REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY OF MANILA, CITY MAYOR, AND CITY TREASURER, *Petitioners,*	**CTA EB NO. 2806** (CTA AC No. 260)
	Present:
- versus -	**DEL ROSARIO,** *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
MALAYAN EDUCATION SYSTEM, INC. (FORMERLY KNOWN AS MALAYAN COLLEGES, INC. AND PRESENTLY OPERATING UNDER THE NAME OF MAPUA UNIVERSITY), *Respondent.*	Promulgated: JUN 03 2024 3:55pm

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RESOLUTION

For resolution of the Court *En Banc* is the *Motion for Reconsideration (Re: the Resolution dated 8 January 2024)*[1] filed by petitioners on January 31, 2024, seeking reconsideration of the *Resolution*[2] dated January 8, 2024, the dispositive portion of which reads:

> "**WHEREFORE,** petitioners' *Motion for Extension of Time To File Petitioner for Review,* filed on November 3, 2023, is **DENIED.**

[1] EB Docket, pp. 55-66.
[2] EB Docket, pp. 52-54.

Accordingly, the *Petition for Review*, filed on November 10, 2023, is **DISMISSED** for being belatedly filed.

SO ORDERED."

To recall, on October 19, 2023, petitioners filed a *Motion for Extension of Time [re: Resolution dated 19 September 2023]*[3], praying for an extension of fifteen (15) days or until November 3, 2023, within which to file a petition for review (the "**First Motion for Extension**") before the Court of Tax Appeals (CTA) *En Banc*, which was granted pursuant to a *Minute Resolution*[4] dated October 20, 2023.

On November 3, 2023, instead of filing a petition for review, petitioners filed a second *Motion for Extension of Time to File Petition for Review*[5], praying for another extension of fifteen (15) days or until November 18, 2023, within which to file the petition for review (the "**Second Motion for Extension**"), which was denied in the assailed *Resolution* dated January 8, 2024.

Thus, in the instant *Motion for Reconsideration*, petitioners pray for the reconsideration of the assailed *Resolution* and for the *Petition for Review* filed on November 10, 2023 to be given due course, on the grounds that: *(1)* the Court *En Banc* committed grave errors of law when it denied due course the *Petition* by strict adherence to procedural rules; *(2)* the Court *En Banc* in denying due course the *Petition* committed grave errors of fact and law in failing to appreciate that the lower court correctly ruled that the letter of assessment issued by the City Treasurer of Manila against petitioner, was sufficient in form and substance; and *(3)* the Court *En Banc* in denying due course the *Petition* committed grave errors of fact and law as it is clear that petitioner is liable for local business tax under the Revenue Code of Manila and this fact was sustained by the Court's First Division.

Petitioners plead that Rule 42 of the Rules of Court (ROC) allows the filing of a second motion for extension of time not to exceed fifteen (15) days, which was what petitioners availed of considering that Rule 42 is in effect suppletory in character to the rules of the Court of Tax Appeals (CTA). Petitioners also maintain that procedural rules are designed to secure and not override substantial justice.

On the other hand, respondent, in its *Comment/Opposition (Re: Motion for Reconsideration dated January 30, 2024)*[6] filed on February 19, 2024, argues that the *Motion* should be denied

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[3] EB Docket, pp. 1-3.
[4] EB Docket, p. 7.
[5] EB Docket, pp. 8-9.
[6] EB Docket, pp. 73-89.

considering that the *Petition* was filed out of time. According to respondent, there was no compelling reason stated by petitioners which would allow any extraordinary extension of time. Respondent also contends that the cases cited by petitioners allowing for the relaxation of procedural rules are not on all fours with the factual milieu of the instant case. Lastly, respondent alleges that the *Motion* went beyond the bounds when it delved into the merits of the case, outside the matters resolved in the assailed *Resolution*.

We resolve to deny the *Motion*.

At the outset, the Court notes that the assailed *Resolution* was received by petitioners on January 16, 2024. Pursuant to Section 1, Rule 15 of the Revised Rules of the CTA (RRCTA), petitioners have fifteen (15) days from receipt of the *Resolution* or until January 31, 2024, within which to file a motion for reconsideration. On January 31, 2024, petitioners filed the instant *Motion*. Thus, the *Motion* was timely filed.

There is no compelling reason to grant a second motion for extension.

In the *Petition*, petitioners alleged that the same was filed under Section 3(b), Rule 8 of the RRCTA, which provides:

> RULE 8
> PROCEDURE IN CIVIL CASES
>
> xxx
>
> SECTION 3. *Who may appeal; period to file petition.* – xxx
>
> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, **the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review**. *(Emphasis supplied)*

In relation thereto, Section 4(b), Rule 8 of the RRCTA likewise provides that the appeal from a decision or resolution of the Court in Division shall be taken to the Court *En Banc* via petition for review as provided in Rule 43 of the ROC. The Court quotes the relevant portion of Section 4, Rule 43 of the ROC, to wit:

> SECTION 4. *Period of appeal.* – xxx Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. **No further extension shall be granted <u>except for the most compelling reason</u> and in no case to exceed fifteen (15) days.** *(Emphasis supplied)*

Based on the foregoing, while the Court *En Banc* has discretion to grant a first motion for extension of time, its authority with respect to granting a second motion for extension of time is delimited by two conditions: *first,* there must exist a most compelling reason for the grant of a further extension; and *second,* in no case shall such extension exceed fifteen (15) days.[7]

A perusal of the *Second Motion for Extension* shows that the reasons relied upon by petitioners for their second request are: *(i)* heavy workload and equally important matters being handled by the undersigned counsel; and *(ii)* consecutive declared non-working holidays which halted government operations.

The reasons provided deserve scant consideration.

For the first justification, it should be emphasized that jurisprudence is replete with pronouncements that the heavy workload of a lawyer is an insufficient reason to justify the relaxation of procedural rules, the same being relative and often self-serving. If the failure of the petitioner's counsel to cope with his heavy workload would be considered a valid justification to disregard procedural rules, there would be no end to litigations so long as counsel had not been sufficiently diligent or experienced.[8]

As to the second justification, the Court finds the same as not compelling enough for the grant of a further extension. In the *Second Motion for Extension*, it was noted that petitioners did not even mention which consecutive declared non-working holidays were being referred to. It was only in the instant *Motion* that petitioners specifically mentioned All Saints' and Souls' Days. However, these holidays were already declared as early as August 22, 2022.[9] Similarly, petitioners' contention in the *Motion* relative to their preparation for

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[7] Editha Albor v. Court of Appeals, G.R. No. 196598, January 17, 2018.
[8] Commissioner of Internal Revenue v. Court of Tax Appeals, G.R. No. 203403, November 14, 2018.
[9] Declaring the Regular Holidays and Special (Non-Working) Days for the Year 2023, Proclamation No. 42, August 22, 2022.

the Barangay and Sangguniang Kabataan Elections scheduled last October 30, 2023, is insufficient. Considering that the holidays were all announced in advance, petitioners and their counsels were already aware of the affected dates. Thus, they should have been more circumspect as to their responsibilities relative to the filing of the petition.

Perfection of an appeal is both mandatory and jurisdictional.

In the *Motion*, petitioners claim that procedural rules are designed to secure and not override substantial justice. Petitioners also urged this Court to apply the case of *TFS, Incorporated v. Commissioner of Internal Revenue*[10], wherein the Supreme Court has reversed the ruling of the CTA dismissing TFS Incorporated's Petition for Review for being filed out of time.

We are not convinced.

The *TFS case* is inapplicable here. In that case, the compelling reason as to the belated appeal with the CTA was due to the inadvertence or oversight of TFS' counsel who believed that at the time of filing, the Court of Appeals still had jurisdiction over the case since the rules and regulations to implement the newly enacted Republic Act No. 9282 had not yet been issued and the membership of the CTA *En Banc* was not complete.

In contrast, herein petitioners were not able to present compelling and highly meritorious reasons that would warrant the relaxation of the rules for perfecting an appeal. In the absence of highly exceptional circumstances warranting their relaxation, the statutes or rules should remain inviolable.[11]

Time and again, it has been held that perfection of an appeal in the manner and within the period permitted by law is mandatory and jurisdictional such that failure to do so renders the judgment of the court final and executory. The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[12]

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[10] G.R. No. 166829, April 19, 2010.
[11] *Supra* note 7.
[12] Herarc Corporation, Realty v. The Provincial Treasurer of Batangas, G.R. No. 210736, September 05, 2018.

In view of the foregoing, the Court *En Banc* will no longer address the other issues raised in the *Motion*.

WHEREFORE, premises considered, petitioners' *Motion for Reconsideration (Re: the Resolution dated 8 January 2024)* filed on January 31, 2024, is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

On Official Business

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

Corazon G. Ferrer-Flores
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice