REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PEOPLE OF THE PHILIPPINES, Petitioner,	**CTA EB CRIM. NO. 068** (CTA Crim. Case No. O-699)
	Present:
- **versus** -	**DEL ROSARIO**, *P.J.*, **CASTAÑEDA, JR.**, **UY**, **FABON-VICTORINO**, **MINDARO-GRULLA**, **RINGPIS-LIBAN**, **MANAHAN**, **BACORRO-VILLENA**, *and*, **MODESTO-SAN PEDRO**, *JJ.*
ULYSSES PALCONET CONSEBIDO, Respondent.	Promulgated: MAR 12 2020 11:48 a.m.

x- -x

RESOLUTION

For resolution is petitioner's "**Motion for Reconsideration (of the Resolution dated July 12, 2019)**" filed on July 31, 2019, without respondent's comment thereon despite the period granted as per Records Verification[1] dated February 4, 2020.

In his Motion, petitioner prays that the Court reconsider and set aside the Resolution dated July 12, 2019, and reinstate its Petition for Review so that the Court may resolve the said Petition on its merits considering the issues involved therein.

The dispositive portion of the assailed Resolution reads:

> "**WHEREFORE**, the Petition for Review filed on June 4, 2019 is hereby **DISMISSED** for having been filed out of time.

---

[1] CTA EB Docket, *unpaginated.*

SO ORDERED."[2]

Petitioner argues that the present Petition for Review must not be dismissed on stringent adherence to the rules on period to appeal, as the same also admit of exceptional circumstance in consideration of substantial justice and equity.

Petitioner avers that while it is true that the Department of Justice (DOJ) OSJ Prosecution Staff NPS Docket Section received the assailed Resolution on May 17, 2019, it was forwarded to the public prosecutor's office only on May 21, 2019, and it was only then that petitioner was notified of the said assailed Resolution.

Petitioner posits that the present case has not yet prescribed because the prescriptive period is suspended by the filing of the Joint Complaint-Affidavit before the DOJ for preliminary investigation; and, prescription will only run again if the Court dismisses the present case on a ground not constituting jeopardy.

After a careful evaluation of petitioner's arguments, the Court finds petitioner's justification of invoking the relaxation of the rules wanting.

Petitioner failed to justify how its Petition for Review falls under exceptional circumstances that would allow the relaxation of the rules as regards the period to file petition for review pursuant to Section 9(b), Rule 9 of the Revised Rules of the Court of Tax Appeals. In *Lazaro vs. Court of Appeals, et al.*,[3] the Supreme Court emphasized the importance of following procedural rules, and that the relaxation of the rules "in the interest of substantial justice" must only be granted for exceptionally meritorious cases, to wit:

> "We must stress that the bare invocation of 'the interest of substantial justice' is not a magic wand that will automatically compel this Court to suspend procedural rules. 'Procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive of reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.' The Court reiterates that rules of procedure, especially those prescribing the time within which certain acts must be done,

---

[2] CTA EB Docket, pp. 36-39.
[3] G.R. No. 137761, April 6, 2000.

> 'have oft been held as absolutely indispensable to the prevention of needless delays and to the orderly and speedy discharge of business. x x x The reason for rules of this nature is because the dispatch of business by courts would be impossible, and intolerable delays would result, without rules governing practice x x x. Such rules are a necessary incident to the proper, efficient and orderly discharge of judicial functions.' Indeed, in no uncertain terms, the Court held that the said rules may be relaxed only in 'exceptionally meritorious cases.' xxx" (*Citations omitted*)

The Court finds no compelling reason to grant petitioner's Motion for Reconsideration, more so, considering that the "perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory."[4]

WHEREFORE, petitioner's "**Motion for Reconsideration**" is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
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

---

[4] *Apex Mining Co., Inc. vs. Commissioner of Internal Revenue*, G.R. No. 122472, October 20, 2005.

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