REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BENJAMIN G. KINTANAR, **Petitioner,**	**C.T.A. EB CRIM. NO. 011** (C.T.A. CRIM. CASE NO. O-030)
- versus -	Members: ACOSTA, *PJ* CASTAÑEDA, JR. BAUTISTA, UY, CASANOVA, PALANCA-ENRIQUEZ, FABON-VICTORINO, MINDARO-GRULLA, and COTANGCO-MANALASTAS, *JJ.*
PEOPLE OF THE PHILIPPINES, **Respondent.**	**Promulgated:** FEB 16 2011 3:30 pm

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RESOLUTION

Before the Court is the Petition for Review on Certiorari filed by petitioner Benjamin G. Kintanar assailing the Decision dated August 11, 2010, finding him guilty of violation of Section 255 of the National Internal Revenue Code of 1997, as amended, as well as the Resolution dated November 15, 2010, denying his Motion for Reconsideration, both rendered by the Second Division of the Court.

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Petitioner admits having received the assailed Resolution of November 15, 2010, denying his Motion for Reconsideration, on November 17, 2010. Hence, petitioner had until December 02, 2010 within which to appeal before the Court *En Banc.* However, per record, petitioner filed the instant petition only on December 30, 2010 or way beyond the reglementary period for appeal pursuant to Section 9(b), Rule 9 of the 2005 Revised Rules of the Court of Tax Appeals, as amended, which reads, as follows:

> RULE 9
> PROCEDURE IN CRIMINAL CASES
>
> SEC. 9. *Appeal; period to appeal.* -
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> (a) x x x
> (b) An appeal to the Court *en banc* in criminal cases decided by the Court in Division shall be taken by filing a petition for review as provided in Rule 43 of the Rules of Court within fifteen days from receipt of a copy of the decision or resolution appealed from. The Court may, for good cause, extend the time for filing of the petition for review for an additional period not exceeding fifteen days.

The Supreme Court has invariably ruled that perfection of an appeal within the statutory or reglementary period is not only mandatory but also jurisdictional; failure to do so renders the questioned decision/final order final and executory, and deprives the appellate court of jurisdiction to alter the judgment or final

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order, much less to entertain the appeal.[1] The failure of the petitioner to perfect an appeal within the period fixed by law renders final the decision sought to be appealed. As a result, no court could exercise appellate jurisdiction to review the decision.[2] The failure to perfect an appeal is not a mere technicality as it raises a jurisdictional problem which deprives the appellate court of jurisdiction over the appeal.[3]

WHEREFORE, premises considered, the Petition for Review on Certiorari filed by Benjamin G. Kintanar, is hereby DISMISSED for having been filed out of time.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

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[1] Sehwani, Incorporated vs. In-N-Out Burger, Inc., G.R. No. 171053, October 15, 2007
[2] National Power Corporation vs. Sps. Laohoo, G.R. No. 151973, July 23, 2009
[3] Bello vs. NLRC, G.R. No. 146212, September 5, 2007

OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

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