuanco et. al., v. Villafuerte*, G.R. No. 247391, July 13, 2021.
[9] *Collantes v. Hon. Court of Appeals,* G.R. No. 169604, March 6, 2007.

It must be stressed that the 180-day period referred to in Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, is confined only to the period within which either the Commissioner of Internal Revenue (CIR) or his/her duly authorized representative may act on the initial protest against the Final Assessment Notice (FAN). If the taxpayer opts to appeal to the CIR the final decision of the latter's duly authorized representative, the taxpayer's remaining option is to await for the CIR's decision before it can elevate the case to the Court of Tax Appeals (CTA). In other words, upon filing of an administrative appeal, the concerned taxpayer is not given a fresh or separate 180-day period.

Even Revenue Regulations (RR) Nos. 12-99 and 18-2013 does not provide for a fresh or separate 180-day period for the CIR to decide the appealed decision of the latter's duly authorized representative. A plain reading of said RRs clearly reveal that there is only one (1) 180-day period to speak of.

Again, in this case, the 180-day period commenced on May 24, 2016, the date when the original protest of petitioner-taxpayer against the Formal Letter of Demand and FANs was filed. Counting thereon, the 180-day period ended on November 20, 2016 and petitioner had thirty (30) days from November 20, 2016 to file an appeal with the CTA or until December 20, 2016. When petitioner filed its Petition for Review in CTA Case No. 9563 on April 3, 2017, it was clearly beyond the reglementary period. Correspondingly, the Court in Division cannot exercise jurisdiction over the said case.

Finding no valid or cogent reason to overturn our findings and conclusions, the Court *En Banc* maintains its ruling in the Decision dated September 21, 2021.

WHEREFORE, petitioner's *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

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

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice