

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

**HI-STAKES GAMING,
INCORPORATED,**

Petitioner,

CTA CASE NO. 10211

Members:

- versus -

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, JJ.

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

DEC 11 2020

8:13 AM

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RESOLUTION

During the hearing on 12 March 2020 set for pre-trial conference, only the counsel for respondent appeared. Upon motion of respondent, the Court dismissed the case for failure of petitioner to file its pre-trial brief and absence of its counsel during the said pre-trial conference.

On 17 August 2020, the Court received petitioner's Motion for Reconsideration (**MR**) dated 07 August 2020 alleging that its counsel was not able to get hold of the Notice of Pre-Trial Conference and learned the setting thereof through the Order dated 21 February 2020, which he received on the day of pre-trial conference itself. Petitioner thus prayed that the 12 March 2020 Order be reconsidered, in the interest of substantial justice.

In his Comment/Opposition posted on 21 September 2020, respondent contends that the MR was belatedly filed. Considering that petitioner received the 12 March 2020 Order on 25 June 2020 through a certain "S/G ROLLY BELARDE" (**SG Belarde**), as evidenced by a Certification executed by Postmaster VI Cecilia T. Tabares (**Postmaster Tabares**) dated 14 September 2020, petitioner only had until 10 July 2020 within which to file the said MR. Since

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petitioner filed the MR only on 10 August 2020, the same was 31 days late.

Further, in refutation of petitioner's claim that it has yet to receive the Notice of Pre-Trial Conference, respondent alleges that as evidenced by the records of this case, a certain Rolly Belarde¹ received and signed the same on 21 February 2020.

Lastly, respondent also added that the Order dated 21 February 2020 was likewise received by a certain "S/G VINCENT RUADO" on 10 March 2020, as evidenced by another Certification by Postmaster Tabares dated 14 September 2020. Thus, it can be concluded that the customary procedure of petitioner's counsel is that security guards are the ones receiving such notices who would submit the same later on to said counsel's office, contrary to petitioner's claim that the security guards would direct the postman to the office of petitioner's counsel. According to respondent, petitioner's counsel clearly gave the security guards the responsibility of receiving and delivering the notices from the Court and were thus considered persons of sufficient age and discretion to receive mail matters.

An examination of the records of the case would reveal that the MR was filed out of time. Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) provides:

...
SECTION 1. Who may and when to file motion. – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision, resolution or order of the Court in question.**² (RCTA, Rule 13, sec. 1a)
...

The Certification issued by Postmaster Tabares states that SG Belarde received the Registered Letter No. RE 251 596 993 ZZ (which matches the Registry Receipt as appearing in the records of the case pertaining to the 12 March 2020 Order) on 25 June 2020. Hence, petitioner had only until 10 July 2020 within which to file the said MR. However, petitioner only filed the same on 10 August 2020 or 16 days late.

¹ The name in the receiving copy of the Notice of Pre-Trial Conference reads "BELANDRES, ROLLY".

² Emphasis supplied.

In *Land Bank of the Philippines v. Heirs of Fernando Alsua*³ (**Land Bank**), the Supreme Court considered the receipt of the order of dismissal by the security guard as receipt by the counsel, viz:

...
All that the rules of procedure require in regard to service by registered mail is to have the postmaster deliver the same to the addressee himself or to a person of sufficient discretion to receive the same.

Thus, in prior cases, a housemaid, or a bookkeeper of the company, or a clerk who was not even authorized to receive the papers on behalf of its employer, was considered within the scope of “a person of sufficient discretion to receive the registered mail.” The paramount consideration is that the registered mail is delivered to the recipient’s address and received by a person who would be able to appreciate the importance of the papers delivered to him, even if that person is not a subordinate or employee of the recipient or authorized by a special power of attorney.

In the instant case, **the receipt by the security guard of the order of dismissal should be deemed receipt by petitioner’s counsel as well.**

...

Petitioner’s counsel, however, claims that the practice in their office is for the secretary to receive mail matters and since the office is on the 3rd floor, it was customary for the security guard to direct the postman to proceed to the such floor.

Such claim is belied by the records of the case.

It must be noted that, since the start of the proceedings herein, and in all instances where this Court served copies of orders or notices upon petitioner’s counsel, it has always been the security guards, who received mail matters, whether the same is served personally or sent by registered mail, to wit:

Order/Notice Furnished	Mode of Service	Received By	Date Received
Order dated 11 December 2019	Personal	“Rolly M. Belandres”	08 January 2020
Order dated 15 January 2020	Personal	“Rolly Belandres”	22 January 2020
Notification dated 24 January 2020	Personal	“Rolly M. Belandres”	28 January 2020

³ G.R. No. 167361, 02 April 2007; citations omitted.

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Order/Notice Furnished	Mode of Service	Received By	Date Received
Notice of Pre-Trial Conference dated 18 February 2010	Personal	"Belandres, Rolly"	21 February 2020
Order dated 21 February 2020	Registered Mail	"S/G Vincent Ruado"	10 March 2020
Order dated 12 March 2020	Registered Mail	"S/G Rolly Belarde"	25 June 2020

In the same case of *Land Bank* citing *NIAConsult, Inc., et al. v. National Labor Relations Commission, et al.*⁴, the Supreme Court reminded "that it was the responsibility of petitioners and their counsel to devise a system for the receipt of mail intended for them. The finality of a decision is a jurisdictional event which cannot be made to depend on the convenience of a party."

The fact that petitioner's counsel received the Order dated 21 February 2020 allegedly on 12 March 2020, after it was received by "S/G Vincent Ruado" on 10 March 2020, only shows that he has been receiving mail matters from the aforementioned security guards. At that time, if the security guards were not indeed authorized to receive such mail matters, petitioner's counsel should have been more circumspect in seeing to it that only authorized personnel may receive the same. Despite this, petitioner's counsel failed to take appropriate measure which could have prevented its alleged failure to timely receive the 12 March 2020 Order and thus file the necessary MR within the period prescribed.

While 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.⁵

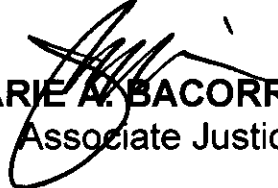
WHEREFORE, petitioner's Motion for Reconsideration dated 07 August 2020 is hereby **DENIED** for being filed out of time.

⁴ G.R. No. 108278, 02 January 1997.

⁵ *De Leon v. Hercules Agro Industrial Corporation, et al.*, G.R. No. 183239, 02 June 2014.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice