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

## ***EN BANC***

**PEOPLE OF THE PHILIPPINES,**
Petitioner,

- versus -

**CROSS COUNTRY OIL AND PETROLEUM CORP., ARTURO M. ZAPATA, AND JACOB VALERIANO, JR.,**
Respondents.

**CTA EB CRIM NO. 056**
(CTA Crim. Case No. O-629)

*Present*:

**DEL ROSARIO**, P.J.,
**CASTAÑEDA, JR.**,
**UY**,
**FABON-VICTORINO**,
**MINDARO-GRULLA**,
**RINGPIS-LIBAN**, and
**MANAHAN**, JJ.

Promulgated:

DEC 14 2018 2:47 p.m.

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## RESOLUTION

For this Court's resolution is petitioner's **Motion for Reconsideration (Re: Resolution dated September 18, 2018)** filed on October 10, 2018, with respondent's **Comment/Opposition (re: Motion for Reconsideration dated 16 November 2017 *(sic)*)** filed on November 23, 2018.

In the aforestated motion, petitioner seeks reconsideration of the Resolution dated September 18, 2018, which dismissed the Petition for Review for being filed out of time on August 9, 2018. Petitioner prays that a new Resolution be issued giving due course to the Petition for Review and avers that in its Motion for Extension of Time (To File Petition for Review), it requested for an extension of until August 9, 2018. According to petitioner, procedural rules may be relaxed in the interest of substantial justice.

On the other hand, respondent contends that petitioner did not present any persuasive reason for the relaxation of procedural rules on the period for filing a petition for review.

The instant motion must fail.

Records show that on July 30, 2018, petitioner filed its Motion for Extension of Time (To File Petition for Review),[1] praying that it be granted an extension of ten (10) days from July 30, 2018 or until August 9, 2018, within which to file the Petition for Review. Considering that petitioner received a copy of the assailed Resolution dated July 11, 2018 of the Court in Division, the motion for extension was timely filed within the fifteen (15)-day period, pursuant to Section 1(a), Rules 42 of the Revised Rules of Court and Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals.

In a Minute Resolution dated July 31, 2018,[2] however, the Court granted petitioner a final and non-extendible period of ten (10) days from July 28, 2018 or until August 7, 2018, within which to file the Petition for Review. **The period was granted in accordance with A.M. No. 00-2-14-SC dated February 29, 2000, which clarified that any extension of time to file a required pleading should be counted from the expiration of the period regardless of the fact that said due date is a Saturday, Sunday or legal holiday**. The elucidation states:

> "Whereas, the aforecited provision [Section 1, Rule 22 of the Rules of Court] applies in the matter of filing of pleadings in courts when the due date falls on a Saturday, Sunday or legal holiday, in which case, the filing of the said pleading on the next working day is deemed on time;
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> Whereas, the question has been raised if the period is extended *ipso jure* to the next working day immediately following where the last day of the period is a Saturday, Sunday or a legal holiday, so that when a motion for extension of time is filed, the period of extension is to be reckoned from the next working day and not from the original expiration of the period.
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> NOW THEREFORE, the Court Resolves, for the guidance of the Bench and the Bar, to declare that Section 1, Rule 22 speaks only of 'the last day of the period' so that when a party seeks an extension and the same is granted, the due date ceases to be the last day and hence, the provision no longer applies. **Any extension**

[1] CTA EB Docket, pp. 1-3.
[2] CTA EB Docket, p. 4.

> **of time to file the required pleading should therefore be counted from the expiration of the period regardless of the fact that said due date is a Saturday, Sunday or legal holiday.**" (Emphasis supplied)

As highlighted in the assailed Resolution, the pronouncement in *Reinier Pacific International Shipping, Inc. and Neptune Ship Management Svcs., Pte., Ltd., vs. Captain Francisco B. Guevarra*[3] is instructive, *viz.*:

> "The clarification provided in A.M. 00-2-14-SC actually covers a situation where the due date falls on a Saturday, Sunday, or holiday. Precisely, what such clarification wanted to address is the erroneous claim that 'the period of extension' in such a case 'is to be reckoned from the next working day and not from the original expiration of the period.' The correct rule, according to the clarification, is that 'any extension of time to file the required pleading should x x x be counted from the expiration of the period regardless of the fact that said due date is a Saturday, Sunday or legal holiday.'
>
> For example, if a pleading is due on July 10 and this happens to be a Saturday, the time for filing it shall not run, applying Section 1 of Rule 21, on July 1 0 (Saturday) nor on July 11 (Sunday) but will resume to run on the next working day, which is July 12 (Monday). The pleading will then be due on the latter date. If the period is extended by 10 days, such 10 days will be counted, not from July 12 (Monday) but from the original due date, July 10 (Saturday) 'regardless of the fact that said due date is a Saturday.' Consequently, the new due date will be 10 days from July 10 or precisely on July 20. As stated above, the situation of Reinier Shipping is different."

From the foregoing, the extension granted to petitioner in the Minute Resolution dated July 31, 2018, was correctly reckoned from the date of the expiration of the fifteen (15)-day period, which is July 28, 2018, and not July 30, 2018.

Petitioner further contends that it received the Minute Resolution dated July 31, 2018, only on August 7, 2018, and that had it received the same earlier, it could have complied with the August 7, 2018 deadline.

The proposition is specious. The period of extension, as granted by the Court, is undeniably consistent with the rules anent

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[3] G.R. No. 157020, June 19, 2013.

the proper mode of computation, irrespective of the purported receipt of this Court's Resolution dated July 31, 2018.

As stressed by this Court in the assailed Resolution, the right to appeal is merely a statutory privilege and may be exercised only in accordance with the provisions of law. On this point, the pronouncement in *Commissioner of Internal Revenue vs. Fort Bonifacio Development Corporation*[4] is instructive, *viz.*:

> "The right to appeal is not a natural right. It is also not part of due process. It is merely a statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. Thus, one who seeks to avail of the right to appeal must comply with the requirements of the Rules. Failure to do so often leads to the loss of the right to appeal.
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> The failure to timely perfect an appeal cannot simply be dismissed as a mere technicality, for it is jurisdictional.
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> xxx xxx xxx
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> As to the claim that the government would suffer loss of substantial amount if not allowed to recover the tax refund in the amount of more than ₱15M, the Court is of the view that said problem has been caused by petitioners own doing or undoing. While We understand its counsels' predicament of being burdened with a heavy case load, We cannot always rule in favor of the Government. In this case, petitioner even failed to sufficiently explain its failure to observe the Rules."

Considering that the Petition for Review was filed beyond the period granted by the Court, the same should be dismissed outright.

On a final note, liberality in the interpretation and application of the rules can be invoked only in proper cases and under justifiable causes and circumstances,[5] none of which exists in the case at bar.

**WHEREFORE,** premises considered, petitioner's **Motion for Reconsideration (Re: Resolution dated September 18, 2018)** filed on October 10, 2018 is hereby **DENIED**.

**SO ORDERED.**

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[4] G.R. No. 167606, August 11, 2010.
[5] Romulo J. Marohomsalic vs. Reynaldo D. Cole, G.R. No. 169918, February 27, 2008.

**ROMAN G. DEL ROSARIO**
Presiding Justice

(On Leave)
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**ERLINDA P. UY**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

Catherine T. Manahan
**CATHERINE T. MANAHAN**
Associate Justice