

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

RICARDO TENCHAVEZ ANDRES CTA Case No. 10733
[KIDSTUFF MARKETING],

Petitioner, **Members:**

- versus -

UY, Chairperson,
BACORRO-VILLENA, and
CUI-DAVID, JJ.

BUREAU OF INTERNAL
REVENUE,

Respondent.

Promulgated:

SEP 02 2022

x ----- x

RESOLUTION

For resolution is petitioner's *Motion for Reconsideration* filed on August 2, 2022, with respondent's *Comment/Opposition* (on *Petitioner's Motion for Reconsideration* dated 25 July 2022).

In his *Motion*, petitioner prays that the dismissal of his *Amended Petition for Review* without prejudice be reversed and set aside, and that the *Amended Petition for Review* be given due course.

In support of his *Motion*, petitioner explains that he had no intention of violating the rules observed by the Court. According to petitioner, his mistake was he relied on the notary public who notarized the Special Power of Attorney and the *Judicial Affidavits* of Jesus D Tivoli and Wendy S Sacramento because he was of the impression that the notary public would know how to notarize documents properly.

Further, petitioner rectified his mistake by asking the notary public to remedy the observations¹ of this Court in the *Resolution* dated April 18, 2022, and submitting, together with his *Motion*, the Special Power of Attorney and the *Judicial Affidavits* of Jesus D Tivoli and Wendy S Sacramento which are properly signed, executed and notarized.

Finally, petitioner begs the indulgence of the Court and cites Section 2, Rule 1 of the Revised Rules of the Court of Tax Appeals, which states that “[t]he Rules shall be liberally construed in order to promote their objective of securing a just, speedy, and inexpensive determination of every action and proceeding before the Court”.

In her *Comment/Opposition*, respondent vehemently opposes petitioner’s *Motion*. According to respondent, the Court correctly dismissed the *Amended Petition for Review* for petitioner’s failure to comply with the rules despite being given by the Court two opportunities to comply.

Respondent also submits that the circumstances of the instant case do not merit the relaxation of procedural rules. Aside from the fact that petitioner was already given ample opportunity to comply with the rules, petitioner’s explanation in his *Motion* is insufficient to warrant the reversal of the *Resolution* dated July 19, 2022. Thus, respondent prays that petitioner’s *Motion* be denied for lack of merit.

¹ Paragraph 2 and the Dispositive portion of the *Resolution* dated April 18, 2022 reads as follows:

“Upon perusal of the *Amended Petition for Review*, the Court **NOTES** that the same still suffers from the following infirmities, to wit:

1. The *Amended Petition for Review* is still not compliant with Sections 6 (a) and (b), Rule 7 of A.M. No. 19-10-20-SC **for failure to attach the Judicial Affidavits of Jesus D. Tivoli and supposed second witness described as representative of the finance department of the organization.**
2. There is still **no proof of authority** of Atty. Rosendo Bartolome Meneses to file any and all pleadings and motions, and to represent petitioner, with full authority, during pre-trial.”

xxx xxx xxx

Accordingly, to avoid dismissal of the instant case, and in the interest of justice without compromising compliance with procedural requirements, petitioner is given one last opportunity **TO TAKE APPROPRIATE ACTION** in accordance with the aforementioned observations of this Court within **ten (10) days** from receipt hereof. Thereafter, the Court shall act accordingly.”

THE COURT'S RULING

In the case of *Guillermo Dela Cruz v. Hon. Deodoro J. Sison and Metropolitan Bank & Trust Co. (Metrobank)*,² the Supreme Court held that the liberal application of rules of procedure in order to achieve the substantial ends of justice is preferred, as the over-strict adherence to a technical rule can result in a party's deprivation of due process of law, to wit:

"Despite the foregoing, however, the Court agrees with the CA that the case should be remanded to the trial court for further proceedings and reception of respondent bank's evidence. As was noted by the CA, the trial court should have liberally applied the rules of procedure and admitted the answer even if filed one day late. x x x

xxx xxx xxx

In the following instances, the Court reckoned it wise to **liberally apply the rules of procedure in order to achieve the substantial ends of justice, viz.:**

. . . (1) **matters of life, liberty, honor or property**; (2) **counsel's negligence without any participatory negligence of the part of the client**; (3) the existence of special or compelling circumstances; (4) **the merits of the case**; (5) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (6) **a lack of any showing that the review sought is merely frivolous and dilatory**; and (7) the other party will not be unjustly prejudiced thereby.

xxx xxx xxx

Rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. **Technicalities should never be used to defeat**

² G.R. No. 142464, September 26, 2005.

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the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities." (*Emphasis supplied*)

In the instant case, petitioner, in his supposed compliance with the Court's *Resolution* dated April 18, 2022, submitted: (1) the Special Power of Attorney executed by Ricardo T Andres with the competent evidence of identity in the *acknowledgment* portion thereof referring to one Rosemarie Andres and not to Ricardo T Andres; and (2) the *Judicial Affidavits* of Jesus D Tivoli and Wendy S Sacramento where the *jurat* portion of the same failed to indicate the competent evidence of identity of Jesus D Tivoli, Wendy S Sacramento and Atty. Rosendo Bartolome Meneses. Petitioner admits that he made the mistake of relying on the notary public who notarized the Special Power of Attorney and the *Judicial Affidavits* of Jesus D Tivoli and Wendy S Sacramento.

Nonetheless, petitioner rectified his mistake and submitted, together with his *Motion*, the Special Power of Attorney and the *Judicial Affidavits* of Jesus D Tivoli and Wendy S Sacramento which are properly signed, executed and notarized.

Thus, in the interest of liberality, procedural rules may be relaxed to accord petitioner the opportunity to seek a proper and just determination of his cause so that the ends of substantial justice may be achieved.

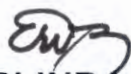
After all, it is settled that procedural rules were conceived to aid the attainment of justice. If a stringent application of the procedural rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter. The rule, which states that the mistakes of counsel bind the client, may not be strictly followed where observance of it would result in the outright deprivation of the client's liberty or property, or where the interest of justice so requires. Simply put, procedural rules may be relaxed in order to prevent injustice to a litigant.³

WHEREFORE, premises considered, the *Resolution* dated July 19, 2022 is hereby **SET ASIDE** and the *Amended Petition for Review* filed on March 29, 2022 is **REINSTATED**.

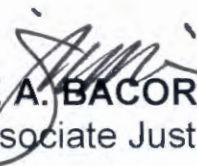
³ *B.E. San Diego, Inc. v. Manuel A.S. Bernardo*, G.R. No. 233135, December 5, 2018.

Accordingly, let summons be issued to respondent in this case.

SO ORDERED.



ERLINDA P. UY
Associate Justice



JEAN MARIE A. BACORRO-VILLENA
Associate Justice



LANEE S. CUI-DAVID
Associate Justice