

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

EN BANC

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

**CTA EB NO. 2291
(CTA CASE NO. 8923)**

-versus-

Present:

**Del Rosario, P.J.,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, JJ**

**LOTTE CONFECTIONERY PILIPINAS
CORPORATION,**

Respondent.

Promulgated:

OCT 21 2020

[Signature] 11:09a.m.

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x

RESOLUTION

On July 15, 2020, petitioner filed a “Motion for Extension of Time to File Petition for Review” stating that petitioner has until July 17, 2020 within which to file the Petition for Review. The counsel for petitioner foresees that he will not be able to finalize and file the petition before July 17, 2020 considering that the case was just assigned to him only on July 14, 2020. Hence, petitioner prayed that the Court *En Banc* grant an additional period of thirty (30) days from July 17, 2020, or until August 16, 2020, within which to file the Petition for Review.

On July 20, 2020, the Court *En Banc* issued a Minute Resolution granting petitioner a final and non-extendible period of fifteen (15) days from July 17, 2020 or until August 1, 2020, within which to file the Petition for Review.

On August 24, 2020, petitioner filed a “Motion to Admit Petition for Review” stating that on August 18, 2020, counsel for petitioner received the Resolution of the Court *En Banc* granting the motion of petitioner for an

extension of time to file Petition for Review, whereby petitioner was granted a final and non-extendible period of fifteen (15) days from 17 July 2020, or until 01 August 2020, within which to file the necessary petition; that the delay of twenty-three (23) days in the filing of the Petition for Review was not intended to undermine the speedy and proper administration of justice considering that petitioner's counsel received the said Resolution to the Motion for Extension only on August 18, 2020; and that the reason for the delay was beyond the control of petitioner and his undersigned counsel. Hence, in the interest of justice and equity, petitioner prayed that the Court *En Banc* grants the instant "Motion to Admit Petition for Review."

After consideration, the Court *En Banc* resolves to DENY petitioner's "Motion to Admit Petition for Review." The delay in filing the Petition for Review is 23 days. Petitioner's reason for the delay in filing, *i.e.* because the Court *En Banc*'s Resolution granting the motion for extension was received only on August 18, 2020, is not a valid excuse to file the Petition for Review beyond the allowable period. The counsel for petitioner should not presume that the motion for extension would be granted, much less, that the extension that may be granted should be counted only from his receipt of the Court *En Banc*'s Resolution. Although petitioner pleads for liberal interpretation of the rules on procedure, the same, however, should not be ignored to suit the convenience of a party.

The allowance or denial of a motion for extension of time is addressed to the sound discretion of the court. In *Videogram Regulatory Board vs. Court of Appeals, Hon. B.A. Adefuin-De la Cruz, in her capacity as Presiding Judge of Kalookan RTC, Branch 122, and Edward L. Unite*,¹ the Supreme Court ruled as follows:

"We have consistently held that allowance or denial of a motion for extension is addressed to the sound discretion of the court, and such discretion vested in the courts must be exercised wisely and prudently, and never capriciously, with a view to substantial justice.

But once granted, the extension of time starts from the end of the original reglementary period. It begins to run whether or not the movant/grantee has knowledge of such action of the granting court. **Notice in this instance is unimportant as, in the first place, lawyers should never presume that their motions for extension or postponement would be granted. It behoves them to follow up on their motions, for the mere filing of the same is not enough. They must check with the division clerks of court for the action on their motions,**

¹ G.R. No. 106564, November 28, 1996 (citations omitted).

considering that time may run out on them- as it did in this case.

The OSG persists in pressing this Court to take judicial notice of its very heavy caseload, which is its estimation constitutes sufficient justification for the delay. However, it cannot be gainsaid that, with ordinary diligence and foresight, the Solicitor General and his staff could have readily found a way with the deadline.

The warning in *Roxas* is pertinent to the case at bar where it states:

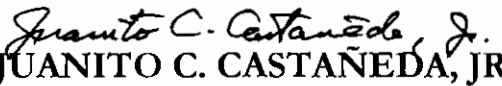
... Let this serve as (a) warning among members of the Philippine bar who take their own sweet time with their cases if not purposely delay its progress for no cogent reason. It does no credit to their standing in the profession. More so when they do not file the required brief or pleading until their motion is acted upon. **Not only should they not presume that their motion for extension of time will be granted by the court(,) much less should they expect that the extension that may be granted shall be counted from notice. They should file their briefs or pleadings within the extended period requested. Failing in this, they have only themselves to blame if their appeal or case is dismissed.”** (*Emphasis ours*)

Thus, the petitioner’s delay in filing the Petition for Review as stated in paragraph 7 of his “Motion to Admit Petition for Review” is not excusable.

WHEREFORE, premises considered, the “**Motion to Admit Petition for Review**” is **DENIED**. Accordingly, the **Petition for Review** is **DENIED DUE COURSE**.

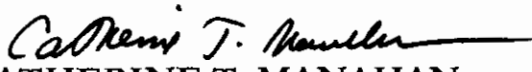
SO ORDERED.

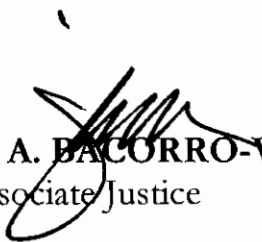

ROMAN G. DEL ROSARIO
Presiding Justice

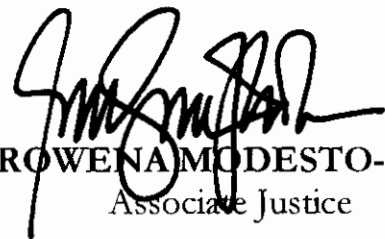

JUANITO C. CASTAÑEDA, JR.
Associate Justice


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