**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

# ***EN BANC***

**COMMISSIONER OF INTERNAL REVENUE,**
*Petitioner,*

-*versus*-

**ACTUATE BUILDERS, INC.,**
*Respondent.*

**CTA *EB* NO. 2211**
(CTA Case No. 9129)

Present:

**DEL ROSARIO,** *P.J.,*
**CASTAÑEDA, JR.,**
**UY,**
**RINGPIS-LIBAN,**
**MANAHAN,**
**BACORRO-VILLENA,**
**MODESTO-SAN PEDRO,** *and*
**REYES-FAJARDO,** *JJ.*

Promulgated:
OCT 22 2021 11:50am

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## RESOLUTION

**MANAHAN, J.:**

This resolves petitioner's *Motion for Reconsideration*, posted on March 23, 2021 and received by the Court on May 21, 2021, seeking reconsideration of the Decision dated March 2, 2021, dismissing his appeal, *to wit:*

> **WHEREFORE,** the Petition for Review is **DISMISSED** for having been filed out of time.
>
> **SO ORDERED.**[1]

In his *Motion*, petitioner states that the Petition for Review was filed on time since Revenue Region No. 08A-Makati City only actually received the Resolution on January 10, 2020, when it was forwarded to it by the Revenue Region (RR) No. 08B-South NCR. Petitioner reiterates that Revenue Region No. 08-Makati City was dissolved and converted into two regions,

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[1] *Rollo*, Decision dated March 2, 2021, p. 75.

giving rise to RR No. 08A-Makati City and RR No. 08B-South NCR, albeit having the same address. Petitioner also attaches Revenue Administrative Order (RAO) No. 004-19[2] issued on June 18, 2019 to show proof of the splitting of the revenue region and redefining their areas of jurisdiction.

Petitioner reiterates his opinion that the period to file the Petition for Review is from the date of receipt by RR No. 08A-Makati City on January 10, 2020, and not the receiving stamp of December 26, 2019.

Petitioner further argues that there is no valid claim for refund filed within two (2) years after the close of the taxable quarter when such sales were made, considering that the persons who filed the claim for refund were not authorized by respondent. Petitioner also states that the Court of Tax Appeals (CTA) has no jurisdiction over the case absent the valid claim for refund; and, that such lack of jurisdiction can be raised at any time, even for the first time on appeal. Petitioner reiterates that the burden of proof rests upon the respondent to establish by sufficient and competent evidence that it is entitled to the claim for refund/credit.

On June 18, 2021, respondent filed its *Comment (Re: Motion for Reconsideration, dated 23 March 2021)* stating that the CTA rightly dismissed petitioner's Petition for Review for having been belatedly filed.

Respondent also points out that RAO No. 004-19, upon which petitioner relies on to show the splitting of the Revenue Offices per area covered, was issued on June 18, 2019, with a statement that the same shall be effective immediately. Said splitting of the revenue regions was already in effect when the Division Decision was issued on October 3, 2019. However, petitioner was able to timely file his Motion for Partial Reconsideration thereto.

The *Motion* is denied.

To reiterate, petitioner received the assailed Resolution dated December 16, 2019, on December 26, 2019 through RR No. 08-Makati City and the Office of the Solicitor General.

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[2] SUBJECT: SPLITTING OF REVENUE REGION NO. 7-QUEZON CITY AND REVENUE REGION NO. 8-MAKATI CITY AND REDEFINING THEIR AREAS OF JURISDICTION.

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Thus, petitioner had only until January 10, 2020 within which to file a Petition for Review or a Motion for Extension to File a Petition for Review, as the case may be.

The Court cannot give credence to petitioner's position that the period to file should only be counted from January 10, 2020, when RR No. 08B-South NCR allegedly forwarded the Resolution dated December 16, 2019 to RR No. 08A-Makati City. There is no basis to disregard the actual receiving stamp dated December 26, 2019, neither can the Court's service to RR No. 08-Makati City be considered invalid.

First, petitioner did not officially inform this Court of the splitting and change of Revenue Region and/or change of address. Second, despite the RAO No. 004-19 having been issued on June 18, 2019 and supposedly effective immediately, RR No. 08-Makati City (now dissolved) continued to receive Court documents without differentiation as to RR No. 08A-Makati City or RR No. 08B-South NCR. Finally, as pointed out by respondent, petitioner was able to timely file his Motion for Reconsideration to the Division Decision dated October 3, 2019, which period was already after the effectivity and supposed splitting of RR No. 08-Makati City to RR No. 08A-Makati City and RR No. 08B-South NCR.

The splitting of the revenue region, and the transfer of corresponding case assignments, "*does not excuse [petitioner] from the non-observance of procedural rules, much less, in its duty to prosecute its case diligently. This contingency should have prompted [petitioner] to be even more mindful and ensure that there will be a proper transition and transfer of responsibility from the previous counsels to the new counsels.*"[3]

Thus, the Court finds no compelling reason to disregard the December 26, 2019 receipt of the assailed Division Resolution by RR No. 08-Makati City. Clearly then, at the time the Motion for Extension was filed on January 14, 2020, there was no longer any period to extend, such period having expired on January 10, 2020. It is a basic rule of remedial law that a motion for extension of time to file a pleading must be filed <u>before</u> the expiration of the period sought to be extended.

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[3] *Ng Ching Ting v. Philippine Business Bank, Inc.*, G.R. No. 224972, July 9, 2018.

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Since the motion for extension was filed after the lapse of the prescribed period, there was no more period to extend.[4]

Based on the foregoing, the Petition for Review filed on January 22, 2020 was also filed out of time and must be dismissed.

To stress, the right to appeal is statutory and one who seeks to avail of it must comply with the statute or rules. 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. Moreover, the perfection of an appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well, hence failure to perfect the same renders the judgment final and executory. And, just as a losing party has the privilege to file an appeal within the prescribed period, so also does the prevailing party have the correlative right to enjoy the finality of a decision in his favor.[5]

**WHEREFORE**, petitioner's *Motion for Reconsideration* is **DENIED**.

**SO ORDERED.**

**CATHERINE T. MANAHAN**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

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[4] *Philippine National Bank v. Deang Marketing Corporation and Berlita Deang,* G.R. No. 177931, December 8, 2008.
[5] *Boardwalk Business Ventures, Inc. v. Elvira A. Villareal, et al.*, G.R. No. 181182, April 10, 2013.

**ERLINDA P. UY**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

Marian Ivy F. Reyes-Fajardo

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice