CTA Form No. 8 (For DCC)

21-000143-0040

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA AC NO. 250

LG ELECTRONICS PHILIPPINES, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

CITY OF PASIG, represented by its Hon. Mayor Soledad C. Eusebio, et al.,
Respondents.

To:

GUNO & ILAGAN
(Counsel for Petitioner)
Suite 1517, 15th Floor, AIC Burgundy Empire Tower
ADB Avenue corners Garnet and Sapphire Roads
Ortigas Center, Pasig City

CITY OF PASIG
REPRESENTED BY ITS HON. MAYOR SOLEDAD C. EUSEBIO
Office of the City Legal Officer - Pasig City
5th Floor, Pasig City Hall Building
Caruncho Avenue, Pasig City

CITY OF PASIG
REPRESENTED BY CRISPINA V. SALUMBRE,
IN HER CAPACITY AS CITY TREASURER OF PASIG
Office of the City Legal Officer - Pasig City
5th Floor, Pasig City Hall Building
Caruncho Avenue, Pasig City

CITY OF DAVAO
REPRESENTED BY THE HON. MAYOR RODRIGO R. DUTERTE, ET AL.
Office of the City Legal Officer - Davao City
Davao City Hall, City Hall Drive
San Pedro St., Davao City

CITY TREASURER OF DAVAO CITY
Office of the City Legal Officer - Davao City
Davao City Hall, City Hall Drive
San Pedro St., Davao City

CITY OF ILOILO
REPRESENTED BY THE HON. MAYOR JERRY T. TRENAS, ET AL.
Office of the City Legal Officer-Iloilo City
City Hall Building, Dela Rama St.
Iloilo City

CITY OF DAGUPAN
REPRESENTED BY THE HON. MAYOR BENJAMIN S. LIM, ET AL.
Office of the City Legal Officer - Dagupan City
City Hall Building Complex, Dagupan City

CITY OF CAGAYAN DE ORO
REPRESENTED BY THE HON. MAYOR VICENTE Y. ERNANO, ET AL.,
Office of the City Legal Officer - Cagayan De Oro City
Ground Floor, Chief Executive Building, Cagayan De Oro City

HON. MARIA CHERYL B. LAQUI-CEGUERA
Presiding Judge
Thru: Atty. Nastasia Anne C. Padilla
Branch Clerk of Court
National Capital Judicial Region
Regional Trial Court
Branch 268, Pasig City

GREETINGS:

You are hereby notified by these presents that on **July 10, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **July 11, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

LG ELECTRONICS PHILIPPINES, INC.,
Petitioner,

-versus-

CITY OF PASIG, represented by its Hon. Mayor Soledad C. Eusebio, and CRISPINA V. SALUMBRE, in her capacity as City Treasurer of Pasig, CITY OF DAVAO, represented by the Hon. Mayor Rodrigo R. Duterte, et.al., City Treasurer of Davao City, CITY OF ILOILO, represented by the Hon. Mayor Jerry T. Trenas, et.al., CITY OF DAGUPAN, represented by the Hon. Mayor Benjamin S Lim, et.al., CITY OF CAGAYAN DE ORO, represented by the Hon. Mayor Vicente Y. Ernano, et al.,
Respondents.

CTA AC NO. 250

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

JUL 10 2024 2:30PM

x- -x

RESOLUTION

MANAHAN, *J.:*

Submitted before the Court is petitioner's *Motion for Reconsideration (of the Decision dated October 5, 2023),* filed on October 27, 2023, with respondent City of Davao's *Comment/Opposition (To Petitioner's Undated Motion for Reconsideration)* filed through registered mail on December 6, 2023 and received by the Court on December 21, 2023; and respondent City of Pasig's *Comment (To the Motion for Reconsideration dated 27 October 2023),* filed on February 12, 2024. On the other hand, respondents' City of Iloilo and City of

Cagayan de Oro, and respondent City of Dagupan failed to file their respective comments as per Records Verification Reports dated February 15, 2024 and March 19, 2024, respectively.

Petitioner also filed a *Reply (Re: Respondent City of Pasig's Comment dated 12 February 2024 on Petitioner's Motion for Reconsideration dated 27 October 2023)* on February 29, 2024; and with respondent City of Pasig's *Rejoinder (To the Reply dated 21 February 2024)*, filed through registered mail on March 22, 2024 and received by the Court on April 1, 2024.

On October 5, 2023, the Court promulgated a Decision, dismissing petitioner's appeal for failure to timely file its *Petition for Review* within thirty (30) days from the receipt of the assailed Decision of the Regional Trial Court (RTC) Pasig City – Branch 268 on SCA Nos. 2642, 2643, 2644 and 2655, the dispositive portion of which states:

> "**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED**."

Petitioner's Arguments

Petitioner insists that the appeal filed before the Court was duly perfected and was filed within the reglementary period. Petitioner asserts that the Petition for Review was filed via electronic mail and copies were served to the respondents via electronic mail and accredited courier prior to the expiration of the reglementary period or on March 25, 2021. As to the required hard copies of the pleadings, petitioner states that it submitted them on May 17, 2021 or upon the physical opening of the Court. Petitioner further claims that the docket fees were paid as soon as the physical opening of the Court took place on May 17, 2021. As such, petitioner maintains that the Court acquired jurisdiction over the present case.

Respondents' Arguments

On the other hand, in its Comment, respondent City of Davao submits that petitioner should have filed the hard copies of the petition either by registered mail or accredited couriers on or before March 30, 2021 to comply with the Court of Tax Appeals (CTA) *En Banc* Resolution No. 4-2021. Thus, filing of the hardcopies on May 17, 2021 or thirty-eight (38) days following the electronic filing of the same, was utterly beyond the reglementary period.

Meanwhile, in its Comment, respondent City of Pasig contends that petitioner itself admitted in its Petition for Review and Reply that it is liable for Local Business Taxes (LBT) to the City of Pasig. Respondent City of Pasig argues that the statements made by petitioner certainly qualify as judicial admissions as they are deliberate, clear, unequivocal written statement of petitioner's counsel in the course of the proceedings before the Court. In any case, respondent City of Pasig further points out that perusal of petitioner's Motion for Reconsideration, particularly the attached Annexes "A" and "B", clearly shows the fact that petitioner did not furnish respondent city via electronic mail or accredited courier a copy of its Petition for Review.

In petitioner's Reply to respondent City of Pasig's comment, petitioner submits respondent City of Pasig is silent on the issue raised in the Motion for Reconsideration with regard to the timeliness of the filing of the Petition for Review. Considering that respondent City of Pasig did not discuss the issue of timeliness of the filing of the Petition for Review, the City of Pasig did not discuss this issue which is the crux of the Court's ruling in the said Decision, and the basis of petitioner's arguments in its Motion for Reconsideration, petitioner argues that respondent City of Pasig should be deemed to have agreed with the timeliness of the said Petition for Review. Lastly, petitioner further avers that considering respondent City of Pasig has conceded that the rightful tax authority were respondents Davao City, Iloilo City, Dagupan City and Cagayan de Oro City, respondent City of Pasig must have likewise conceded that petitioner was under no obligation to pay the local business tax to it, it being a wrong taxing authority.

Conversely, in its Rejoinder, respondent City of Pasig asserts that it never accepted the taxing authority of the other local government units. In fact, it has always been the position of respondent City of Pasig that it was petitioner which conceded that it is liable to the City of Pasig.

RULING OF THE COURT

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

Again, to appeal the decision of the RTC in the exercise of its original jurisdiction, the party adversely affected must file a petition for review within thirty (30) days after the receipt of a copy of such decision. And, for the Court to have jurisdiction over an appeal, Sections 1 and 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) further provide that:

> "SECTION 1. *Review of cases in the Court en banc.* — In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division."
>
> "SEC. 3. *Who may appeal; period to file petition.* —
>
> (a) **A party adversely affected by a decision**, ruling or the inaction **of** the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, 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, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes." (*Emphasis supplied*)

To recall, by its own allegation, petitioner admitted that it received a copy of the Order dated January 25, 2021 by the RTC Pasig City – Branch 268 only on February 23, 2021.[1] Counting thirty (30) days therefrom, petitioner had until March 25, 2021 to file its Petition for Review with this Court.

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[1] Par. 4, *Petition for Review*, Docket (CTA AC No. 250) – Vol. I, p. 7.

It must be noted that pursuant to CTA *En Banc* Resolution No. 5-2021, the Court was closed from March 23, 2021 to March 26, 2021 and pleadings may be filed electronically during said period.

In the present Motion for Reconsideration, petitioner asserts that it timely filed its Petition for Review on March 25, 2021 via electronic mail. Petitioner even attached in its Motion the screenshot of the thread of its electronic mail as Annex "A" to prove that it indeed sent a copy of the Petition for Review on March 25, 2021 via electronic mail.

However, granting that the Petition for Review was filed through electronic mail on March 25, 2021, the same must still be dismissed for being filed out of time pursuant to CTA *En Banc* Resolution No. 04-2021.[2] In the said CTA Resolution, the Court may continue to receive petitions and pleading electronically during the Period of State of Public Health Emergency due to the Covid-19 Pandemic, in accordance with the following guidelines:

> "NOW, THEREFORE, pursuant to its authority under Section 8 of Republic Act No. 1125, as amended, this Court, sitting *En Banc* **RESOLVES**, as it hereby **RESOLVED**, to adopt the following guidelines in relation to the filing of pleadings, motions, and other court submissions by email during the Period of State of Public Health Emergency due to the Covid-19 Pandemic:
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> 1. Pleadings, motions, and other court submissions may be filed by email through the official email address of the CTA Judicial Records Division jrd.cta@judiciary.gov.ph copy furnished the official email address of the CTA *En Banc* enbanc.cta@judiciary.gov.ph for *en banc* cases or the email address of the concerned CTA Division for Division cases, as follows:
>
> | | | |
> |---|---|---|
> | First Division | - | 1stdiv.cta@judiciarv.gov.ph |
> | Second Division | - | 2nddiv.cta@judiciarv.gov.ph |
> | Third Division | - | 3rddiv.cta@judiciary.gov.ph |
>
> 2. **The cut-off time for pleadings, motions, and other court submissions filed by email shall be at 4:30 p.m. which is the same cut-off time for the physical filing of pleadings, motions, and other court submissions. Pleadings, motions, and other court submissions filed by**

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[2] "Pleadings, Motions and Other Court Submissions Filed by Email", dated February 24, 2021.

email after the 4:30 p.m. cut-off time shall be considered as filed on the next working day." (*Emphases supplied*)

Herein, while petitioner filed its Petition for Review via electronic mail on March 25, 2021, the time indicating when sent was 5:27 p.m. Considering that the Petition for Review was filed after 4:30 p.m., the above-cited guidelines state that it shall be considered as filed on the next working day, which is March 26, 2021. Accordingly, the Petition for Review was filed beyond the thirty (30) day period to file an appeal. Consequently, the Court has not acquired jurisdiction over the said petition for being filed out of time.

Time and again, it has been held that the perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. The failure to perfect an appeal as required by the rules has the effect of defeating the right to appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[3] The right to appeal is not a natural right nor a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law.[4]

Correspondingly, in view of petitioner's failure to timely file its Petition for Review, the Court did not acquire jurisdiction to take cognizance of the same. To stress, by way of reiteration, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[5]

WHEREFORE, in light of the foregoing considerations, petitioner's *Motion for Reconsideration (of the Decision dated October 5, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

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[3] *China Banking Corporation v. City Treasurer of Manila*, G.R. No. 204117, July 1, 2015. *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.

[4] *Manila Mining Corporation vs. Lowito Amor et al.*, G.R. No. 182800, April 20, 2015; *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation, supra.*

[5] *Escandor v. Carpio-Morales, et al., supra*, citing the case of *Velasquez, Jr. v. Lisondra Land, Inc., supra.*

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

am