REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2528** (CTA Case No. 9592)
-versus-	
CARMEN COPPER CORPORATION, *Respondent.*	**CTA EB No. 2557** (CTA Case No. 9592)
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CARMEN COPPER CORPORATION, *Petitioner,*	Present:
-versus-	DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, and CUI-DAVID, JJ.
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 2 0 2022 4:17 p.m.

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RESOLUTION

Records show that on December 3, 2021, Carmen Copper Corporation received the Court in Division's Resolution denying its Motion for Reconsideration of the Decision dated October 1, 2020 in CTA Case No. 9592, for lack of merit. Carmen Copper Corporation

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has fifteen (15) days from December 3, 2021 or until December 18, 2021 within which to file its Petition for Review.

On December 17, 2021, Carmen Copper Corporation filed its *Motion for Extension of Time to File Petition for Review* praying for an additional period of fifteen (15) days from December 18, 2021 or until January 2, 2022, within which to file its Petition for Review. On December 21, 2021, the Court *En Banc* granted said motion.

The period requested by Carmen Copper Corporation within which to file its Petition for Review was covered by CTA Circular No. 02-2021, which stated that the filing of any and all pleadings and other court submissions with the Court of Tax Appeals is suspended from December 21, 2021 to January 3, 2022. The filing periods of any and all pleadings and other court submissions that fell due or would fall due during the said period are hereby extended for seven (7) calendar days counted from January 4, 2022.[1]

On January 10, 2022, the Supreme Court declared that the filing periods of any and all pleadings and other court submissions falling due in the month of January 2022 in all courts are extended until February 1, 2022.[2] On the same date, the CTA issued a Memorandum on the filing of pleadings, motions, and other court submissions by email,[3] which pertinently provides that:

> . . .
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> Pursuant to the Court of Tax Appeals' (CTA) *En Banc* Resolution No. 4-2021[4], dated February 24, 2021, pleadings,

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1 CTA Circular No. 02-2021 dated December 21, 2021.

2 Administrative Circular No. 01-2022 dated January 10, 2022.

3 Memorandum dated January 10, 2022 issued by Clerk of Court Danilo B. Fernando, Subject: Filing of Pleadings, Motions, and Other Court Submissions by Email.

4 WHEREAS, the Supreme Court (SC) issued various Administrative Circulars allowing the **electronic filing of initiatory pleadings**, motions and other court submissions through the respective official email addresses of the courts in view of the COVID-19 pandemic;

WHEREAS, pursuant to SC Administrative Circular No. 45- 2020, dated 18 August 2020, the Court of Appeals, Sandiganbayan, and Court of Tax Appeals (CTA) may continue to receive petitions and pleadings electronically in accordance with paragraph 1 thereof and process the same pursuant to their respective internal rules;

NOW, THEREFORE, pursuant to its authority under Section 8 of Republic Act No. 1125, as amended, this Court, sitting *En Banc* RESOLVES, as it hereby RESOLVED, to adopt the following guidelines in relation to the filing of pleadings, motions, and other court submissions by email during the Period of State of Public Health Emergency due to the COVID-19 Pandemic:

1. Pleadings, motions, and other court submissions may be filed by email through the official email address of the CTA Judicial Records Division jrd.cta@judiciary.gov.ph

> motions, and other court submissions **may be filed by email** through the official email address of the CTA Judicial Records Division jrd.cta@judiciary.gov. ph copy furnished the official email address of the CTA *En Banc* or the concerned CTA Division. **Thereafter, litigants are required to submit the required number of hard copies of the pleadings, motions, and other court submissions within five (5) calendar days from date of filing by email either by personal filing or licensed courier and to pay the filing fees and/or other legal fees due thereon also within five (5) calendar days from the date of filing through email.**[5]
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> ...

Following the above period requirement, the last day for Carmen Copper Corporation to file its Petition for Review was 1 February 2022. Since February 1, 2022 was a legal holiday, Carmen Copper Corporation had until February 2, 2022, within which to file its Petition for Review.

At any rate, Rule 13, Section 14 of the 2019 Amendment to the 1997 Rules of Civil Procedure, reads as follows:

> Section 14. Conventional service or filing of orders, pleadings and other documents. – Notwithstanding the foregoing, the following orders, pleadings, and other documents must be served or filed personally or by registered mail when allowed, and shall not be served or filed electronically, unless express permission is granted by the Court:
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> (a) Initiatory pleadings and initial responsive pleadings, such as an answer; ...

Further, in accordance with the CTA *En Banc* Resolution No. 4-2021, the filing of the Petition for Review may be made by email through the court's official email address and a subsequent submission of the required number of hard copies of the Petition for Review within five (5) calendar days either by personal filing or licensed courier.

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copy furnished the official email address of the CTA *En Banc* enbanc.cta@judiciarv.gov.ph for *en banc* cases. ...
3. Considering that pleadings, motions, and other court submissions filed with the CTA oftentimes consist of a large En Bane Resolution No. 4-2021 Page 2 of 3 number of pages including the annexes appended thereto and that each pleading, motion, and other court submission is required to be filed with the CTA, at the very least, in four (4) copies for Division cases and ten (10) copies for *En Banc* cases, **litigants shall submit, by personal filing or licensed courier, the required number of hard copies of the pleadings, motions, and other court submissions within five (5) calendar days from date of filing by email:** (Empahsis supplied) ...

5 Emphasis supplied.

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On February 9, 2022, the Court received Carmen Copper Corporation's Petition for Review dated January 5, 2022 filed by via LBC on February 2, 2022. Applying the aforementioned Memorandum[6] and CTA *En Banc* Resolution No. 4-2021, the Petition for Review may be filed by email first coupled with a subsequent submission of the hard copies of the Petition for Review by courier.

Clearly, Carmen Copper Corporation's Petition for Review was filed via courier and not by email within the extended period as required by said Resolution.

Time and again, the Court stresses that perfection of an appeal in the manner and within the period permitted by law is mandatory and jurisdictional such that failure to do so renders the judgment of the court final and executory. The right to appeal is a statutory right, not a natural nor a constitutional right. The party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[7]

WHEREFORE, the *Petition for Review* in CTA EB No 2557 belatedly filed by petitioner Carmen Copper Corporation on February 9, 2022 is **DISMISSED**, for lack of jurisdiction.

Acting on respondent Carmen Copper Corporation's *Comment (To Petition for Review)* in CTA EB No. 2528 belatedly filed on February 23, 2022, the same is hereby **NOTED**.

Accordingly, the Petition for Review in CTA EB. No. 2528 is now **SUBMITTED** for decision.

SO ORDERED.

(with Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

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6 *Supra*, at note 3.

7 *Herarc Realty Corporation v. The Provincial Treasurer of Batangas, The Provincial Assessor of Batangas, The Municipal Assessor and Municipal Treasurer of Calatagan, Batangas, Dr. Rafael A. Manalo, Grace Oliva, and Freida Rivera Yap*, G.R. No. 210736, September 05, 2018.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I join the Concurring Opinion of Presiding Justice Roman G. Del Rosario)
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

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2528** (CTA Case No. 9592)
- versus -	
CARMEN COPPER CORPORATION, Respondent.	

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	Present:
- versus -	DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, and CUI-DAVID, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 2 0 2022 4:17 p.m.

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CONCURRING OPINION

DEL ROSARIO, P.J.:

I concur in the dismissal of Carmen Copper Corporation's (CCC) Petition for Review, docketed as CTA EB No. 2557, for being filed beyond the prescribed period as extended by the Court *En Banc*'s

Minute Resolution dated December 21, 2021[1] in CTA EB No. 2557 and Supreme Court Administrative Circular No. 1-2022 dated January 10, 2022[2].

Records disclose that CCC had until February 2, 2022 to file its Petition for Review, which it delivered to LBC, a private courier, on said date.

The established rule is that the date of delivery of pleadings to a private letter-forwarding agency is not to be considered as the date of filing thereof in court; in such cases, the date of actual receipt of the court, and not the date of delivery to the private carrier, is deemed the date of the filing of that pleading.[3]

While Section 3, Rule 13 of the 2019 Amendments to the 1997 Rules of Civil Procedure authorizes filing through an **accredited courier**, this mode should not be confused with filing through a non-accredited private courier.

Accredited couriers are courier service providers that have been accredited by the Supreme Court through the Office of the Court Administrator.[4] Since LBC is not an accredited courier service provider, the actual receipt of the Court *En Banc* of CCC's Petition for Review on February 9, 2022, and not its delivery to LBC on February 2, 2022, remains the date of the filing of its Petition for Review consistent with *Exequiel Sigre et al. vs. Provincial Government of Zamboanga Del Sur, represented by Antonio H. Cerilles*.[5] Evidently, the Petition for Review was filed late and the Court *En Banc* may not take cognizance thereof.

In fine, I VOTE to DISMISS CCC's Petition for Review in CTA EB No. 2557 for being filed late; and, SUBMIT for decision the Commissioner of Internal Revenue's Petition for Review in CTA EB No. 2528.

ROMAN G. DEL ROSARIO
Presiding Justice

[1] "[Carmen Copper Corporation] is granted a final and non-extendible period of fifteen (15) days from December 18, 2021, or until January 2, 2022, within which to file its Petition for Review."
[2] "[T]he filing periods of any and all pleadings and other court submissions falling due in the month of January 2022 in **all courts** are hereby **EXTENDED** until February 1, 2022."
[3] Resolution, *Exequiel Sigre et al. vs. Provincial Government of Zamboanga Del Sur, represented by Antonio H. Cerilles*, G.R. No. 241362, February 3, 2020.
[4] Supreme Court Administrative Order No. 242-A-2020 (Guidelines on the Accreditation of Courier Service Providers) dated September 1, 2020.
[5] Resolution, G.R. No. 241362, February 3, 2020.