REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

TOUCAN CORPORATION represented by its duly authorized representative, LUISA T. MAMARIL,
Petitioner,

- versus -

HON. ROMEO D. LUMAGUI, JR., in his capacity as the COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11609

Members:

RINGPIS-LIBAN, *Chairperson*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

NOV 18 2024

x - x

RESOLUTION

Upon careful perusal, the Court notes that petitioner mailed its *Petition for Review* via LBC on September 9, 2024 and was received by the Court on September 10, 2024.

The *Petition for Review* is belatedly filed.

Section 3, Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure provides that the filing of pleadings and other court submission shall be made by:

> (a) Submitting personally the original thereof, plainly indicated as such, to the court;
> (b) Sending them by registered mail;
> (c) Sending them by accredited courier; or
> (d) Transmitting them by electronic mail or other electronic means as may be authorized by the Court in places where the court is electronically equipped.

> In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second and third cases, the date of the mailing of motions, pleadings, [and other court submissions, and] payments or deposits, as shown by the post office stamp on the envelope or the registry receipt, shall be considered as the date of their filing, payment, or deposit in court. The envelope shall be attached to the record of the case. In the fourth case, the date of electronic transmission shall be considered as the date of filing.

Based on the foregoing, the date of filing through accredited courier should be the date of mailing.

Section 14 of Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure, however, provides:

> "**Section 14**. *Conventional service or filing of orders, pleadings and other documents.* – Notwithstanding the foregoing, the following orders, pleadings, and other documents **must be served or filed personally or by registered mail when allowed**, and shall not be served or filed electronically, unless express permission is granted by the Court:
>
> (a) **Initiatory pleadings and initial responsive pleadings, such as an answer**;
> (b) Subpoena, protection orders, and writs;
> (c) Appendices and exhibits to motions, or other documents that are not readily amenable to electronic scanning may, at the option of the party filing such, be filed and served conventionally; and
> (d) Sealed and confidential documents or records." (Emphasis ours)

Consequently, initiatory pleadings, such as the instant *Petition for Review*, should be filed personally or via registered mail. Section 14 of Rule 13 does not allow the filing via private courier regardless of accreditation.

In the case of *Victor M. Barroso vs. Commission on Audit*,[1] the Supreme Court *En Banc* categorically stated that initiatory pleadings filed through accredited private courier shall be treated as if filed via ordinary mail, and consequently, the date of receipt by the Court shall be the date of filing, not the date of mailing.

The Supreme Court, in the case of *Estrella et. al vs. SM Prime Holdings, Inc. and Tri-City Landholdings, Inc. vs. SM Prime Holdings, Inc. and Estrella et. al*,[2] held that the additional modes of filing and service, which are introduced in the 2019 Amendments to the 1997 Rules of Civil Procedure, are not applicable to initiatory pleadings and initial responsive pleadings. Consequently, initiatory pleadings such as the present *Petition for Review*

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[1] G.R. No. 253253, April 27, 2021.
[2] G.R. Nos. 257814 & 257944, April 27, 2021.

should be filed either personally or through registered mail. The provision does not permit the filing of an initiatory pleading via private courier.

Here, petitioner received the *Decision* dated July 19, 2024 on August 9, 2024, affirming the *Final Decision on Disputed Assessment* dated June 15, 2021 and ordering petitioner to pay the deficiency taxes in the total amount of ₱3,749,392.58 including interests that may have accrued thereon.

Thus, counting 30 days from August 9, 2024, petitioner had until September 8, 2024 to file its Petition for Review. Considering that September 8, 2024 is a Sunday, the last day to file the petition is the next business day, which is September 9, 2024. In the instant case, the Petition for Review was mailed via LBC on May 29, 2023. However, since the instant petition is an initiatory pleading, it should have been filed only personally or via registered mail, pursuant to Section 14 of Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure. Despite the filing of the instant petition through accredited courier the Court shall consider it as if filed via ordinary mail, therefore, the date of filing is the actual receipt of the Court, which was on September 10, 2024.

It is settled that the right to appeal is a mere statutory privilege and must be exercised only in the manner and in accordance with the provisions of the law. One who seeks to avail of the right to appeal must strictly comply with the requirement of the rules.[3] The perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of the party to conform to the rules regarding appeal will render the judgment final and executory.[4]

WHEREFORE, in view of the foregoing, the instant *Petition for Review* is **DISMISSED** for being filed out of time.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[3] *Nueva Ecija II Electric Cooperative, Inc. v. Mapagu*, G.R. No. 196084, February 15, 2017.
[4] *Land Bank of the Phils. v. Court of Appeals*, G.R. No. 1221636, July 11, 2016.

CORAZON G. FERRER-FLORES
Associate Justice