REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

STORMPARTNERS, INC.
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11846

Members:

BACORRO-VILLENA, *Chairperson, and*
CUI-DAVID, *JJ*.

Promulgated:

3:41 pm

x- -x

RESOLUTION

At bar is respondent's ***Motion to Dismiss,*** incorporated in his *Answer with Motion to Dismiss*[1] filed on October 1, 2025, and petitioner's *Comment and Opposition (to Respondent's Motion to Dismiss)*[2] filed on November 14, 2025.

The facts, as alleged by petitioner in its *Petition for Relief from Judgment*, are as follows:

> 4. On October 24, 2016, Respondent issued a Letter of Authority ("LOA") No. SN: eLA201200033130 authorizing Revenue Officer ("RO") Ragelyn Dicta and Group Supervisor ("GS") Ricardo Santiago of Revenue District Office No. 047 — East Makati, to examine Petitioner's books of accounts and other accounting records covering all internal revenue liabilities for the period January 01, 2015 to December 3 1, 2015. A certified true copy of the LOA is attached hereto as Annex P-1 and made an integral part hereof.
>
> 5. On May 31, 2018, Respondent issued a Notice of Informal Conference ("NID") which was received by Petitioner on June 21, 2018. A certified true copy of the NID is attached hereto as Annex P-2 and made an integral part hereof.

---

[1] Docket, pp. 289-306.
[2] *Id.* at 313-317.

6. On October 23, 2018, Respondent issued a Preliminary Assessment Notice ("PAN"), a copy of which was received by Petitioner on November 6, 2018. A certified true copy of the PAN is attached hereto as Annex P-3 and made an integral part hereof.

7. On November 21, 2018, Petitioner filed a protest against the PAN, a certified true copy of which is attached hereto as Annex P-4 and made an integral part hereof.

8. On November 27, 2018, Respondent issued a Formal Assessment Notice ("FAN") with Details of Discrepancies and Assessment Notices No. IT-ELA3313-15-18-854 and VT-ELA33130-15-18-854, a copy of which was received by Petitioner on November 29, 2018. A certified true copy of the FAN with Details of Discrepancies and Assessment Notices are attached hereto as Annex P-5 and made integral parts hereof.

. . . .

10. On December 13, 2018, Petitioner filed its protest letter dated December 10, 2018 against the FAN. A certified true copy of the Protest Letter dated December 10, 2018 is attached hereto as Annex P-6 and made an integral part hereof.

11. On June 26, 2020, Respondent issued a Final Decision on Disputed Assessment (FDDA), which was received by Petitioner on July 13, 2020. A certified true copy of the FDDA is attached hereto as Annex P-7 and made an integral part hereof.

. . . .

13. In addition, the last paragraph of the FDDA provides that:

> In case you disagree, you may appeal this decision to the Commissioner of Internal Revenue with address at BIR National Office Building, Agham Road, Diliman, Quezon City or to the Court of Tax Appeals within thirty (30) days from date of receipt hereof, otherwise our said assessment shall become final, executory and demandable. (Emphasis supplied).

14. In accordance with the above directive from Respondent, Petitioner filed a Request for Reconsideration dated July 31, 2020 with Respondent Commissioner requesting for a reconsideration of the said FDDA, a copy of which was received by Respondent on August 10, 2020. A certified true copy of Request for Reconsideration is attached hereto as Annex P-8 and made an integral part hereof.

> 15. On February 3, 2025 received a Decision dated December 23, 2024 (the "Assailed Decision") from Respondent denying Petitioner's Request for Reconsideration and upholding in toto, the FDDA dated June 26, 2020, ordering Petitioner to pay its deficiency taxes in the total amount of P4,199,984.06, representing deficiency income tax and VAT for the taxable year 2015. A copy of the Assailed Decision is attached hereto as Annex P-9 and made an integral part hereof.
>
> 16. This Petition is being filed within sixty (60) days after the Petitioner received the Assailed Decision, and not more than six (6) months after the Assailed Decision was entered, pursuant to Sections 1 to 3 of Rule 38 of the Rules of Civil Procedure on Petitions for Relief from Judgment through fraud, accident, mistake or excusable negligence.
>
> 17. Petitioner was not able to submit its proper legal arguments and evidence during the audit and/or assessment process, nor filed its proper appeal of the FDDA due to Petitioner's mistake or excusable negligence, more particularly described in the Affidavit of Merit, attached hereto as Annex P-10[.][3]

In his *Motion*, respondent asserts that a petition for relief from judgment under Rule 38 of the Rules of Civil Procedure applies only to set aside a judgment or final order rendered by a court, and is not available to set aside a Final Decision on Disputed Assessment (**FDDA**). Further, respondent argues that the petition must be filed with the same court that rendered the judgment sought to be set aside.

Anent the ground invoked, respondent asserts that a petition for relief is granted only in exceptional cases where a party was prevented from appealing due to fraud, accident, mistake, or excusable negligence. Respondent argues that a "wrong choice in legal strategy" does not constitute a mistake under Rule 38. Respondent insists that petitioner had an adequate remedy, *i.e.*, a judicial appeal *via* the filing of a petition for review before the Court of Tax Appeals (CTA), but failed to avail itself of the same properly.

Respondent also argues that even if the court were to treat the petition as a judicial appeal, the CTA no longer has jurisdiction to hear it for having been filed out of time. Respondent states that petitioner received the FDDA on February 3, 2025, thus giving it until March 5, 2025 to appeal.

---

[3] *Id.* at 4-9.

However, the petition was filed only on April 4, 2025, which is 30 days beyond the mandatory and jurisdictional deadline.

Finally, respondent argues that the assessment has already become final and executory because petitioner's initial protest against the assessment was void. According to respondent, petitioner's protest failed to state the applicable laws and rules on which it was based, and petitioner failed to submit relevant supporting documents within the sixty (60)-day period prescribed for requests for reinvestigation.

On the other hand, in its *Comment*, petitioner asserts that a petition for relief from judgment is available in tax litigation. Petitioner points out that the Revised Rules of the Court of Tax Appeals (**RRCTA**) explicitly state that the Rules of Court apply suppletorily. Petitioner further cites the Supreme Court decision in *Misnet, Inc. v. Commissioner of Internal Revenue* ***(Misnet)***,[4] where a petition for relief from judgment was allegedly granted in a similar tax dispute.

Petitioner argues that its failure to file a timely judicial appeal was an excusable mistake triggered by respondent's FDDA. According to petitioner, the FDDA stated that the taxpayer could appeal *"to the Commissioner of Internal Revenue [CIR]... OR to the Court of Tax Appeals"*. Acting without legal counsel at the time, petitioner claims that it relied on this "either/or" language and opted to file a *Request for Reconsideration* with the CIR instead of pursuing a judicial appeal. Thus, petitioner argues that because the BIR's own assessment notice provided confusing options, the strict 30-day jurisdictional deadline should be relaxed in the interest of justice.

The *Petition for Relief from Judgment* must be **dismissed.**

Under Section 1, Rule 38 of the 1997 Rules of Civil Procedure, as amended, a petition for relief from judgment may be filed on the ground of fraud, accident, mistake, or excusable negligence:

> Section 1. Petition for relief from judgment, order or other proceedings. — When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and

---

[4] G.R. No. 210604, June 3, 2019 [Per J. J. C. Reyes, Jr., Second Division].

in the same case praying that the judgment, order or proceeding be set aside.

A petition for relief from judgment is an equitable remedy and is allowed only in exceptional cases. It is not available if other remedies exist, such as a motion for new trial or appeal.[5]

When a party has another remedy available to him, which may either be a motion for new trial or appeal from an adverse decision of the lower court, and he was not prevented by fraud, accident, mistake or excusable negligence from filing such motion or taking the appeal, he cannot avail himself of the relief provided in Rule 38. The rule is that relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to his own negligence or a mistaken mode of procedure, otherwise the petition for relief will be tantamount to reviving the right of appeal which has already been lost either because of inexcusable negligence or due to a mistake in the mode of procedure by counsel.[6]

The "mistake" contemplated by Rule 38 generally refers to a mistake of fact, not a mistake of law. The word "mistake", which grants relief from judgment, does not apply and was never intended to apply to a judicial error which the court might have committed in the trial.[7] Such an error may be corrected by appeal.

Further, a petition for relief from a judgment must be "filed in and resolved by the court in the same case from which the petition arose."[8]

Applying the above jurisprudential pronouncements in the instant case, the Court finds that petitioner availed of the wrong remedy.

First, the mistake invoked by petitioner is not the type of mistake contemplated under Rule 38.

Petitioner anchors its claim of "mistake" on the following circumstances:

---

[5] *Madarang v. Spouses Morales*, G.R. No. 199283, June 9, 2014 [Per J. Leonen, Third Division].

[6] *Samonte v. S.F. Naguiat, Inc.*, G.R. No. 165544, October 2, 2009 [Per J. Peralta, Third Division].

[7] *Agan v. Heirs of Nueva*, G.R. No. 155018, December 11, 2003 [Per J. Tinga, Second Division], cited in *Samonte v. S.F. Naguiat, Inc.*, G.R. No. 165544, October 2, 2009 [Per J. Peralta, Third Division].

[8] *Redeña v. Court of Appeals*, G.R. No. 146611, February 6, 2007 [Per J. Garcia, First Division].

13. In addition, the last paragraph of the FDDA provides that:

> In case you disagree, you may appeal this decision to the Commissioner of Internal Revenue with address at BIR National Office Building, Agham Road, Diliman, Quezon City or to the Court of Tax Appeals within thirty (30) days from date of receipt hereof, otherwise our said assessment shall become final, executory and demandable.

14. In accordance with the above directive from Respondent, Petitioner filed a Request for Reconsideration dated July 31, 2020 with Respondent Commissioner requesting for a reconsideration of the said FDDA, a copy of which was received by Respondent on August 10, 2020. A certified true copy of Request for Reconsideration is attached hereto as Annex P-8 and made an integral part hereof.

15. On February 3, 2025 received a Decision dated December 23, 2024 (the "Assailed Decision") from Respondent denying Petitioner's Request for Reconsideration and upholding in toto, the FDDA dated June 26, 2020, ordering Petitioner to pay its deficiency taxes in the total amount of P4,199,984.06, representing deficiency income tax and VAT for the taxable year 2015. A copy of the Assailed Decision is attached hereto as Annex P-9 and made an integral part hereof.

16. This Petition is being filed within sixty (60) days after the Petitioner received the Assailed Decision, and not more than six (6) months after the Assailed Decision was entered, pursuant to Sections 1 to 3 of Rule 38 of the Rules of Civil Procedure on Petitions for Relief from Judgment through fraud, accident, mistake or excusable negligence. [9]

Petitioner argues that it was misled by the last paragraph of the FDDA directing it to file an appeal either with the CIR or with the CTA. Petitioner filed a Request for Reconsideration with the CIR, which was eventually denied by respondent in a Decision dated December 23, 2024, received by petitioner on February 3, 2025. According to petitioner, it should have filed an appeal with the CTA.

The mistake relied upon by petitioner herein is not a mistake of fact, but a mistake in the application of law, or choice of remedy, which does not warrant the filing of a petition for relief from judgment.

---

[9] *Id.* at 3-4.

Even more fatal to petitioner's cause is the fact that no mistake was committed by respondent in stating the available remedies to assail the FDDA. The remedies indicated therein are in accord with prevailing law and regulations.

Section 3.1.4 of Revenue Regulations (**RR**) No. 12-1999 as amended by RR No. 18-2013, provides that where the protest is denied by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the CTA within thirty (30) days from receipt of the decision; or (ii) elevate the matter to the CIR through a request for reconsideration within the same period.[10]

Records reveal that the FDDA dated June 26, 2020 was issued by Regional Director Maridur V. Rosario, a duly authorized representative of the CIR. Accordingly, respondent did not err in stating that petitioner may either appeal to the CTA or seek reconsideration from the CIR. Consequently, no mistake was committed when petitioner filed a request for reconsideration with the CIR.

Second, petitioner could have availed itself of the ordinary remedy of appeal by filing a Petition for Review with the CTA within 30 days from receipt of respondent's decision.

Section 7(a)(1) of Republic Act (**RA**) No. 1125,[11] as amended by RA No. 9282,[12] vests this Court with exclusive appellate jurisdiction over decisions and inactions of the CIR, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the [CIR] in cases involving disputed assessments,** refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising

---

10 3.1.4 Disputed Assessment. — . . .

. . . .

If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

11 An Act Creating the Court of Tax Appeals, June 16, 1954.

12 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

> under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue[.]

Moreover, Section 11 of RA No. 1125, as amended by RA No. 9282, mandates that an appeal to the CTA must be filed within thirty (30) days from receipt of the decision of the CIR, *viz.*:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling, or inaction of the [CIR]...**may file an **appeal with the CTA within thirty (30) days after the receipt of such decision or ruling** or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.... (Emphasis supplied)

The above provisions are likewise provided under Section 3(a)(1)(2), Rule 4,[13] and Section 3(a), Rule 8[14] of the RRCTA.

As alleged by petitioner, on February 3, 2025, it received the *Decision* dated December 23, 2024 of the CIR denying its *Request for Reconsideration* and upholding *in toto*, the FDDA dated June 26, 2020. Hence, petitioner had 30 days from February 3, 2025, or until March 5, 2025, to file a *Petition for Review.* Instead, petitioner filed the instant *Petition for Relief from Judgment* only on April 4, 2025, well beyond the reglementary period for appeal.

The availability of the remedy of appeal bars recourse to a petition for relief from judgment. To reiterate, a petition for relief from judgment is an equitable remedy and is allowed only in exceptional cases. It is not available if other remedies exist, such as a motion for new trial or appeal.[15]

---

[13] *Section 3. Cases within the jurisdiction of the Court in Division.* — The Court in Division shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:
(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...

[14] 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. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

[15] *Madarang v. Spouses Morales*, G.R. No. 199283, June 9, 2014 [Per J. Leonen, Third Division].

Third, petitioner cannot rely on *Misnet*. *Misnet* requires "strong compelling reasons" to relax the strict requirements of reglementary periods. Further, the mistake invoked in *Misnet* was indeed a mistake: the FDDA of the CIR contained an instruction that it may be appealed to the Regional Director. No such mistake exists in the instant case.

All told, the dismissal of the instant *Petition for Relief from Judgment* is in order.

WHEREFORE, premises considered, respondent's *Motion to Dismiss,* incorporated in his *Answer with Motion to Dismiss,* is hereby **GRANTED**.

Accordingly, petitioner's *Petition for Relief from Judgment* is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice