

Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

**BASES CONVERSION AND
DEVELOPMENT AUTHORITY,**

Petitioner,

-versus-

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

CTA Case No. 8263

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

FEB 03 2012 *File 3:00 pm*

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RESOLUTION

For resolution is respondent's Motion to Dismiss filed on December 27, 2011, praying for the dismissal of petitioner's Petition for Review¹ dated April 7, 2011, with petitioner's Comment filed on February 1, 2012.

Respondent contends that the instant Petition for Review, which was filed after the lapse of the thirty (30) day period to appeal with the Court of Tax Appeals (CTA), must be dismissed due to lack of jurisdiction.

Petitioner, on the other hand, posits that it timely filed the instant Petition for Review with Request for Exemption from Payment of Filing Fees on February 16, 2011. However, the said petition was returned, as the same was not deemed filed without the payment of the correct legal fees, as stated in the Letter of Atty. Elvessa P. Apolinario,

¹ Division Docket, pp. 6-33.

Executive Clerk of Court-IV of the CTA dated March 1, 2011. Hence, the instant petition was again filed by petitioner on April 7, 2011, in order for this Court to resolve first its Request for Exemption from Payment of Filing Fees, in the same manner that the Petition for Review and Request for Exemption from Payment of Filing Fees in a similar case docketed as CTA Case No. 8176 entitled, "*Bases Conversion and Development Authority vs. Commissioner of Internal Revenue*," was resolved by the CTA First Division.

After a careful and thorough evaluation and consideration of the records of the case, including both parties' arguments in their respective pleading, this Court finds petitioner's arguments untenable.

Although the instant Petition for Review was timely filed, still, the petition would still be dismissed for non-payment of docket fees, which is an essential requirement before the court could acquire jurisdiction over a case.

In the case at bench, Atty. Elvessa P. Apolinario cannot be faulted for returning the instant petition, her refusal to accept the same is not without legal basis. In fact, it is explicitly provided under Section 5, Rule 141 of the 1997 Rules of Court, as amended, which applies suppletorily to this Court that, if fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the appeal or the action or proceeding, to wit:

"SEC. 5. Fees to be paid by the advancing party.— The fees of the clerk of the Court of Appeals or of the Supreme Court shall be paid by him at the time of the entry of the action or proceeding in the court by the party who enters the same by appeal, or otherwise, and the clerk shall in all cases give a receipt for the same and shall enter the amount received upon his book, specifying the date when received, person from whom received, name of action in which received, and amount received. **If the fees are not paid, the court may refuse to proceed with the action until they are paid and may dismiss the appeal or the action or proceeding.**" (Emphasis supplied)

Corollary thereto, Section 3, Rule 42 of the same Rules, states:

"SEC. 3. Effect of failure to comply with requirements.— The failure of the petitioner to comply with any of the foregoing requirements **regarding the payment of the docket and other lawful fees**, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition **shall be sufficient ground for the dismissal thereof.**" (Emphasis supplied)

Furthermore, in a plethora of cases², the Court consistently ruled that payment in full of docket fees within the prescribed period is mandatory. Such fees are necessary to defray court expenses in the handling of cases.³⁴ As this Court has firmly declared in *Rodillas v. Commission on Elections*⁵, such payment is an essential requirement before the court could acquire jurisdiction over a case. The payment of the full amount of the docket fee is an indispensable step for the perfection of an appeal⁶. In both original and appellate cases, the court acquires jurisdiction over the case only upon the payment of the prescribed docket fees.⁷

Lastly, Courts are bound to take notice of the limits of their authority and they may, by their own motion, even though the question is not raised by the pleadings, or not even suggested by counsel, recognize the want of jurisdiction and act accordingly by staying pleadings, dismissing the action, or otherwise noticing the defect, at any stage of the proceedings.⁸

In view of the foregoing, the non-payment of docket fees warrants a dismissal, in as much as no jurisdiction was acquired by this Court.

² *Manalili vs. De Leon*, 370 SCRA 625, November 27, 2001; *Buenaflor vs. Court of Appeals*, 346 SCRA 563, November 29, 2000.

³ *Emnace v. Court of Appeals*, 370 SCRA 431, November 23, 2001.

⁴ §6 of Rule 1 of the Rules of Court.

⁵ 245 SCRA 702 (1995).

⁶ *Dorego v. Perez*, 22 SCRA 8 [1968]; *Bello v. Fernandez*, 4 SCRA 135 [1962].

⁷ *Acda v. Minister of Labor*, 119 SCRA 306 (1982).

⁸ *Ace Publications, Inc. vs. Commissioner of Customs and the Collector of Customs*, 11 SCRA 153.

WHEREFORE, premises considered, the present Petition for Review is hereby **DENIED DUE COURSE**, and, accordingly **DISMISSED** for non-payment of docket fees.

SO ORDERED.


JUANITO C. CASTAÑEDA, JR.
Associate Justice


CAESAR A. CASANOVA
Associate Justice

(On Official Business)
CIELITO N. MINDARO GRULLA
Associate Justice