REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1991** (CTA Case No. 8941)
- versus -	Present: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** *and* **MODESTO-SAN PEDRO,** *JJ.*
SOUTHERN LUZON DRUG CORPORATION, Respondent.	Promulgated: **AUG 14 2019** 2:58 p.m.

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RESOLUTION

For resolution is Petitioner's "Motion for Reconsideration (Resolution dated March 14, 2019 [sic])"[1] ("Motion for Reconsideration") filed on April 10, 2019, with Respondent's "Comment/Opposition (To Respondent's [sic] Motion for Reconsideration dated April 10, 2019)"[2] filed on May 20, 2019, praying that the March 13, 2019 Resolution[3] be reversed and set aside.

The March 13, 2019 Resolution reads:

> "It is settled that the perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional, and failure of a party to perfect an appeal within the period fixed by law renders the judgment final and executory. Once a decision attains finality, it becomes the law of the case and no Court has the power to revise, review, change or alter the same.

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[1] Docket, pp. 49-55.
[2] *Id.*, pp. 59-64.
[3] *Id.*, pp. 47-48.

> Since Petitioner's "Petition for Review" was filed after the period provided for under the rules, its dismissal, for being filed out of time, is in order.
>
> **WHEREFORE**, Petitioner's "Motion to Admit Petition for Review" is **DENIED**. The instant case is **DISMISSED** for lack of jurisdiction for failure by Petitioner to file its "Petition for Review" within the fifteen-day reglementary period under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).
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> **SO ORDERED**."

In its motion, Petitioner pleads excusable negligence and asks the Court for leniency in the application of the rules of procedure, in the higher interest of justice.

On the other hand, Respondent, in its Comment, submits that there is no persuasive reason or proof raised by Petitioner for his failure to timely file his petition for review.

We resolve to deny the motion for lack of merit.

The facts are undisputed. On December 07, 2018, when Petitioner received the December 04, 2018 Resolution of the Court of Tax Appeals ("CTA") Second Division which denied its Motion for Reconsideration of the September 07, 2018 Decision, Petitioner had only fifteen (15) days or until December 27, 2018 to elevate the case to the CTA *En Banc*.[4] But it was only thereafter when Petitioner came to realize his inadvertence, thus his "Motion to Admit Petition for Review" filed on January 10, 2019 admitting of his failure to file the petition for review on the due date. By then, the period to appeal had already lapsed.

Time and again, it has been held that the right to appeal is not a natural right or a part of due process. It is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right must, therefore, comply with the requirements of the rules, failing which the right to appeal is invariably lost.[5]

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[4] Rule 8, Section 3(b) of the Revised Rules of the Court of Tax Appeals in relation to Rule 42 of the Rules of Civil Procedure.

[5] Grace R. Aluag v. BIR Multi-purpose Cooperative, Norma L. Lipana and Estelita V. Datu, G.R. No. 228449, December 06, 2017 *citing* Manila Mining Corporation v. Amor, G.R. No. 182800, April 20, 2015.

Furthermore, the requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. **The perfection of appeal** in the manner and **within the period set by law is not only mandatory but jurisdictional as well.**[6]

Besides, a judgment or order becomes final when no appeal has been perfected within the prescribed period.[7] Failure to perfect an appeal renders the judgment final and executory. And **a judgment which is already final precludes the appellate court from acquiring the jurisdiction to review the same.**

Petitioner cites the cases of *Arnold Ginete v. Court of Appeals*[8] ("*Ginete*") and *E.I Dupont De Nemours And Co. v. Director Emma C. Francisco*[9] ("*E.I. Dupont*") to persuade the Court to brush aside procedural technicalities for the sake of substantial justice. Aside from being a land partition case, the facts of *Ginete* are also essentially different from the case at bar. As such, it cannot be applied in order to sustain Petitioner's motion.

In *Ginete*, the Supreme Court granted the petition and directed the Court of Appeals to (1) admit the Appellants' Brief, (2) give due course to the appeal and (3) decide the same on the merits. However, Petitioners therein simply failed to file the Appellants' Brief within the extended period accorded to them, after the appellate court had obtained jurisdiction of the case. Such fact is absent in the instant case.

As it happens, the High Court clarified in *Ginete* that the failure to file a notice of appeal within the reglementary period and failure to file brief within the period granted by the appellate court are two different things. The former results in the failure of the appellate court to obtain jurisdiction of the appealed decision; whereas the latter simply results in the abandonment of the appeal which could lead to its dismissal upon failure to move for its reconsideration.

As for *E.I. Dupont*, the Court finds that the paragraph cited by Petitioner does not exist.

WHEREFORE, premises considered, Petitioner's "Motion for Reconsideration (Resolution dated March 14, 2019 [sic])" is **DENIED** for lack of merit.

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6 Gregorio de Leon, doing business as G.D.L. Marketing v. Hercules Agro Industrial Corporation and/or Jesus Chuaand Rumi Rungis Milk, G.R. No. 183239, June 02, 2014 *citing* Prieto v. Court of Appeals, G.R. No. 158597, June 18, 2012.

7 In The Matter Of The Petition Of Tanpa Ong *alias* Pedro Tan To Be Admitted A Citizen Of The Philippines, G.R. No. L-20605, June 30, 1966.

8 G.R. No. 127596, September 24, 1998.

9 G.R. No. 174379, August 31, 2016.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ON LEAVE
ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice