REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY OF MANILA AND CITY TREASURER OF MANILA, *Petitioners,*	**C.T.A. EB No. 444** (C.T.A. AC NO. 52)
-versus-	Present: Acosta, *P.J.*, Castañeda, Jr., Bautista, Uy, Casanova, and Palanca-Enriquez, *JJ.*
ACE HARDWARE PHILS., INC., ET. AL., *Respondent.*	**Promulgated:** FEB 17 2009 3:30 p.m.

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RESOLUTION

This is an appeal, by way of a Petition for Review[1], filed by Petitioners under Section 18 of Republic Act (RA) No. 1125, as amended by RA No. 9282, seeking to annul the Decision[2] and Resolution[3] of the Court of Tax Appeals First Division[4] dated September 29, 2008 and November 10, 2008, respectively, in C.T.A. AC No. 52 .

After a thorough examination of the instant petition, the Court of Tax Appeals *En Banc*[5] finds such Petition to have been filed outside the reglementary period, thus making the Decision of the Court First Division final and executory.

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[1] CTA EN BANC ROLLO, pp. 1-25.
[2] CTA EN BANC ROLLO, pp. 27-52.
[3] CTA EN BANC ROLLO, PP. 54-56.
[4] Court First Division.
[5] Court *En Banc*.

118

Under Section 3(b) Rule 8 of the Revised Rules of the Court of Tax Appeals, a party who wishes to interpose an appeal with the Court *En Banc* from a decision or resolution of the Division of the Court, may do so by filing a petition for review within fifteen (15) days from receipt of the questioned decision or resolution, thus:

> SEC. 3. Who may appeal; period to file petition –
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> XXX XXX
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> (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 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 provided)

It is doctrinally entrenched that appeal is not a constitutional right, but a mere statutory privilege. Hence parties who seek to avail themselves of it must comply with the statutes or rules allowing it.[6] Perfection of an appeal in the manner and within the period prescribed by law is not only mandatory, but jurisdictional, and non-compliance is fatal having the effect of rendering the judgment final and executory.[7]

In this case, Petitioner admits that it received the resolution of the Court First Division dated November 10, 2008, denying the Motion for Reconsideration on November 14, 2008. Instead of filing the appropriate Petition for Review or at least a Motion for Extension of Time to File the Petition for Review with the Court *En Banc* within fifteen (15) days from November 14, 2008 or until November 29, 2008,

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[6] Dalton-Reyes vs. Court of Appeals, G.R. No. 149580, March 16, 2005.
[7] Caballen vs. Court of Appeals, 304 SCRA 119.

118

Petitioners filed the instant Petition only on December 15, 2008, exactly sixteen (16) days way beyond the reglementary period for the filing of such Petition.

WHEREFORE, premises considered, the instant Petition for Review is hereby **DENIED DUE COURSE** and accordingly **DISMISSED** for having been filed beyond the reglementary period.

SO ORDERED.

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice