REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

TRIONBOARD CORPORATION Petitioner,	CTA CASE NO. 9964
	Members:
- versus -	DEL ROSARIO, *P.J., Chairperson,* FABON-VICTORINO, *and* MANAHAN, *JJ.*
BUREAU OF CUSTOMS and COMMISSIONER ISIDRO LAPENA in his capacity as the Commissioner of the BUREAU OF CUSTOMS, Respondents.	Promulgated: JUL 29 2020 1:43pm

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RESOLUTION

On October 8, 2019, the Court dismissed the instant Petition for Review on jurisdictional ground.

On November 11, 2019, petitioner filed a Motion for Reconsideration praying for the reversal of the order of dismissal issued by the Court. Petitioner argues that the Court has already acquired jurisdiction over the case, its subject matter and the parties involved after the issuance of the Resolution dated November 22, 2018, granting its motion for extension for fifteen (15) days and noting the Entry of Appearance of the Office of the Solicitor General (OSG), as respondent's counsel in the Order dated February 19, 2019. Petitioner also invokes substantial justice to justify relaxation of procedural rules and that the present case should not be dismissed solely on technical grounds as it is imbued with merit and was instituted with the best intention to abide by the Rules of Court.

Respondent however, argues that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional. 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 a manner and in accordance with the provisions of the law[1].

As found by the Court, the instant Petition for Review was instituted beyond the reglementary period provided under the rules, thereby depriving the Court with competence to hear and determine the same. While Section 1, Rule 42 of the Rules of Court allows a 15-day extension to file a Petition for Review, a second motion for extension may only be granted for most compelling reasons and not to exceed 15 days. Verily, petitioner failed to cite any compelling reason for the grant of another extension to file its Petition for Review.

Respondent further states that while relaxation of the rules is allowed, such was never intended to be a license for erring litigants to violate the rules with impunity. Liberality in the interpretation and application of the rules can be invoke only in proper cases and under justifiable causes and circumstances.

Finally, respondent avers that the failure to perfect an appeal within the time prescribed by the Rules of Court unavoidably renders the judgment final as to preclude the appellate court from acquiring the jurisdiction to review the judgment[2].

Petitioner's Motion for Reconsideration lacks merit.

From pages 4 to 5 of the assailed Resolution of October 8, 2019, the Court explained why the Court was divested with authority to take cognizance of the present case leaving it with no alternative but to dismiss it. There is no denying that the present case is an appeal from the adverse ruling of respondent COC dated September 6, 2018 which petitioner

[1]*China Banking Corporation v. City Treasurer of Manila*, G.R. No. 204117, July 1, 2015, citing *Commissioner of Internal Revenue v. Fort Bonifacio Development Corporation*, G.R. No. 167606, August 11, 2010.
[2]*Albor v. Court of Appeals et. al.*, G.R. No. 196598, January 17, 2018.

received on September 28, 2018. Hence, petitioner had 30 days from receipt thereof or until October 28, 2018, (a Sunday), to file its Petition for Review. In fine, petitioner had until the following day, i.e., October 29, 2018 to lodge its appeal. But instead of a Petition for Review, petitioner filed a motion for extension of 30 days to file the said pleading. The Court granted the motion but only for 15 days or until November 13, 2018, in accordance with the rules. Evidently, petitioner's Petition for Review was belatedly filed on November 28, 2018 depriving the Court of jurisdiction to entertain the same.

A Motion for Extension is not granted as a matter of right, but in the sound discretion of the Court.[3] A reading of petitioner's motion for extension readily shows its infirmities. Apart from not following the general rule of moving for only a 15-day extension to file its Petition for Review, petitioner did not also cite a compelling reason for asking for such extension. It only cited its counsel's caseload, the distance of petitioner's office and that of its counsel's office and the holidays in the month of November, hardly qualifies as an imperative cause for moderation of the rules.[4]

With all the foregoing, petitioner obviously failed to consider the tenet that appeal is not a matter of right but is a mere privilege. Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right but a mere statutory privilege.[5] The implication of its statutory character is that the party who intends to appeal must always comply with the procedures and rules governing appeals; or else, the right of appeal may be lost or squandered.[6]

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[3] *Bernardo v. People*, G.R. 166980, April 3, 2007, 520 SCRA 332 and *Cosmo Entertainment Management, Inc. v. La Ville Commercial Corporation*, G.R. 152801, August 20, 2004, 437 SCRA 145.
[4] *Bernardo v. People of the Philippines*, G.R. No. 166980, April 4, 2007, 520 SCRA 332, 341-342. See also *Philippine Amusement and Gaming Corporation v. Angara*, G.R. No. 142937, November 15, 2005, 475 SCRA 41, 51; *Marcial v. Hi-Cement Corporation/Union Cement Corporation*, G.R. No. 144900, November 18, 2005, 475 SCRA 388, 396.
[5] See *Philippine National Bank v. Commissioner of Internal Revenue,* G.R. No. 172458, December 14, 2011.
[6] *Duty Free Philippines v. Bureau of Internal Revenue,* G.R. No. 197228, October 8, 2014.

Further, petitioner may not be casually permitted to invoke substantial justice to compensate for various procedural infractions committed in the filing of its Petition for Review, as well as of its Motion for Reconsideration. The use of the words "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.[7] This is certainly not obtaining in the present case.

WHEREFORE, petitioner's Motion for Reconsideration filed on November 11, 2019 is **DENIED**, for lack of merit. The assailed Resolution dated October 8, 2019 is **AFFIRMED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

[7] See *Ti v. Diño,* G.R. No. 219260, November 6, 2017.