

Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

DAVAO CITY WATER DISTRICT,
Petitioner,

CTA EB CASE NO. 600
(CTA Case No. 7522)

-versus-

Present:

**ACOSTA, P.J.,
CASTAÑEDA, JR.
BAUTISTA
UY
CASANOVA
PALANCA-ENRIQUEZ
FABON-VICTORINO
MINDARO-GRULLA
COTANGCO-MANALASTAS, JJ.**

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

APR 05 2010 *Art. Pabiarro 12:40 p.m.*

X-----X

R E S O L U T I O N

The issue is whether to give due course to the instant petition for review which seeks the reversal of both the Decision¹ and Resolution² of the Former First Division.

On January 28, 2010, Petitioner received the Resolution denying its Motion for Reconsideration from the Decision of this Court's division. Thus, petitioner has fifteen (15) days or until February 12, 2010 to perfect its appeal in accordance

¹ Promulgated on October 1, 2009.

² Promulgated on January 5, 2010.

with the Rules³. While petitioner mailed its petition within the reglementary period (February 11, 2010), petitioner failed to pay the docket fee of Php 5,000.00.

In an attempt to cure the defect, petitioner's counsel sent a letter⁴ to this Court which we received on March 10, 2010, and attached thereto were postal money orders amounting to Php 4,000.00. Without any reason, petitioner requested that the postal money order in the amount of Php 1,000.00 that was mailed together with the petition on February 11, 2010 and the postal money order in the amount of Php 4,000.00 received on March 10, 2010 be considered in compliance with the requisite docket fee.

³ **Sec. 4 (b) Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals, as amended.**

SEC. 4. Where to appeal; mode of appeal. –

(a) xxx.

(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.

Sec. 4. Rule 43 of the Rules of Court

SEC. 4. Period of Appeal.– The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo.xxx.

Sec. 7. Rule 43 of the Rules of Court

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 the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

⁴ Rollo. p. 10

We resolve.

The High Court, on many occasions⁵ has ruled that non compliance with the payment of docket fees within the prescribed period may cause the dismissal of the appeal. Likewise, the High Court in several cases⁶ recognized certain peculiar circumstances attendant in a case that may warrant the relaxation of the strict application of the rules on the payment of docket fees. In this case, the dismissal of the petitioner's petition due to non-compliance and lack of justifiable reason for the late payment of docket fees is in order.

It is well-established that the payment of docket fees within the prescribed period is mandatory for the perfection of an appeal. This is so because a court acquires jurisdiction over the subject matter of the action only upon the payment of the correct amount of docket fees regardless of the actual date of filing of the case in court. The payment of the full amount of the docket fee is a *sine qua non* requirement for the perfection of an appeal. The court acquires jurisdiction over the case only upon the payment of the prescribed docket fees⁷

⁵ Meatmasters International Corporation v. Lelis Integrated Development Corporation, G.R. No. 163022, February 28, 2005; Navarro v. Metropolitan Bank and Trust Co., G.R. No. 138031, 27 May 2004; Barangay 24 of Legazpi City v. Elias Imperial, 393 Phil. 357, 363 (2000)

⁶ La Salette College v. Pilotin, G.R. No. 149227, 11 December 2003, 418 SCRA 380, 387; Mactan Cebu International Airport Authority v. Mangubat,, 371 Phil. 393, 398 (1999).

⁷ Meatmasters International Corporation v. Lelis Integrated Development Corporation, G.R. No. 163022, February 28, 2005

In the case at bar, the petitioner seasonably mailed its petition but it paid the docket fees twenty six (26) days after the lapse of the appeal period. In a letter we received from petitioner on March 10, 2010 indorsing the postal money orders dated Feb. 26, 2010, petitioner made no effort to justify the belated payment of the docket fees. Obviously, at the time this Court received postal money orders dated Feb. 26, 2010 as payment for the docket fees, the decision appealed from has attained finality and it is no longer appealable. To give due course despite the belated payment of the docket fee will in effect extend the period to appeal.

Rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal interpretation of the rules of procedure should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules.⁸In this case, petitioner proffered no reason for the belated payment of the prescribed docket fees.

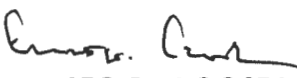
In addition, perusal of the records reveal that petitioner did not attach any Secretary's Certificate to show the authority of its General Manager to file the petition and to sign, and execute, for and in behalf the petitioner such Verification and Certification against Forum Shopping. While a photocopy of an

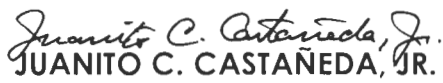
⁸ Navarro v. Metropolitan Bank and Trust Co., G.R. No. 138031, 27 May 2004; Cresenciano Duremdes v. Agustin Duremdes, G.R. No. 138256, November 12, 2003.

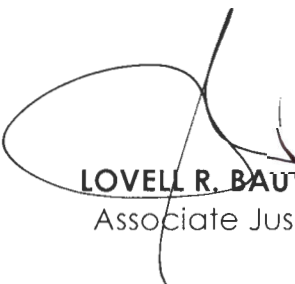
excerpt from the minutes of the petitioner's regular meeting authorizing the filing of an action for a tax refund was attached, said excerpt will not be treated as a substitute to a Secretary's Certificate, considering that the same was neither certified by the corporate secretary nor sworn under oath.

WHEREFORE, the instant petition for review is **DENIED DUE COURSE** and is accordingly **DISMISSED**.

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice

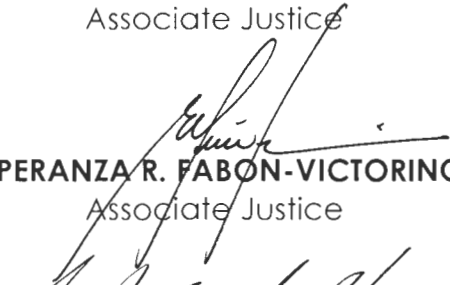

JUANITO C. CASTAÑEDA, JR.
Associate Justice

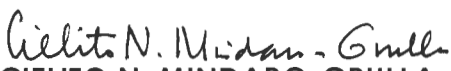

LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice


ESPERANZA R. FABON-VICTORINO
Associate Justice


CIELITO N. MINDARO-GRULLA
Associate Justice


AMELIA R. COTANGCO-MANALASTAS
Associate Justice