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

***FIRST DIVISION***

**THE TREASURER OF THE CITY OF MANILA,**
Petitioner,

-versus-

**UNILIVER PHILIPPINES, INC.,**
Respondent.

**CTA AC No. 42**
(RTC BRANCH 21, MANILA CIVIL CASE NO. 01-102052)

Members:
ACOSTA, *Chairperson*,
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated
NOV 29 2007; 2:00 PM

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# RESOLUTION

For resolution of this Court is petitioner's "Motion for Extension of Time to File Petition for Review" dated October 10, 2007, which was filed with the Court of Tax Appeals on October 22, 2007.

In the instant motion, petitioner alleges that on September 10, 2007, he received an Order dated July 12, 2007 rendered by the RTC Branch 21, Manila, denying the "Motion for Reconsideration" filed therein by the petitioner. Thus, he has thirty (30) days from receipt thereof to file a Petition for Review with the Court of Tax Appeals (CTA), under Section 3 (a), Rule 8 of the Revised Rules of the CTA[1] (RRCTA). However, due to the voluminous records of the above-entitled cases and the ticklish issues involved therein, petitioner prayed that he

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[1] "SEC. 3. *Who may appeal; period to file petition.* —

(a) A party adversely affected by a decision, ruling *xxx xxx xxx*, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, *xxx xxx xxx*."

may be given an additional period of fifteen (15) days from October 10, 2007 or until October 25, 2007, within which to file the Petition for Review. On October 25, 2007, petitioner filed, through registered mail, a Petition for Review which was received by the CTA on November 5, 2007.

Section 1, Rule 7 of the RRCTA provides that the procedure in this Court "shall be the same as those in petition for review and appeals before the Court of Appeals pursuant to the applicable provision of Rules 42, 43, 44 and 46 of the Rules of Court, except as provided for in these Rules", and under both Section 1, Rule 42, and Section 4, Rule 43 thereof, the Court of Appeals may grant an additional period of only fifteen (15) days within which to file the Petition for Review, the CTA may, by analogy, grant Motions for Extensions of Time To File Petition for Review. Such grant, however, is conditioned on its timely filing.

As shown above, although dated October 10, 2007, petitioner filed a Motion for Extension of Time to File Petition for Review" on October 22, 2007 or twelve (12) days after the period provided for under Section 3 (a), Rule 8 of the RRCTA.

In a Supreme Court decision, the Highest Tribunal held, *"The material dates to consider in determining the timeliness of the filing of the motion for extension are (1) the date of receipt of the judgment or final order or resolution subject of the Petition for Review, and (2) the date of filing of the Motion for Extension. It is the date of the filing of the motion or pleading, and not the date of execution, that determines the timeliness of the filing of that motion or pleading"*[2]. Thus, the instant motion was filed out of time.

It is a basic rule of remedial law that a Motion for Extension of Time must be filed before the expiration of the period sought to be extended. Where a Motion for Extension of time is filed beyond the period for appeal, the same is of

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[2] Pajuyo vs. Court of Appeals, G. R. No. 146364, June 3, 2004.

no effect since there would no longer be any period to extend, and the judgment or order to be appealed from will have become final and executory[3].

"Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right but a mere statutory privilege. Hence, parties seeking to avail of the privilege must comply with the statutes or rules allowing it. The requirements for perfecting an appeal within the reglementary period specified in the law must, as a rule, be strictly followed. Such requirements are considered indispensable interdictions against needless delays and are necessary for the orderly discharge of judicial business. For sure, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well. Failure to perfect an appeal renders the judgment appealed from final and executory."[4]

IN VIEW OF THE FOREGOING, petitioner's "Motion for Extension of Time To File Petition for Review" is hereby **DENIED** for being filed out of time.

**SO ORDERED.**

**ERNESTO D. ACOSTA**
Presiding Justice

**LOVELL R. BAUTISTA**
Associate Justice

**CAESAR A. CASANOVA**
Associate Justice

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[3] Victoria vs. Court of Appeals, Resolution, G.R. No 147550, August 16, 2005
[4] Muñez vs. Jomo, G.R. No. 173253, October 30, 2006.