REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NATIONAL HOME MORTGAGE FINANCE CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2472
(CTA Case No. 9916)

Present:

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

Promulgated:

SEP 2 9 2023 3:45 p.m.

x- x

RESOLUTION

MANAHAN, *J.*:

This resolves petitioner National Home Mortgage Finance Corporation's (NHMFC) ***Motion for Reconsideration (Of the Honorable Court's 19 April 2023 Decision)***[1] filed on May 12, 2023 seeking the reconsideration and setting aside of the *Decision* dated April 19, 2023[2] (Assailed Decision), the dispositive portion of which reads as follow:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **DENIED** for lack of merit.
>
> **SO ORDERED**."

Petitioner is also seeking the grant of its claim for refund in the amount of Six Million Four Hundred Twenty-Six Thousand pesos (Php6,426,000.00).

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[1] *Rollo*, CTA EB No. 2472, pp. 142-158.
[2] *Id.*, *Decision* dated April 19, 2023, pp. 135-141.

Petitioner NHMFC argues that its Motion for Reconsideration in the Court in Division was only one (1) day late and it happened during the global pandemic brought about by COVID-19. Further, it humbly acknowledged and apologized for such lapse.

Petitioner argues that the Assailed Decision should be reconsidered and set aside considering that it is entitled to a refund based on law and jurisprudence, and that there is no need to prove that the Asset-Backed Securities were held by tax exempt investors for the refund to prosper.

On the other hand, respondent, in its ***Opposition (Re: Motion for Reconsideration of the Decision dated 19 April 2023)***[3] filed on June 21, 2023, counter-argues that the finality of the Decision dated November 9, 2020 precludes this Court from entertaining the instant petition for review.

Before resolving the motion on the merits, the Court shall first determine whether the instant motion is filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.* — Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court by filing a motion for reconsideration or new trial **within fifteen days from the date of receipt of notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

The records of the case reveal that petitioner NHMFC, through the Office of the Government Corporate Counsel, received the assailed *Decision* dated April 19, 2023 on April 28, 2023[4]. In accordance with the above-mentioned provision of the RRCTA, petitioner had until May 13, 2023 within which to file its motion for reconsideration. Thus, the filing of the instant Motion for Reconsideration on May 12, 2023 was on time.

On the substantive aspect of the instant motion, we would like to emphasize that based on the Assailed Resolution of the Court in Division, there was already a denial of its

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[3] *Rollo*, pp. 177-180.
[4] *Id.*, Notice of Decision dated, p. 134.

motion for reconsideration for being filed out of time, hence, the Court in Division's Decision has become final and executory.

In the recent case of *Bureau of Internal Revenue v. Tico Insurance Company, Inc. et al.*,[5] the Supreme Court (SC) affirmed the denial by the Court of Appeals of Bureau of Internal Revenue's motion for reconsideration (MR), which was filed one (1) day late, because the 15-day reglementary period for filing an MR is non-extendible and that the filing of the same beyond said prescriptive period shall automatically deprive the litigant of its right to appeal, to wit:

> "In the same vein, 'a motion for reconsideration must necessarily be filed within the period to appeal. **When filed beyond such period, the motion for reconsideration *ipso facto* forecloses the right to appeal.**' 'Under Section 1, Rule 52 of the Rules of Court, a motion for reconsideration of a judgment or final resolution should be filed within 15 days from notice. If no appeal or motion for reconsideration is filed within this period, the judgment or final resolution shall forthwith be entered by the clerk in the book of entries of judgment, as provided under Section 10 of Rule 51. **The 15-day reglementary period for filing a motion for reconsideration is non-extendible.**'
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> Provisions of the Rules of Court prescribing the time within which certain acts must be done, or certain proceedings taken, are absolutely indispensable to the prevention of needless delays, and to the orderly and speedy discharge of judicial business. While this Court has previously allowed the liberal application of procedural rules, these are exceptions that are sufficiently justified by meritorious and exceptional circumstances attendant therein, which are notably not present in the instant petition. **Not every plea for relaxation of rules of procedure shall be granted by the Court for it will render such rules inutile.**
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> Significantly, the BIR failed to adduce any cogent or exceptional reason that would warrant the liberal application of the rules. It merely invoked the inadvertence of its counsel's Document Management Division in failing to file its motion for reconsideration on time. However, a counsel's tardiness in complying with reglementary periods for filing pleadings that are attributed to the negligence of said counsel's secretary or clerk is not a valid reason. 'It is the counsel's duty to adopt and to strictly maintain a system that ensures that all pleadings should be filed and duly served within the period; and if he fails to do so, the

[5] G.R. No. 204226, April 18, 2022.

> negligence of his secretary or clerk to file such pleading is imputable to the said counsel.'
>
> That the motion for reconsideration was filed only one day late is immaterial; the Court has similarly refused to admit motions for reconsideration which were filed late without sufficient justification. Indeed, '[j]**ust 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 case**.'
>
> In fine, the BIR's failure to seasonably file its motion for reconsideration rendered the December 16, 2011 Decision of the CA final and executory, and beyond the courts' power to amend or revoke. Moreover, even if the petition is not dismissed due to its procedural infirmity, a careful study of the other issues clearly shows that the petition should be denied for lack of merit." (*Emphasis supplied*)[6]

In the instant case, petitioner merely reasoned out that the filing of MR was only a day late and that it happened during the pandemic brought about by COVID-19, without further justification. Thus, this Court may reconsider such alleged lapse.

On the contrary, petitioner should be reminded that the SC and this Court, through several issuances, had ensured that litigants can file their pleadings in this Court within the prescriptive period under the law through other mediums such as the use of electronic mail. Thus, such reason cannot be a justification for its inexcusable negligence in the filing of the subject MR.

In the cited case of *Charnnel Shane Tomas v. Rachel Trono et. al.*[7] in the Assailed Decision, the SC ruled that when the judgment becomes final and executory, the court loses jurisdiction over the case and even the appellate court, such as the Court of Tax Appeals (CTA), has no power to review a judgment that has acquired finality.

Assuming without conceding, that we consider such alleged lapse, this Court is still precluded from acquiring jurisdiction over the instant case since petitioner is a government owned- and/or-controlled corporation and respondent is a national government bureau.

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[6] Citations omitted.
[7] G.R. No. 241032, March 15, 2021.

In *Power Sector Assets and Liabilities Management Corporation v. Commissioner of Internal Revenue*[8] (*PSALM* case), the SC *En Banc* ruled that when a controversy is solely between government agencies and offices, including government-owned or-controlled corporations, the case should be referred to either the Secretary of Justice or Solicitor General pursuant to Presidential Decree No. 242, as amended by Executive Order No. 292 s. 1987.

In the recent case of *The Department of Energy v. Court of Tax Appeals*,[9] the SC ruled that the issues to be resolved under the abovementioned *PSALM* case is not limited to interpretation of contracts but all kinds of controversies or disputes, to wit:

> "A reading of *PSALM v. CIR* clearly demonstrates that the decision was not merely hinged on the existence of the MOA among the government agencies concerned, but moreso on the very fact that there is a djspute among two government-owned or -controlled corporations, PSALM and the NPC, on the one hand, and a national government office, the BIR, on the other.
>
> The CTA *En Banc* in the assailed Resolution correctly observed that the Court 'was categorical in ruling that when the law says 'all disputes, claims and controversies solely among government agencies, the law means all, without exception.' So long as such dispute arises from any of the following – 'the interpretation and application of statutes, contracts or agreements' - the same falls under the administrative settlement proceedings directed by P.D. No. 242.
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> Through *PSALM v. CIR*, the Court harmonized conflicting laws, provided guidelines for when disputes ought to be referred to administrative settlement, and clarified the appropriate arbiter based on the nature of the issues. Thus, the decision was not limited to the same scenario which brought about the action, but was to be instructive for future scenarios conforming with the parameters drawn by the Court.
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> To hold that *PSALM v. CIR* is applicable only to disputes, claims, or controversies, arising out of contracts or agreements among government agencies, to the exclusion of the other sources of disputes enumerated in Section 1 of P.D. No. 242, is to adopt a dangerously narrow interpretation."

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[8] G.R. No. 198146, August 08, 2017.
[9] G.R. No. 260912, August 17, 2022.

WHEREFORE, premises considered, petitioner NHMFC's *Motion for Reconsideration (Of the Honorable Court's 19 April 2023 Decision)* is hereby **DENIED** for lack of merit. Accordingly, the Court's *Decision* dated October 5, 2022 is **AFFIRMED**.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
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

CORAZON G. FERRER-FLORES
Associate Justice