Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

SCICINDUSTRIAL CORP.,
Petitioner,

-versus-

BUREAU OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9616

Members:
DEL ROSARIO, Chairperson.
UY, and
MINDARO-GRULLA, JJ.

Promulgated:
JUL 17 2017 3:03 pm

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RESOLUTION

MINDARO-GRULLA, J.:

On June 16, 2017, the Court received a Petition through registered mail dated June 7, 2017.

Thereafter, on June 20, 2017, the Court received a Manifestation claiming that on June 14, 2017, petitioner attempted that its petition be assessed for the payment of the appropriate filing fees; that they were ready, willing and able to file the docket fees; and that they have tendered the same but due to the refusal of the clerks to assess and receive the said docket fees, the docket fees have not been paid. The docket fees were paid only on June 16, 2017.

In the petition, petitioner claims that it received a Formal Assessment Notice dated January 23, 2017 and protested the same on February 23, 2017. Subsequently, petitioner received on May 15, 2017 the letter denying its protest.

Pursuant to Section 228 of the NIRC, as amended, a taxpayer has thirty (30) days from receipt of the adverse decision, within which to appeal to this Court the denial of its protest, otherwise, the decision shall become final, executory and demandable, to wit:

SEC. 228. Protesting of Assessment. – xxx xxx xxx.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Likewise, under Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals, a taxpayer has thirty (30) days after receipt of a copy of a decision or ruling to perfect an appeal before this Court, to wit:

SEC. 3. Who may appeal; period to file petition. –

(a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. xxx.

Concomitantly, the thirty (30) day period is not merely directory but mandatory and it is beyond the power of the Court to extend the same.[1] It is basic rule that the30-day period within which to file an appeal is jurisdictional and failure to comply therewith bars the appeal and deprives the Court of jurisdiction to entertain and determine the correctness of the assailed assessments, orders or decision of the Commissioner of Internal Revenue on disputed assessments.[2]

In addition to the thirty (30) day period requirement, Section 1, Rule 42 of the 1997 of the Rules of Civil

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[1] RCBC vs. CIR, G.R. No. 168498, April 24, 2007
[2] Ibid.

Procedure, under which Rule the instant case was instituted, pursuant to Section 4, Rule 8, in relation to Section 1, Rule 7 of the Revised Rules of the Court of Tax Appeals[3], the docket and other lawful fees must be paid within the period for taking an appeal. To wit:

> *"Sec. 1. How appeal taken; time for filing. - A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of P500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension / shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.*

Evidently, the payment of docket fees within the prescribed period is mandatory for the perfection of the appeal. Without such payment, the appellate court does not

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3 **RULE 7**
PROCEDURE IN THE COURT OF TAX APPEALS
SECTION 1. *Applicability of the Rules of the Court of Appeals, exception.* – The procedure in the Court en banc or in Divisions in original and in appealed cases shall be the same as those in petitions for review and appeals before the Court of Appeals pursuant to the applicable provisions of Rules 42, 43, 44 and 46 of the Rules of Court, except as otherwise provided for in these Rules.

RULE 8
PROCEDURE IN CIVIL CASES
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SEC. 4. *Where to appeal; mode of appeal.* – (a) An appeal from a decision or ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claim for refund of internal revenue taxes erroneously or illegally collected, the decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade & Industry, the Secretary of Agriculture, and the Regional Trial Court in the exercise of their original jurisdiction, shall be taken to the Court by filing before it a petition for review as provided in Rule 42 of the Rules of Court. The Court in Division shall act on the appeal. xxxx.

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acquire jurisdiction over the subject matter of the action and the decision sought to be appealed from becomes final and executory.[4] In the case at hand, petitioner received on May 15, 2017 the letter denying its protest. Thus, petitioner had until June 14, 2017 to perfect its appeal. While petitioner posted via registered mail its petition on June 7, 2017, there was no postal money order attached to cover the docket fees. In the absence thereof, petitioner failed to perfect its appeal. Petitioner only paid the docket fees on June 16, 2017 which is outside the period to appeal.

Moreover, petitioner's excuses for non-payment of the docket fees- that it attempted that its petition be assessed for the payment of the appropriate filing fees; that they were ready, willing and able to file the docket fees; and that they have tendered the same but due to the refusal of the clerks to assess and receive the said docket fees, do not warrant for the relaxation of the rules.

The alleged refusal of the clerks to assess and receive the said docket fees is nothing but an allegation, absent an iota of evidence the Court cannot give credence. Rather it relied on its petition through registered mail knowing fully well that it has no postal money order and that it will be received beyond June 14, 2017. While the petitioner may be deemed to have filed its Petition for Review on time, it however failed to perfect its appeal for non-payment of the corresponding docket and other lawful fees at the time that it filed its initiatory pleading. Had petitioner intended to perfect its appeal on time, petitioner had all the opportunity on June 14, 2017 within which to file its petition and pay the docket fees but it did not.

In sum, the period to appeal has already lapsed. Thus, the Court does not acquire jurisdiction and the decision sought to be appealed from became final and executory.

In addition, only individuals vested with authority by a valid board resolution may sign the certificate of non-forum shopping on behalf of a corporation. Needless to say, proof of said authority must be attached. The power of a corporation to sue and be sued in any court is lodged with the board of directors which exercises its corporate powers.

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[4] Tan vs. Link, G.R. No. 172849, December 10, 2008

Absent any authority from the board of directors, no person, not even the officers of the corporation, can validly bind the corporation[5]. The petition does not show that the signatory therein was authorized by the board of directors to file the instant petition, to sign and execute, for and in behalf of petitioner corporation the Verification and Certification against Forum Shopping. Thus, this petition is still subject to dismissal even if a certification of non-forum shopping was submitted but unaccompanied by a proof of the signatory's authority[6].

WHEREFORE, the instant Petition for Review is **DISMISSED**, for lack of jurisdiction.

SO ORDERED

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

[5] Premium Marble Resources, Inc. v. Court of Appeals, 264 SCRA 11 (1996); Esteban, Jr. v. Vda. de Ocampo, 360 SCRA 230 (2002); Social Security System v. Commission on Audit, 384 SCRA 548 (2002)].
[6] Mediserv , Inc. v. Court of Appeals, G.R. No. 161368, April 5, 2010.