

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

NEW YORK BAY PHILIPPINES, CTA CASE NO. 9022
INC.,

Petitioner, Members:

- versus -

FABON-VICTORINO, *and*
RINGPIS-LIBAN, JJ.

Promulgated:

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

OCT 02 2018

cm 3:28 p.m.

X- - - - - X

RESOLUTION

Fabon-Victorino, J.:

In his Motion for Reconsideration filed on August 6, 2018, respondent prays to reverse the Resolution dated July 19, 2018 which granted petitioner's Omnibus Motion: 1) For reconsideration of the Resolution dated May 10, 2018; and 2) Defer the Filing of Comment to Respondent's Motion for Reconsideration.

Respondent admits that he belatedly filed his Motion for Reconsideration of the Decision dated March 26, 2018, however, he argues that he did not merely invoke substantial justice but also provided factual and legal bases in support thereof. He explains that the delay in filing his Motion for Reconsideration was brought about by the fact that his counsel suffered from lower back pain secondary to herniated and desiccated discs and due to heavy workload. Respondent invokes interest of justice and leniency on the part of the Court.

On the other hand, petitioner avers that, as found by the Court, the reasons cited by respondent for his failure to ✓

timely file his Motion for Reconsideration do not merit the relaxation of the rules of procedure. As provided under Section 1 of Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA), a motion for reconsideration must be filed within 15 days from receipt of the decision, resolution or order of the Court. There is no dispute that respondent failed to timely file his Motion for Reconsideration to the Court's Decision of March 26, 2018. Likewise, there exists no justifiable reasons to relax the rules of procedure in this case. Finally, the right to appeal is a statutory right and strict adherence with its requirements is necessary for the orderly and speedy disposition of cases.

Section 1 of Rule 52 of the Rules of Court is clear - a party may file a motion for reconsideration of a judgment or final resolution within 15 days from notice thereof, with proof of service on the adverse party. Corollarily, Section 1 of Rule 15 of the RRCTA provides that any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing a motion for reconsideration or new trial within fifteen days from the date of receipt of notice of the decision, resolution or order of the Court in question.

Admittedly, respondent belatedly filed his Motion for Reconsideration of the assailed Decision of March 26, 2018 on April 25, 2018. Moreover, respondent failed to give sufficient ground to justify the requested leniency in the application of the Rules. It was through his own fault and inattention to his case, that he lost the opportunity to avail of the adequate remedy under the rules.

Further, his allegation that his counsel fell ill is also not supported by any evidence, i.e. results of X-ray or an MIR. Also, as held in the assailed Resolution, heavy workload is by no means excusable¹, lest there would be no end to litigation² as it will be invoked by any law practitioner who failed to meet his deadline.

¹ *Land Bank of the Philippines v. Natividad*, 458 SCRA 441 [2005].

² *LTS Philippine Corporation v. Maliwat*, 448 SCRA 254, 259-260 [2005], citing *Sublay v. National Labor Relations Commission*, 324 SCRA 188 [2000]).

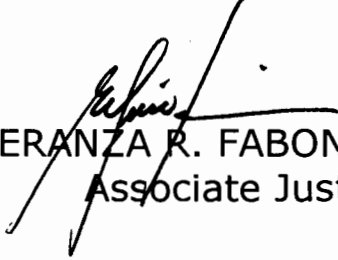


It should be emphasized that the resort to a liberal application, or suspension of the application of procedural rules, must remain as the exception to the well-settled principle that rules must be complied with for the orderly administration of justice. As held in *Marohomsalic v. Cole*³, [w]hile procedural rules may be relaxed in the interest of justice, it is well-settled that these are tools designed to facilitate the adjudication of cases. The relaxation of procedural rules in the interest of justice was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances. While litigation is not a game of technicalities, every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice.

Finally, [t]he right to appeal is not a natural right or 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. Thus, one who seeks to avail of the right to appeal must strictly comply with the requirements of the rules, and failure to do so leads to the loss of the right to appeal.⁴

WHEREFORE, respondent's Motion for Reconsideration (Re: Resolution dated July 19, 2018) filed on August 6, 2018, is hereby **DENIED** for lack of merit.

SO ORDERED.


ESPERANZA R. FABON-VICTORINO
Associate Justice

³ G.R. No. 169918, February 27, 2008, 547 SCRA 98.

⁴ *Heirs of Teofilo Gaudiano v. Benemerito*, G.R. No. 174247, February 21, 2007, 516 SCRA 420, 424.

I Concur:

*Ma. Belen S. *

MA. BELEN M. RINGPIS-LIBAN
Associate Justice