REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITY OF MANILA and OFFICE OF THE CITY TREASURER OF MANILA,
Petitioners,

- Versus -

COSMOS BOTTLING CORPORATION,
Respondent.

C.T.A. EB NO. 702
(C.T.A. AC No. 60)

Present:

Acosta, *PJ*
Castañeda, Jr.
Bautista,
Uy,
Casanova,
Palanca-Enriquez,
Fabon-Victorino,
Mindaro-Grulla, And
Cotangco-Manalastas, *JJ.*

Promulgated:

FEB 16 2011

x- -x

RESOLUTION

UY, *J.*:

In the Resolution dated December 2, 2010[1], the Court *En Banc* granted petitioners' "Motion for Extension of Time to File Petition for Review"[2] and gave petitioners, the City of Manila and Liberty Toledo (City Treasurer of Manila), until December 15, 2010 to file their petition subject to the condition that the motion for extension was timely filed.

On December 10, 2010, respondent, Cosmos Bottling Corporation, filed its "Motion for Reconsideration" of the aforesaid Resolution arguing that petitioners'

[1] Docket, p. 3
[2] Docket, pp. 1-2

motion for extension of time was belatedly filed and therefore, the assailed Decision in CTA AC No. 60 has already become final and executory. Subsequently on December 15, 2010, petitioners filed their Petition for Review in the instant case.

A careful and thorough examination of the pleadings filed in this case however reveals the following formal and procedural flaws:

1) The caption of the "Motion for Extension of Time to File Petition for Review" was mistakenly denominated as follows: "Cosmos Bottling Corporation, petitioner, v. City of Manila and Liberty Toledo (City Treasure of Manila), respondent", while the movant-signatory, who is presumably the intended petitioner based on the allegations in said motion, is the Office of the City Legal Officer, represented by the Renato G. De La Cruz, City Legal Officer (of the City of Manila);

2) The instant Petition for Review was filed directly with this Court without the filing of the required Motion for Reconsideration or New Trial with the Court in Division that rendered the assailed Decision in CTA AC No. 60 in violation of Section 18 of Republic Act No. 1125, as amended by R.A. No. 9282 and R.A. No. 9503, and Section 1 of Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA). Said provisions read:

<u>Republic Act No. 1125, as amended by R.A. No. 9282 and R.A. No. 9503</u>

"**SEC. 18. *Appeal to the Court of Tax Appeals En Banc.*** – No civil proceeding involving matters arising under the National

Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*." *(Emphasis Ours)*

Section 1, Rule 8 of Revised Rules of the Court of Tax Appeals (RRCTA):

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**". *(Emphasis Ours)*

In the case at bench, instead of the timely filing of either a **motion for reconsideration or new trial** with the Court in Division of this Court from receipt of the assailed Decision dated November 9, 2010 in CTA AC No. 60 entitled "Cosmos Bottling Corporation, petitioner, v. City of Manila and Liberty Toledo (City Treasurer of Manila), respondent)", petitioners erroneously filed a Motion for Extension of Time to File Petition for Review before the Court *En Banc* without complying the foregoing procedural requirement. Clearly therefore, the Court *en banc* has no jurisdiction to entertain the present appeal.

3) Granting *arguendo* that this Court may properly entertain petitioner's appeal, petitioner's Motion for Extension of Time to File Petition for Review, however, was filed one (1) day beyond the reglementary period of fifteen

(15) days from receipt of the questioned Decision or Resolution (on November 15, 2010) as provided under the pertinent provisions of Section 3 (b) Rule 8 of the RRCTA, which reads:

> "**SEC. 3.** ***Who may appeal; period to file petition. –***
>
> xxx xxx 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 Ours)*

Admittedly, petitioners received the assailed Decision dated November 9, 2010 on November 15, 2010. Thereafter, petitioner opted to seek an extension of the period to file a petition for review with this Court which was granted in the Resolution dated December 2, 2010.[3] Notably however, although petitioner was granted a final and non-extendible period of fifteen (15) days from November 30, 2010 or until December 15, 2010 within which to file their Petition for Review in said Resolution, the same was subject to the condition that the motion for extension was timely filed.[4] And considering that petitioners' Motion for Extension of Time to File Petition for Review" was filed late, the extension period of fifteen

[3] Issued through the Executive Clerk of Court of the Court *en banc*
[4] Resolution dated December 2, 2010, Docket, p. 3.

(15) days is rendered ineffectual and the Petition for Review filed in this case is deemed to have been filed beyond the reglementary period.

4) The Petition for Review filed herein is not accompanied either by a certified true copy or original copy of the assailed Decision dated November 9, 2010 in violation of the provisions of Section 4 (b) of Rule 8 of the RRCTA in relation with Sections 6 and 7 of Rule 43 of the 1997 Rules of Civil Procedure, as amended. Said provisions read:

Section 4 (b), Rule 8 of the Revised Rules of Court of Tax Appeals:

> **SEC. 4.** ***Where to appeal; mode of appeal.*** – *x x x*
>
> (b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal. *(n)*

Sections 6 and 7 of Rule 43 of the 1997 Rules of Civil Procedure, as amended:

> **SEC. 6.** ***Contents of the petition.***—The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; **(c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers;** and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (*Emphasis Ours*)

> "**SEC. 7. *Effect of failure to comply with requirements.*** – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof." *(Undercoring Ours)*[5]

While it is true that litigation is not a game of technicalities, this does not mean that the *Rules of Court* may be ignored at will and at random to the prejudice of the orderly presentation and assessment of the issues and their just resolution. Justice eschews anarchy.[6]

Applying the foregoing principles and provisions of law in the case at bench, We are constrained to dismiss the instant petition as the foregoing procedural flaws spell outright dismissal of the same.

WHEREFORE, in view of all the foregoing, the petition for review is hereby **DISMISSED** on procedural grounds.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

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[5] Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals provides that: "xxx [a] clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition".
[6] *Limpot vs. Court of Appeals*, 170 SCRA 367 (1989).

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

LOVELL R. BAUTISTA
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice