REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

MAX HEALTH & LIVING INTERNATIONAL, INC.,
Respondent.

CTA *EB* NO. 2606
(CTA Case No. 9628)

Present:
DEL ROSARIO, *PJ*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ*.

Promulgated:
SEP 21 2022
4:20 pm

x - x

RESOLUTION

This resolves petitioner's *Motion for Reconsideration (Motion)*[1] filed *via* private courier on July 14, 2022, and received by the Court on July 15, 2022, with respondent's *Comment/Opposition (Re: Motion for Reconsideration of Petitioner Commissioner of Internal Revenue Dated 14 July 2022)*[2] filed on August 22, 2022.

Petitioner seeks reconsideration of this Court's Resolution[3] dated June 23, 2022, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, petitioner's *Motion for Extension of Time to File Petition for Review* is **DENIED** for lack of merit, and his *Petition for Review* belatedly filed is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

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[1] *En Banc* docket, pp. 44-48.
[2] Id., pp. 54-59.
[3] Id., pp. 40-43.

In asking for a reconsideration, petitioner submits that this Court erred in dismissing the *Petition for Review* on procedural infirmity. According to petitioner, the Supreme Court, in a long line of cases,[4] has relaxed procedural rules when a rigid application of these rules only hinders substantial justice. For petitioner, the procedural consequence of the delay in the filing of the subject *Motion for Extension of Time to File Petition for Review* – which, as a matter of course, should render the 26 October 2021 Decision already final and executory – is not commensurate to the grave and irreparable injury which the government may suffer. Hence, petitioner begs this Court to relax the rules of procedure and admit the *Petition for Review* and proceed to resolve the substantive issues.

In rejecting petitioner's *Motion*, respondent counters that the bare invocation of "substantial justice" is not a magic wand or magic incantation that will automatically compel courts to suspend procedural rules. Respondent added that there are indeed reasons which would warrant the suspension of the Rules, like: (a) the existence of special or compelling circumstances, (b) the merits of the case, (c) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of rules, (d) a lack of any showing that the review sought is merely frivolous and dilatory, and (e) the other party will not be unjustly prejudiced thereby. However, none of the foregoing grounds exist in this case. In fact, according to respondent, petitioner did not even bother to show or argue the existence of any of these exemptions in this case.

Respondent likewise contends that contrary to petitioner's claim, the dismissal of the *Petition for Review* was not a mere technicality but rather jurisdictional. According to respondent, the failure to file the petition for review or motion for extension of time to file petition for review within the reglementary period does not toll the running of the prescriptive period. Here, petitioner premised her *Motion* on the erroneous notion that the period to appeal from the denial of her motion for reconsideration of the decision of this Court's First Division was thirty (30) days. Thus, by the time petitioner

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[4] *United Airlines vs. Willie Uy*, G.R. No. 127768, November 19, 1999; *Ildeponso Samala and Benjamin Babista vs. CA*, G.R. No. 128628, August 23, 2001; *City of Dumaguete vs. Philippine Ports Authority*, G.R. No. 168973, August 24, 2011; *City of Dagupan vs. Ester F. Maramba*, G.R. No. 17441, July 2, 2014.

filed her *Motion for Extension of Time to File Petition for Review*, the period to appeal had already lapsed. The Decision has therefore become executory, immutable and unalterable.

Lastly, it is true that the mandatory requirement of the timely filing of the petition for review was relaxed by the Supreme Court in some cases where it allowed the appeal to run its full course. However, petitioner has not even advanced any justification for this Court to relax its rules. Petitioner simply claimed that the lapse was procedural in nature and asked for the leniency of the Court. Petitioner did not bother to explain why it filed the motion belatedly or even attempt to explain what made it state in its pleadings that she had thirty (30) days to file the petition for review from receipt of the Resolution of this Court's First Division denying her motion for reconsideration. For respondent, petitioner has trifled with the rules of procedures and her transgressions remain unexplained and unjustified. Petitioner's excuse is not a case of mere oversight, inadvertence or mistake but plainly and simply, an erroneous misreading, misappreciation and misapplication of the Rules of Procedure before this Court.

THE COURT EN BANC'S RULING

Petitioner's *Motion* is bereft of merit.

Under Section 3(b), Rule 8 to the Revised Rules of the Court of Tax Appeals (RRCTA), a party adversely affected by a decision or resolution of a Division of this Court has fifteen (15) days from receipt thereof to appeal before the Court *en banc*. However, the Court *En Banc* may, before the expiration of the 15-day reglementary period, grant an additional period not exceeding fifteen days from the expiration of the original period to file the petition upon proper motion and payment of full docket and other lawful fees. Section 3(b), Rule 8 to the RRCTA reads:

> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within <u>fifteen days from receipt</u> of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, <u>the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within</u>

> which to file the petition for review. (*Boldfacing and Underscoring supplied*)

In relation thereto, Section 6, Rule 14 of the RRCTA provides, *thus*:

> SEC. 6. *Entry of Judgment and Final Resolution.* — **If no appeal or motion for reconsideration or new trial is filed within the time provided in these Rules, the Clerk of Court shall forthwith enter the judgment or final resolution in the book of judgment.** The date when the judgment or final resolution becomes executory shall be deemed the date of its entry. The entry shall contain the dispositive part of the judgment or final resolution and shall be signed by the Clerk of Court, with a certification that such judgment or resolution has become final and executory. (*Boldfacing supplied*)

In the case at bar, petitioner received the Resolution denying her *Motion for Reconsideration* on March 31, 2022. Thus, following the mandate of Section 3(b), Rule 8 of the RRCTA, **petitioner has fifteen (15) days from March 31, 2022, or until April 15, 2022, to file the petition for review or a motion for extension of time to file the petition for review**.

Record shows that **neither petitioner's *Motion for Extension of Time to File Petition for Review* nor *Petition for Review* was filed on time**.

Established is the rule that an appeal is neither a natural nor constitutional right but a mere statutory privilege. Hence, parties who seek to avail of the privilege must comply with the statutes or rules allowing it.[5] The perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional as well. And failure to perfect an appeal within the reglementary period deprived the court — otherwise competent — of jurisdiction to hear and determine it.

In the case of *Videogram Regulatory Board v. Court of Appeals*,[6] the Supreme Court, no less, chronicled the inviolability of the period of perfecting an appeal, in this fashion:

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[5] *Air France Philippines v. Leachon*, 472 SCRA 493, 442-443 [2005].
[6] G.R. No. 106564, November 28, 1996.

> . . . There are certain procedural rules that must remain inviolable, like those setting the periods for perfecting an appeal or filing a petition for review, for it is doctrinally entrenched that the right to appeal is a statutory right and one who seeks to avail of that right must comply with the statute or rules. **The rules, particularly the requirements for perfecting an appeal within the reglementary period specified in the law, must be strictly followed as they are considered indispensable interdictions against needless delays and for orderly discharge of judicial business. Furthermore, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional** and the failure to perfect the appeal renders the judgment of the court final and executory. Just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his/her case. These periods are carefully guarded and lawyers are well-advised to keep track of their applications. After all, a denial of a petition for being time-barred is a decision on the merits. (*Boldfacing supplied*)

Indeed, the timeliness of an appeal is a jurisdictional caveat that not even the Supreme Court can trifle with.[7]

It is also well to note that procedural rules should be treated with utmost respect and due regard since they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and the administration of justice.[8] There is no quarrel that litigation is not a game of technicality, but every case must be prosecuted in accordance with the prescribed procedure to ensure an orderly and speedy administration of justice. Not only litigants but also the courts are enjoined to abide strictly by the rules. While there have been instances where the Supreme Court allowed relaxation in the application of the rules, but this flexibility was never intended to forge a bastion for erring litigants to violate the rules with impunity.[9]

Far from petitioner's assertion, procedural rules should not be belittled or dismissed simply because their non-

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[7] *BA vs. Gerochi, Jr.* 230 SCRA 9 [1994].
[8] *Fortech v. Corona*, G.R. No. 131457, November 17, 1998.
[9] *Norris v. Hon. Jose Parentela, Jr., et al.*, G.R. No. 143216, February 27, 2003.

observance would result in prejudice to a party's substantive rights.[10] In point is the ruling in *Spouses Baniqued v. Teresita S. Ramos and the Register of Deeds of Manila,*[11] where the Supreme Court held, thus:

> In a catena of cases, the Court has ruled that the right to appeal is neither a natural right nor a part of due process. It is merely a procedural remedy of statutory origin, a remedy that may be exercised only in the manner prescribed by the provisions of law authorizing such exercise. Hence, the legal requirements must be strictly complied with. **It would be incorrect to consider the requirements of the rules on appeal as merely harmless and trivial technicalities that can be discarded. Indeed, deviations from the rules cannot be tolerated**. In these times when court dockets are clogged with numerous litigations, such rules have to be followed by parties with greater fidelity, so as to facilitate the orderly disposition of cases. After a judgment has become final, vested rights reacquired by the winning party. If the proper losing has the right to file an appeal within the prescribed period, then the former has the correlative right to enjoy the finality of the resolution of the case. Thus, we agree with the Court of Appeals that the trial court did not commit any grave abuse of discretion amounting to lack or excess of jurisdiction when it denied the petitioners' motion to elevate the records to the CA. (*Boldfacing supplied*)

Hence, for failure to appeal within the prescribed period, the assailed Decision dated October 26, 2021 and Resolution dated March 21, 2022, both rendered by this Court's First Division in CTA Case No. 9628, had lapsed to finality depriving the Court *En Banc* of jurisdiction to take cognizance of the same.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

[10] *Pedrosa vs. Hill*, 257 SCRA 373 [1996].
[11] G.R. No. 158615, March 4, 2005.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice