REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,

- versus -

RIZAL PROVINCIAL GOVERNMENT Represented by Provincial Administrator Jorge N. Bernardo, Respondent.

CTA EB NO. 2697
(CTA Case No. 8918)

Present:

DEL ROSARIO, *P.J.*,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, *and*
FERRER-FLORES, *JJ.*

Promulgated:
NOV 28 2022 2:57pm

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RESOLUTION

For the Court *En Banc*'s resolution are:

1. Petitioner Commissioner of Internal Revenue's (**petitioner**'s/**CIR**'s) "Motion for Extension of Time to File Petition for Review"[1] (**Motion for Extension**), filed on 03 October 2022; and,

2. Petitioner's "Petition for Review[2] subsequently filed *via* registered mail on 17 October 2022.[3]

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1 *Rollo*, pp. 1-6, with annexes.
2 Id., pp. 7-58, with annexes.
3 Received by the Court on 27 October 2022.

Earlier, on 12 March 2020, the Court's Third Division rendered a Decision cancelling and setting aside the assessment for deficiency withholding taxes and the Warrant of Distraint and/or Levy (**WDL**) issued against respondent for the taxable year (**TY**) 2006 (**Assailed Decision**).[4]

On 01 September 2020, petitioner filed a Motion for Reconsideration[5] (**MR**) on the Assailed Decision, which the Third Division denied for lack of merit in the Resolution dated 16 December 2020 (**First Assailed Resolution**).[6]

Then, on 19 April 2022, the Third Division declared that the Assailed Decision has become final and executory, considering the Records Verification Report dated 01 April 2022[7] stating that no appeal to the Court *En Banc* or the Supreme Court was filed by the parties in this case, and directed the issuance of an Entry of Judgment (**Second Assailed Resolution**).[8] In compliance therewith, an Entry of Judgment was issued on 29 April 2022.[9]

On 20 May 2022, petitioner filed *via* LBC (a private courier) the MR dated 19 May 2022[10] on the Second Assailed Resolution.[11] Finding that the First Assailed Resolution[12] was not served on petitioner's counsels of record at **Legal Division of Bureau of Internal Revenue (BIR), Revenue Region (RR) No. 7A, 5th Floor (Roof Deck), Fisher Mall, Quezon Avenue corner Roosevelt Avenue, Quezon City**, the Third Division recalled its Second Assailed Resolution and the corresponding Entry of Judgment in the Resolution dated 18 July 2022.[13]

Based on the Records Verification Report dated 16 September 2022[14] and as stamped in the Notice of Resolution dated 21 July 2022[15], the Third Division's 18 July 2022 Resolution[16] was served at

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4 Penned by Associate Justice Erlinda P. Uy, with Associate Justice Ma. Belen M. Ringpis-Liban and Associate Justice Maria Rowena Modesto-San Pedro, concurring. Division Docket, Volume II, pp. 863-889.
5 Id., pp. 890-904.
6 Id., pp. 929-931.
7 Id., p. 932.
8 Id., p. 934.
9 Id., pp. 935-936.
10 Id., pp. 937-941, with annex.
11 Supra at note 8.
12 Supra at note 6.
13 Division Docket, Volume II, pp. 954-956.
14 Id., p. 957.
15 Id., p. 963.
16 Supra at note 13.

the **Legal Division of BIR, RR No. 7A, 5th Floor (Roof Deck), Fisher Mall, Quezon Avenue corner Roosevelt Avenue, Quezon City** on **12 August 2022**.

In the instant Motion for Extension[17], petitioner claims that the Third Division's 18 July 2022 Resolution[18] was received and sent to BIR RR No. 7A's address above, and the First Assailed Resolution[19], sent to Revenue District Office (**RDO**) No. 43 - Pasig City, only on **16 September 2022** (upon the subsequent transmittal of such Resolutions by the BIR's Legal Division at RR No. 7A to its counterpart at RR No. 7B). Counting fifteen (15) days from receipt thereof, petitioner has until **01 October 2022** (a Saturday) to file the Petition for Review. Assuming the Court *En Banc* grants an additional period of 15 days therefrom, as prayed for in the Motion for Extension filed on 03 October 2022 (the next business day), petitioner has until **16 October 2022** to file the same.

Petitioner further avers that the new address, *i.e.*, **Legal Division of BIR, RR No. 7B, 25th Floor, The Podium West Tower, ADB Ave., Ortigas Center, Mandaluyong City**, was already indicated in the MR dated 19 May 2022.[20] As such, petitioner insists that the period for filing an appeal to the Court *En Banc* should be reckoned from **16 September 2022**, the date of transmittal of the Third Division's 18 July 2022 Resolution[21] by the Legal Division of BIR RR No. 7A to the Legal Division of BIR RR No. 7B.

According to petitioner, the instant Motion for Extension[22] was filed due to a heavy workload, thereby asking for an additional period of 15 days from 01 October 2022, or until 16 October 2022 (a Sunday), to file the Petition for Review.

Thereafter, or on 17 October 2022 (the next business day), without waiting for the Court *En Banc*'s resolution on its Motion for Extension[23], petitioner filed the Petition for Review.[24]

We resolve.

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17 Supra at note 1.
18 Supra at note 13.
19 Supra at note 6.
20 Supra at note 10.
21 Supra at note 13.
22 Supra at note 1.
23 Supra at note 1.
24 Supra at note 2.

Although petitioner's counsel indicated a different address, *i.e.*, **Legal Division of BIR, RR No. 7B, 25th Floor, The Podium West Tower, ADB Ave., Ortigas Center, Mandaluyong City**, in the MR dated 19 May 2022[25], the records reveal that petitioner's counsel did not file any Notice of Change of Address to reflect such new address, nor did her counsel pray for the Third Division to take notice of the new address indicated in the said MR.

In *Ligaya Mendoza and Adelia Mendoza v. The Honorable Court of Appeals (Eight Division), et al.*[26], the Supreme Court held that:

> . . .
> As a rule where a party appears by attorney in an action or proceeding in a court of record, all notices or orders required to be given therein must be given to the attorney of record. **Accordingly, notices to counsel should be properly sent to his address of record, and, unless the counsel files a notice of change of address, his official address remains to be that his address of record.**
> . . .

Accordingly, when the process server of the Third Division served a copy of the 18 July 2022 Resolution[27], together with a copy of the First Assailed Resolution[28], at the **Legal Division of BIR, RR No. 7A, 5th Floor (Roof Deck), Fisher Mall, Quezon Avenue corner Roosevelt Avenue, Quezon City** on **12 August 2022**, service was already completed as the said Resolutions were duly served at the address of petitioner's counsels of record.

Counting 15 days from 12 August 2022, petitioner only had until **27 August 2022**, within which to file a Petition for Review (or a motion for extension of time to file the same) before the Court *En Banc*. Since the instant Motion for Extension was filed only on **03 October 2022**, it was clearly filed beyond the prescribed period.

It is well-settled that the perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional as well, and that failure to perfect an appeal within the

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25 Supra at note 10.
26 G.R. No. 182814, 15 July 2015; Citation omitted and emphasis supplied.
27 Supra at note 13.
28 Supra at note 6.

period fixed by law renders the judgment appealed from final and executory.[29]

In the case of *Francisco A. Labao v. Lolito N. Flores, et al.*[30], the Supreme Court stressed the importance of timeliness of appeals and accordingly, reversed the Court of Appeals when it acted on a petition for *certiorari* that was belatedly filed:

> . . .
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> Time and again, we have stressed that procedural rules do not exist for the convenience of the litigants; the rules were established primarily to provide order to, and enhance the efficiency of, our judicial system. **While procedural rules are liberally construed, the provisions on reglementary periods are strictly applied**, indispensable as they are to the prevention of needless delays, and are necessary to the orderly and speedy discharge of judicial business. **The timeliness of filing a pleading is a jurisdictional caveat that even this Court cannot trifle with.**
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> Viewed in this light, procedural rules are not to be belittled or dismissed simply because their non-observance may have prejudiced a party's substantive rights; like all rules, they are required to be followed.
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> . . .
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> **Needless to stress, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.** All the issues between the parties are deemed resolved and laid to rest once a judgment becomes final and executory; execution of the decision proceeds as a matter of right as vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case. After all, a denial of a petition for being time-barred is tantamount to a decision on the merits. Otherwise, there will be no end to litigation, and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.
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> . . .

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29 *Santiago R. Maravillas v. Bierne M. Esmero*, G.R. No. 242654 (Notice), 07 January 2019, citing *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, 17 June 2015.

30 G.R. No. 187984, 15 November 2010; Citations omitted and emphasis supplied.

Indeed, the timeliness of an appeal is a jurisdictional caveat that cannot be trifled with[31] and is not a mere technicality. Since petitioner's right to appeal has already lapsed in consequence of the belatedly filed *Motion for Extension*[32], the Court *En Banc* cannot validly acquire jurisdiction over the said appeal. Accordingly, the Assailed Decision dated 12 March 2020 has already attained finality, and can no longer be questioned by the parties.

WHEREFORE, premises considered, petitioner's "Motion for Extension of Time to File Petition for Review", filed on 03 October 2022, is hereby **DENIED** for lack of merit, and the *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON OFFICIAL BUSINESS
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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31 *Bank of America, NT & SA v. Hon. Nicolas A. Gerochi, Jr., et al.*, G.R. No. 73210, 10 February 1994.

32 Supra at note 1.

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MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice