

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

EN BANC

**COMMISSIONER OF INTERNAL
REVENUE,**

Petitioner,

**CTA EB NO. 2606
(CTA Case No. 9628)**

Present:

-versus-

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

**MAX HEALTH & LIVING
INTERNATIONAL, INC.,**

Respondent.

Promulgated:

JUN 23 2022

3:49pm

x -----

x

R E S O L U T I O N

Before the Court are:

1. Petitioner's *Motion for Extension of Time to File Petition for Review* filed on May 2, 2022; and
2. His *Petition for Review* subsequently filed *via* registered mail on May 16, 2022, and received by the Court on May 20, 2022.

In his *Motion for Extension of Time to File Petition for Review (Motion)* filed on May 2, 2022, petitioner claims that: (1) on March 31, 2022, he received a copy of the Resolution dated March 21, 2022 issued by this Court's First Division denying his Motion for Reconsideration; and (2) counting thirty (30) days from receipt thereof, he has until April 30, 2022, to file his Petition for Review.

RESOLUTION

CTA EB No. 2606 (CTA Case No. 9628)

Commissioner of Internal Revenue vs. Max Health & Living International, Inc.

Page 2 of 4

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According to petitioner, he is constrained to file the instant *Motion* due to a heavy workload, thereby asking for an additional period of thirty (30) days from April 30, 2022, or until May 30, 2022, to file the Petition for Review.

Thereafter, or on May 16, 2022, petitioner filed a Petition for Review *via* registered mail which the Court received on May 20, 2022.

Section 3(b), Rule 8 to the Revised Rules of the Court of Tax Appeals (RRCTA) states:

(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. (*Boldfacing and Underscoring supplied*)

Based on the foregoing, a party adversely affected by a decision or resolution of a Division of this Court has fifteen (15) days from receipt thereof to appeal before the Court *En Banc*. However, before the expiration of the 15-day reglementary period, the Court *En Banc* may grant an additional period not exceeding fifteen days after the expiry of the original period to file the petition, upon proper motion and payment of full docket and other lawful fees.

Admittedly, petitioner received the Resolution denying his Motion for Reconsideration on March 31, 2022. Thus, **he has fifteen (15) days from March 31, 2022, or until April 15, 2022, to file the petition for review or a motion for an extension of time to file the same.**

Evidently, petitioner's ***Motion for Extension of Time to File Petition for Review*** and his ***Petition for Review*** were filed **out of time.**

It bears stressing that an appeal is neither a natural nor constitutional right but a mere statutory privilege. Hence, parties who seek to avail of the privilege must comply with the

RESOLUTION

CTA EB No. 2606 (CTA Case No. 9628)

Commissioner of Internal Revenue vs. Max Health & Living International, Inc.

Page 3 of 4

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statutes or rules allowing it.¹ The perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional as well. And failure to perfect an appeal within the reglementary period deprived the court — otherwise competent — of jurisdiction to hear and determine it.

In the case of *Videogram Regulatory Board v. Court of Appeals*,² the Supreme Court, no less, chronicled the inviolability of the period of perfecting an appeal, in this fashion:

. . . There are certain procedural rules that must remain inviolable, like those setting the periods for perfecting an appeal or filing a petition for review, for it is doctrinally entrenched that the right to appeal is a statutory right and one who seeks to avail of that right must comply with the statute or rules. **The rules, particularly 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 and for orderly discharge of judicial business. Furthermore, the perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional** and the failure to perfect the appeal renders the judgment of the court final and executory. Just as a losing party has the right to file an appeal within the prescribed period, the winning party also has the correlative right to enjoy the finality of the resolution of his/her case. These periods are carefully guarded and lawyers are well-advised to keep track of their applications. After all, a denial of a petition for being time-barred is a decision on the merits. *(Boldfacing supplied)*

Indeed, the timeliness of an appeal is a jurisdictional caveat that not even the Supreme Court can trifle with.³

WHEREFORE, premises considered, petitioner's *Motion for Extension of Time to File Petition for Review* is **DENIED** for lack of merit, and his *Petition for Review* belatedly filed is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

¹ *Air France Philippines v. Leachon*, 472 SCRA 493, 442-443 [2005].

² G.R. No. 106564, November 28, 1996.

³ *BA vs. Gerochi, Jr.* 230 SCRA 9 [1994].

RESOLUTION

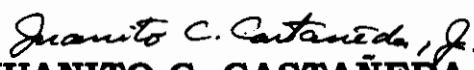
CTA EB No. 2606 (CTA Case No. 9628)

Commissioner of Internal Revenue vs. Max Health & Living International, Inc.

Page 4 of 4

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ROMAN G. DEL ROSARIO
Presiding Justice

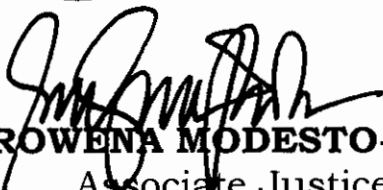

JUANITO C. CASTAÑEDA, JR.
Associate Justice

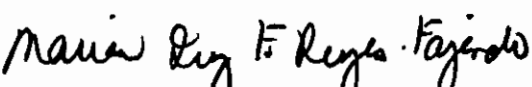

ERLINDA P. UY
Associate Justice


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


MARIAN IVY F. REYES-FAJARDO
Associate Justice


LANEE S. CUI-DAVID
Associate Justice