REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SHENILYN ABALOS, ET AL., Petitioner,	**CTA EB NO. 2221** (CTA Case No. 9089)
	Present:
- versus -	**DEL ROSARIO**, *P.J.*, **CASTAÑEDA, JR.**, **UY**, **FABON-VICTORINO**, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, and **MODESTO-SAN PEDRO**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 23 2020 10:23a.m.

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RESOLUTION

For resolution is petitioners' **Motion for Reconsideration** filed on July 8, 2020, which seeks reconsideration of the June 17, 2020 Resolution, the dispositive part of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review filed by Shenilyn Abalos et al., on February 19, 2020, is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

Petitioners insist that the Resolution dated January 11, 2019 had been received by their counsel's office but was misfiled by the receiving clerk in a different case folder for tax refund of a separate group of petitioners from the Asian Development Bank. According to petitioners, the unfortunate incident is a mistake or excusable negligence, which Courts have used as reason to relax procedural rules to give way to substantial justice. Petitioners aver that in several cases, the Supreme Court admitted exceptions to the general rule that the mistake or negligence of counsel is considered as the mistake or negligence of the client.

Petitioners' Motion for Reconsideration must fail.

It is undisputed that the Petition for Review assailing the Court in Division's Resolution dated January 11, 2019 and Decision dated August 10, 2018, was filed out of time. Parenthetically, the aforestated Resolution and Decision of the Court in Division have become final, executory and unappealable. The Court En Banc is bereft of jurisdiction to review the same and it is thus left with no recourse but to dismiss the present Petition for Review outright.

Contrary to petitioner's proposition, the failure to timely perfect an appeal cannot simply be regarded as a mere technicality, for it is, in truth, jurisdictional. The pronouncement of the Supreme Court in *Commissioner of Internal Revenue vs. Fort Bonifacio Development Corp.*[1] is enligthening, *viz.*:

> "It has been ruled that **perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case**. At the risk of being repetitious, We declare that the right to appeal is not a natural right nor a 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 the law.
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> xxx xxx xxx.
>
> It need not be overemphasized that it is the responsibility of the counsel to check and keep track of the period of time left to file an appeal. He cannot escape from the inflexible observance of this rule which is jurisdictional. **The rules, particularly on the statutory requirement for perfecting an appeal within the reglementary period provided, must be strictly followed. If an appeal is not taken within the period prescribed therefor, the judgment becomes final and the court loses all jurisdiction over the case**." (Boldfacing supplied)

This Court is not unaware of the case of *Victoria Legarda vs. The Court of Appeals, et al.*[2] and *Victoria G. Callangan vs. People of*

[1] G.R. No. 167606, August 11, 2010.
[2] G.R. No. 94457, March 18, 1991.

the Philippines[3] cited by petitioner, where the Supreme Court recognized the exceptions to the rule that binds the client with the mistake or negligence of counsel, namely: (i) gross or palpable negligence of counsel depriving the client of due process of law, (ii) when the application of the rule will result in the outright deprivation of the client's liberty or property, and (iii) where the interests of justice so require.

Here, the Court *En Banc* finds that the mistake or negligence of petitioners' counsel does not amount to the kind that would justify the application of the exception, rather than the general rule.

All told, the Court *En Banc* finds no compelling reason or substantial justification to modify its findings much less reverse the assailed Resolution.

WHEREFORE, the Motion for Reconsideration filed by petitioners on July 8, 2020 is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[3] G.R. No. 153414, June 27, 2006

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice