REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2029** (CTA Case No. 9259)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
MANILA GENESIS ENTERTAINMENT & MANAGEMENT, INC., Respondent.	Promulgated: JAN 24 2020 11:25 a.m.

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RESOLUTION

For resolution is petitioner's **Motion for Reconsideration (Resolution dated 15 October 2019)** filed on November 4, 2019, with respondent's **Comment (to the Petitioner's Motion for Reconsideration dated 15 October 2019)** filed on December 13, 2019.

Petitioner moves for reconsideration of the Resolution dated October 15, 2019 which dismissed the Petition for Review on the ground that petitioner or his authorized representatives failed to appear on the scheduled mediation proceedings on July 15, 2019.

Petitioner avers that the previous handling lawyer appeared on July 23, 2019 and informed Ms. Avigail B. Sanchez of his withdrawal before the scheduled mediation on August 9, 2019. He contends that in view of the foregoing, there was acquiescence on the part of petitioner, respondent and the Mediation Staff Assistant to proceed to the mediation proceedings despite the absence of the previous handling lawyer on the July 15, 2019 mediation proceedings.

Further, petitioner's new counsel posits that it was through the assailed Resolution that he learned about the on-going mediation proceedings in this case. He avers that several cases were reassigned to him due to the recently issued Revenue Travel Assignment Order splitting Revenue Region No. 07 and 08. As consequence of the splitting, only three (3) action lawyers were left to handle all CTA cases and other cases filed by Revenue Region No. 7B. Due to the bulk of cases newly assigned to him, he admits that he inadvertently and unintentionally overlooked the status of this case.

Petitioner cites the declaration in *Curammeng vs. People*[1] that procedural rules may be relaxed for the most persuasive of reasons in order to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedures prescribed. Thus, he seeks the Court's indulgence to give due course to his motion and prays that the Resolution dated October 15, 2019 be reversed and set aside and that the case be referred back to the Philippine Mediation Center-Court of Tax Appeals for the continuation of the mediation proceedings.

Respondent, in its Comment, states that petitioner's Motion for Reconsideration should be denied. It argues that the rules on non-appearance of parties during the mediation proceedings are clear, i.e., the same effect and sanctions may be had as if the parties failed to appear during pre-trial. The non-appearance of the plaintiff shall be cause for dismissal of the action.

Moreover, respondent argues that petitioner's reasons for non-appearance, namely: his workload and admitted inadvertence and oversight, are not sufficient to cause the reversal of the assailed Resolution. Thus, it implores the Court to deny petitioner's Motion for Reconsideration.

Section XI of the *Interim Guidelines for Implementing Mediation in the Court of Tax Appeals* provides that in case of failure of the parties to appear during mediation proceedings, the same effect and sanctions may be had as if the parties failed to appear during pre-trial.

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[1] G.R. No. 219510, November 14, 2016.

Section 1 of Rule 11 of the Revised Rules of the Court of Tax Appeals provides that the rule on pre-trial under Rules 18 and 118 of the Rules of Court, shall apply to all cases falling within the original jurisdiction of the Court.

Meanwhile, Section 5 of Rule 18 of the Rules of Court provides:

> **Section 5**. *Effect of failure to appear.* — **The failure of the plaintiff to appear when so required pursuant to the next preceding section shall be cause for dismissal of the action. The dismissal shall be with prejudice**, unless otherwise ordered by the court. A similar failure on the part of the defendant shall be cause to allow the plaintiff to present his evidence *ex parte* and the court to render judgment on the basis thereof. *(Boldfacing supplied)*

Based on the foregoing, when the plaintiff fails to appear during pre-trial, it shall be cause for dismissal of the action. Thus, the failure of petitioner's counsel to appear during mediation proceedings shall also be cause for dismissal of the action.

In the case of *Clodualda D. Daaco vs. Valeriana Rosaldo Yu*[2], the Supreme Court held that in certain instances, the non-appearance of a party during pre-trial may be excused, to wit:

> **In certain instances, however, the non-appearance of a party may be excused if a valid cause is shown. What constitutes a valid ground to excuse litigants and their counsels at the pre-trial is subject to the sound discretion of a judge.** Unless and until a clear and manifest abuse of discretion is committed by the judge, his appreciation of a party's reasons for his nonappearance will not be disturbed.

In the present case, however, petitioner's counsel failed to show any valid excuse for the non-appearance of the previous handling lawyer during the July 15, 2019 mediation proceedings, which is the reason for the dismissal of the case in the assailed Resolution.

Moreover, the explanation of petitioner's counsel that he inadvertently and unintentionally overlooked the status of the case due to the bulk of newly assigned and re-assigned cases to him has no bearing in this case. The present counsel was not yet the handling lawyer during the July 15, 2019 mediation proceedings. The records show that petitioner's previous counsel filed his Withdrawal of Appearance only on August 7, 2019, which is clearly after the July 15,

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[2] G.R. No. 183398, June 22, 2015.

2019 mediation proceedings. Thus, the absence of the petitioner's previous counsel during the July 15, 2019 mediation proceedings could not be excused by the circumstances alleged by petitioner's new counsel.

Furthermore, the Court cannot give credence to the explanation of petitioner's counsel as to his absence during the August 9, 2019 mediation proceedings. Petitioner was scant on the details and proof of his explanation. While he mentioned that this case was newly re-assigned to him with several other cases, he failed to mention when exactly this case was re-assigned to him and the number of cases re-assigned to him due to the splitting of Revenue Region No. 07 and 08. The Court cannot determine if his negligence to check on the status of this case after it was re-assigned to him could be excused.

The Court therefore finds no cogent reason to set aside the Resolution dated October 15, 2019, dismissing this case.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Resolution dated 15 October 2019)** is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ON LEAVE
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
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice