

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**MISAMIS ORIENTAL II
RURAL ELECTRIC SERVICE
COOPERATIVE, INC.
(MORESCO II),**

Petitioner,

- versus -

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

CTA CASE NO. 10145

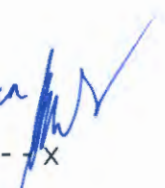
Members:

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

Promulgated:

DEC 04 2020

11:20 AM



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RESOLUTION

Before this Court is petitioner's **Motion for Reconsideration**, filed through registered mail on September 2, 2020 and received by the Court on September 17, 2020, with respondent's **Comment/Opposition**, filed by registered mail on October 8, 2020 and received by the Court on October 16, 2020.

At the outset, during the *Pre-Trial Conference* on November 7, 2019, upon agreement of both parties, this case was referred to mediation. Accordingly, the case was set for mediation proceedings on November 26, 2019.

Meanwhile, on November 18, 2019, petitioner through counsel filed an *Urgent Motion to Quash and/or Recall the Warrant of Distrainment and/or Levy and Warrant of Garnishment*. Correspondingly, the Court ordered respondent to comment on the same.

Subsequently, respondent filed his comment to the urgent motion to quash on December 9, 2019.

On the other hand, on January 8, 2020, the Philippine Mediation Center Unit (PMCU) – Court of Tax Appeals issued a 2nd *Notice to Appear* and directed the parties to appear in person on February 4, 2020 at 10:00 a.m. to commence the mediation proceedings.

In the meantime, on February 12, 2020, the Court issued the Resolution denying petitioner's *Urgent Motion to Quash and/or Recall the Warrant of Distrainment and/or Levy and Warrant of Garnishment* and suspended the Court proceedings pending receipt of the status of the mediation proceedings.

Subsequently, on March 12, 2020, the Court issued the Resolution on the *Back to Court* report from PMCU.

In the said Resolution, the Court *dismissed without prejudice* the present petition, for failure of petitioner to attend the scheduled mediation proceedings pursuant to Paragraph XI of A.M. No. 11-1-5-SC-PHILJA (Re: Interim Guidelines for Implementing Mediation in the Court of Tax Appeals), in relation to Section 5, Rule 18 of the Revised Rules of Court.

In the instant motion, petitioner claims that he has not received the notices on time for the two (2) calendared mediation proceedings of the above captioned petition on November 26, 2019 and February 4, 2020, from the Philippine Mediation Center Unit (PMCU) attached to this Court.

Petitioner avers that it is based in Medina, Misamis Oriental, whereas, its counsel is based in Cagayan de Oro City. The notices were sent via registered mail from the Mediation Office and allegedly were very much delayed so when the Second Notice to Appear dated January 8, 2020 which directed the parties to appear on February 4, 2020 at 10:00 a.m., the same was only received by petitioner's counsel on March 3, 2020 or more than a month after the mediation proceeding was supposed to take place. Copy of the 2nd Notice to Appear with handwritten notation on date received was attached to the instant motion as Annex "A".

Petitioner states that upon investigation of the inordinate delay, it was discovered that the courier of the Bureau of Post assigned to its counsel's area was sick and on medical leave and there was no one assigned to temporarily take his place.

Further, petitioner avers that only when his counsel was at the Mediation Office on March 10, 2020 for a mediation proceeding in the case of BUSECO vs. CIR, CTA Case No. 10084 that he was informed upon his inquiry that the present case has already been returned to the Court after failure to appear in the 2nd mediation proceeding. Copy of his Certificate of Appearance is attached as Annex "B" of the instant motion.

Thus, petitioner moves that the Order of dismissal issued by the Court be reconsidered/set aside and refer back the case to Mediation Office for the last time.

On the other hand, respondent, in his comment/opposition to the instant motion, contends that for failure of petitioner or its counsel to appear on the scheduled mediation conference without valid cause shall cause the dismissal of the action in accordance with Rule 18 of the Revised Rules of Court.

It must be noted that the Return Card for the Second Notice to Appear issued by the PMC-CTA does not show the date when the said notice was received by petitioner.

Nevertheless, in as much as the Court may impose appropriate sanctions on the parties who fail to comply with the directives of the Mediator, such as but not limited to the appearance of the parties during scheduled mediation conferences¹, the Courts and their personnel are also enjoined to assist in the successful implementation of mediation as one of the key modes of Alternative Dispute Resolution and thereby reduce docket congestion².

Technicality and procedural imperfection should, thus, not serve as basis of decisions. In that way, the ends of justice would be better served. For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.³

¹ Par. XI of A.M. No. 11-1-5-SC-PHILJA.

² Par. 13. Duty of the Court, Second Revised Guidelines on Mediation, September 5, 2001, A.M. No. 05-10-5-SC-PHILJA (Establishing PMC).

³ *Bank of the Philippine Islands vs. Dando*, G.R. No. 177456, September 4, 2009.

In view of the foregoing, and considering that the cause of petitioner's failure to appear on the scheduled mediation proceedings is a valid cause, the Court finds merit to the instant motion.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration** is **GRANTED** and the Resolution dated March 12, 2020 *dismissing the case without prejudice* is hereby **RECALLED** and **SET ASIDE**.

Accordingly, parties are **ORDERED** to immediately proceed and to personally appear or through their authorized representative at the PMC-CTA located at the 5th floor, CTA Mediation Room, CTA Building I, on January 20, 2021 at 9:00 a.m. with or without the presence of their counsel for mediation proceedings.

In the meantime, the Court's proceedings on the case are hereby suspended for thirty (30) days starting from the date of the preliminary mediation conference and may be extended by filing a joint motion, with the concurrence of the Mediator, for extension of time to continue mediation proceedings for a period not exceeding another thirty (30) days.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice