REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

GOLDMINE RICE MARKETING, Represented by its Proprietor MR. ORLANDO C. MANUNTAG,
Petitioner,

-versus-

HON. DISTRICT COLLECTOR OF CUSTOMS, Port of Manila Int'l. Container Terminal (MICT) S Access Road, North Harbor, Port Area, Tondo, Manila; and HON. REY LEONARDO B. GUERERRO, Commissioner of Customs, G/F, OCOM Bldg. 16th St., South Harbor, Port Area, Manila,
Respondents.

CTA *EB* NO. 2616
(CTA Case No. 10578)

Present:

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

Promulgated:
JUN 30 2022 4:18 pm

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RESOLUTION

On May 12, 2022, petitioner filed a *Petition for Review* (*Petition*) assailing the Resolution promulgated on April 18, 2022 by the Court's First Division.

Upon perusal of the *Petition*, the Court notes the following:

1. Petitioner failed to attach legible duplicate original or certified true copy of the resolution appealed from, as

required under Section 2, Rule 6[1] of the Revised Rules of Court of Tax Appeals (RRCTA);[2]

2. Petitioner failed to attach the affidavit of service required under Rule 13, Section 16(c) of the 1997 Rules on Civil Procedure, as amended[3] and as adapted by this Court;[4]

3. Counsel for petitioner, Atty. Manuel R. Castro, failed to indicate in the *Petition* the following:

    a. The date and number of his current membership in the Integrated Bar of the Philippines (IBP) per Official Receipt (OR); and

    b. His current Professional Tax Receipt (PTR) number, together with its date and place of issuance, as required by Section 6, Rule 6[5] of the RRCTA.

More importantly, petitioner alleged in the Petition that it received the assailed Resolution on **May 3, 2022**. However, a review of the case records shows that its counsel, Castro Talaboc & Associates Law Office, received the subject Resolution on **April 26, 2022.**[6]

Under Section 3(b), Rule 8[7] of the Revised Rules of the Court of Tax Appeals (RRCTA), petitioner had fifteen (15) days

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[1] SEC 2. *Petition for review; contents.* – The petition for review shall contain ... **A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition.** *(Emphasis supplied)*
[2] A.M. No. 05-11-07-CTA.
[3] SEC. 16. *Proof of Filing.* — The filing of a pleading or any other court submission shall be proved by its existence in the record of the case.
...
(c) If the pleading or any other court submission was filed through an accredited courier service, the filing shall be proven by **<u>an affidavit of service of the person who brought the pleading or other document to the service provider</u>**, together with the courier's official receipt and document tracking number. *(Emphasis and underscoring supplied)*
[4] Per *En Banc* Resolution No. 9-2020.
[5] SEC. 6. *Entry of appearance.* – An attorney may enter an appearance by signing the initial pleading. An attorney may later enter an appearance only by filing an entry of appearance with the written conformity of the client.
The initial pleading or entry of appearance must contain the following:

...
(3) The **date and number of current membership due in the Integrated Bar of the Philippines (IBP) per Official Receipt**, or Lifetime Member Number;
(4) The **Current Professional Tax Receipt (PTR) number together with date and place of issuance**; ... *(Emphasis supplied)*

[6] CTA Case No. 10578, Docket, p. 78.
[7] **SEC. 3.** *Who may appeal; period to file petition.* ...
(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, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (*Emphasis supplied*)

from receipt of the assailed Resolution on April 26, 2022, or until **May 11, 2022**, to appeal before the Court *En Banc*. Hence, the Petition was belatedly filed on **May 12, 2022**.

It must be emphasized 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.[8] The **perfection of an appeal** in the manner and within the period set by law is **not only mandatory but jurisdictional** as well.[9] The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and **precluding the appellate court** from acquiring jurisdiction over the case.[10]

Accordingly, the failure of the petitioner to perfect the appeal on time precluded the Court *En Banc* from acquiring jurisdiction over the case and performing any action thereon except to dismiss the same.

When a court or tribunal has no jurisdiction over the subject matter, the only power it has is to **dismiss** the action.[11] After all, the first and fundamental duty of the Court is to apply the law,[12] in this case, the law pertaining to period to file an appeal, which are mandatory and jurisdictional.

Indeed, the timeliness of an appeal is a jurisdictional caveat that not even the Supreme Court can trifle with.[13]

WHEREFORE, premises considered, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

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[8] *Air France Philippines v. Leachon*, G.R. No. 134113, October 12, 2005.
[9] *Id.*
[10] Commissioner of Internal Revenue vs. Fort Bonifacio Development Corp., G.R. No. 167606, 11 August 2010.
[11] Velasquez, Jr. vs. Lisondra Land, Inc., G.R. No. 231290, 27 August 2020, citing Mitsubishi Motors Philippines Corporation vs. Bureau of Customs, 760 Phil. 954 (2015), citing Philippine Coconut Producers Federation, Inc. vs. Republic, 679 Phil. 508 (2012); Spouses Genato vs. Viola, 625 Phil. 514 (2010); Perkin Elmer Singapore Pte. Ltd. vs. Dakila Trading Corp., 556 Phil. 822 (2007); Allied Domecq Philippines, Inc. vs. Villon, 482 Phil. 894 (2004); Katon vs. Palanca, Jr., 481 Phil. 168 (2004); and Zamora vs. CA, 262 Phil. 298 (1990).
[12] Del Monte Land Transport Bus, Co. vs. Armenta, G.R. No. 240144, 3 February 2021; Coam Phil., Inc. vs. Lina, G.R. No. 248413 (Notice), 1 July 2020; Bilag vs. Ay-ay, G.R. No. 189950, 24 April 2017, 809 SCRA 236-248; Guy vs. Guy, G.R. No. 184068, 19 April 2016, 785 SCRA 99-116, citing Rizal Commercial Banking Corp. vs. Intermediate Appellate Court, 378 Phil. 10-31 (1999).
[13] *Bank of America, NT & SA v. Gerochi, Jr.*, G.R. No. 73210, February 10, 1994.

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

Ma. Belen

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

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice