23-000097-0017

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. SCA-0005

THE PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

Hon. REGIONAL TRIAL COURT OF THE CITY OF MANILA, BRANCH 21, LILY PEDROSO, ERNESTO PEDROSO and ELVIN LOUIE PEDROSO REYES,
Respondents.

NOTICE OF RESOLUTION

To:

ATTY. CATHERINE ROSE R. TORTOLES
ATTY. JAMAICA KAY S. DELA CRUZ
ATTY. FRANCIS PRINCIPE
(Counsel for Petitioner)
Bureau of Internal Revenue
Room 704, Prosecution Division, BIR Natioal Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

GALIAS & RIVERA LAW OFFICES
(Counsel for Respondents)
3/F, Prestige Tower, F. Ortigas Jr. Road
Ortigas Center, Pasig City

HON. ALMA CRISPINA B. COLLADO-LACORTE
Presiding Judge
National Capital Judicial Region
Regional Trial Court
Branch 21, Manila

GREETINGS:

You are hereby notified by these presents that on **January 8, 2025,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **January 9, 2025.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

THE PEOPLE OF THE PHILIPPINES,
Petitioner,

- versus -

Hon. REGIONAL TRIAL COURT OF THE CITY OF MANILA, BRANCH 21, LILY PEDROSO, ERNESTO PEDROSO and ELVIN LOUIE PEDROSO REYES,
Respondents.

CTA SCA CASE NO. 0005

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 08 2025; 3:45PM

x - x

RESOLUTION

For the Court's resolution is petitioner People of the Philippines's (**petitioner**'s) "Motion for Reconsideration"[1] (**MR**) filed on 31 July 2024 by registered mail, with "Comment/Opposition (To Motion for Reconsideration)"[2] (Comment) filed by private respondents accused Lily Pedroso, Ernesto Pedroso, and Elvin Louie Pedroso Reyes (**private respondents**) on 27 August 2024 through private courier.

In the MR, petitioner questions the Decision of 12 July 2024[3] (**assailed Decision**), which dismissed the Petition for *Certiorari* for lack of jurisdiction. In support thereof, petitioner argues two (2) main points: (1) the deputized Bureau of Internal Revenue (**BIR**) lawyers are

---

1 Division Docket, pp. 351-374.
2 Id., pp. 386-391.
3 Id., pp. 298-325.

authorized to handle the criminal tax case, thus the counting of the prescriptive period is reckoned from the latter's receipt of the official court notices; and, (2) that there was grave abuse of discretion amounting to lack or excess of jurisdiction in the instant case.

On the first ground, petitioner maintains that the BIR is authorized to handle the prosecution of criminal tax cases pursuant to Section 220[4] of the National Internal Revenue Code (**NIRC**) of 1997, as amended. Citing *Commissioner of Internal Revenue v. La Suerte Cigar and Cigarette Factory*[5], petitioner submits that BIR has the power to institute or commence civil and criminal actions or proceedings related to tax offenses before the proper court.

Petitioner adds that Department of Justice (**DOJ**) had already deputized the BIR lawyers to prosecute tax cases before this Court. Hence, the required coordination between the two (2) government agencies was already satisfied as required by the Supreme Court in the case of *People of the Philippines v. Court of Tax Appeals – Third Division, et al.*[6] Based on the deputization, BIR lawyers shall continue to prosecute the tax offenses until the end of the trial even in the absence of the public prosecutor.

According to it, in actual practice, Regional Trial Court (**RTC**) of Manila, Branch 21 (**respondent court *a quo***) reckoned the filing of the pleadings from BIR's receipt of the official notices. Thus, the public prosecutor, Assistant City Prosecutor (**ACP**) Glenn Romano, did not see the need to notify the BIR when the former received the relevant court notices.

Petitioner also avers that the Office of the Solicitor General (**OSG**) recognizes the above-mentioned arrangement as indicated in the Memorandum of Agreement[7] (**MOA**) dated 17 March 2010.

---

4 **SEC. 220.** *Form and Mode of Proceeding in Actions Arising under this Code.*
5 G.R. No. 144942, 04 July 4 2002.
6 See *People of the Philippines v. Court of Tax Appeals – Third Division, et al.*, G.R. No. 251270, 05 September 2022.
7 Division Docket, pp. 288-292.

Moreover, petitioner claims that in the cases of *National Power Corporation v. National Labor Relations Commission*[8] (**NAPOCOR**) and *Commissioner of Customs v. Court of Tax Appeals*[9] (**COC v. CTA**), although proper service was not made to the OSG, the Supreme Court had decided to forego the technicalities and ruled the cases based on merits.

In the same vein, petitioner enumerates the following instances where courts are precluded from exercising strict adherence to procedural rules: (a) matters of life, liberty, honor or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) a lack of any showing that the review sought is merely frivolous and dilatory; and, (f) the other party will not be unjustly prejudiced. Petitioner points out that all circumstances are present in the instant case.

Petitioner further asserts that it was deprived of the fair opportunity to prosecute the case when respondent court *a quo* granted the Demurrer to Evidence (**Demurrer**). Reiterating this Court's findings in the assailed Decision, *e.g.* "that respondent court *a quo* erred in granting the Demurrer to the extent that it held that an assessment is vital in the prosecution of a criminal offense; and it did not acquire jurisdiction over the accused due to the non-inclusion of the partnership R-Jell Marketing and Construction Company as accused in the Informations", it contends that respondent court *a quo* committed grave abuse of discretion and thus, errors of jurisdiction and not merely errors of judgment. Thus, the dismissal of the case without due process should be considered void and ineffectual.

Lastly, petitioner contends that in the *Mamerto Austria v. AAA and BBB*[10], the Supreme Court had the occasion to rule that double jeopardy does not attach when the prosecution was deprived of the opportunity to prove the case. Similarly in this case, as respondent court *a quo*'s grant of Demurrer is also tantamount to a void judgment, there is also no double jeopardy to speak of.

---

8 G.R. Nos. 90933-61, 29 May 1997.
9 G.R. No. 132929, 27 March 2000.
10 G.R. No. 205275, 28 June 2022.

On the other hand, private respondents counter that petitioner was not deprived of due process considering that it was able to present all of its documentary and testimonial evidence prior to the filing of the Demurrer.

Private respondents further assert that the proper reckoning period to file the petition for *certiorari* is from the public prosecutor's receipt of the Order (dated 22 December 2022) on 29 December 2022 and not on receipt of the deputized lawyers on 13 January 2023.

Moreover, private respondents posit that in the *NAPOCOR* and *COC v. CTA* cases, the Supreme Court actually emphasized that despite the deputization of special lawyers, the OSG remains to be principal prosecutor and the latter's receipt shall be the reckoning point for the count of prescriptive period. Applying the case, considering that the DOJ remains to be the principal prosecutor, its receipt is the determining point for the counting of the period to appeal. There being no reversible error, private respondents pray for the denial of the instant MR.

We resolve.

After due examination of the parties' arguments, We do not find any material issues that shall warrant the modification of the assailed Decision.

At the outset, petitioner failed to convince us that its prior Petition for *Certiorari* was timely filed, or that exceptional circumstances are present to justify the relaxation of technical rules.

First, the *NAPOCOR* and *COC v. CTA* cases that petitioner cited actually contradict its assertion and, instead, bolster the assailed Decision's declaration that service to the principal counsel shall be the proper basis for computing the reglementary period to file an appeal and for determining whether a decision had attained finality. In the said cases, the Supreme Court did not relax the procedural rules (as petitioner herein insists) but instead ruled that the pleadings therein were timely filed considering that the prescriptive period to appeal were computed from the receipt of the principal counsel, *i.e.*, the OSG.

Comparably, in this case, it is the public prosecutor's receipt of the Order dated 22 December 2022 that should be the basis in counting the period to appeal.

Second, due to petitioner's belated filing of the subject Petition for *Certiorari*, respondent court *a quo*'s Orders of 01 September 2022 and 22 December 2022 have become final and executory. In Our assailed Decision, We declared –

> ...
>
> In the case of *Marian Rebuta y Sedaño v. People of the Philippines*, the Supreme Court ruled that due to the OSG's belated filing of the petition for *certiorari* (which ascribed grave abuse of discretion on the lower court's rendition of the decision), the subject decision had already attained finality, and thus, could no longer be amended or modified –
>
>> ...
>>
>> *First, the petition for certiorari was filed out of time. ...* **The People, through the public prosecutor, received a copy of the Joint Decision in open court on the date of its promulgation. Accordingly, it had sixty (60) days, or until January 15, 2016, within which to file a petition for *certiorari*.** The OSG admitted that it filed the motion three days late but prayed that the rules be relaxed alleging that it received the Indorsement of the Department of Justice (DOJ) only on January 15, 2016.
>>
>> Under Section 4, Rule 65 of the Rules of Court, a petition for *certiorari* must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. ... In addition, as correctly pointed out by petitioner, while a motion for extension to file a petition for *certiorari* is permissible in exceptional and meritorious circumstances, it must be filed before the expiration of the period sought to be extended. A motion for extension of time filed beyond the period to appeal, or beyond the period to file a petition for review on *certiorari*, has of no effect because there would no longer be any period to extend, and the judgment or order to be appealed from will have to become final and executory. **Applying the foregoing in the instant case, the RTC Joint Decision had already attained finality after the lapse of the period to file a petition for *certiorari*.**
>>
>> Moreover, the public prosecutors had enough time to endorse the case to the OSG from the time they received a copy of the Joint Decision, but the endorsement was made only on January 11, 2016. **Verily, with the OSG's belated filing of the petition for *certiorari*, the Joint Decision of the RTC had**

> **already attained finality. It is a well-established rule that a judgment, once it has attained finality, can never be altered, amended, or modified, even if the alteration, amendment, or modification is to correct an erroneous judgment.**
>
> ...
>
> In the same vein, as petitioner herein belatedly filed its Petition for *Certiorari* to question the court *a quo*'s action of granting the Demurrer, both the assailed Order of 01 September 2022 and the second assailed Order of 22 December 2022 had attained finality, and thus, We no longer have jurisdiction over the case.[11]
>
> ...

Needless to stress, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land. All the issues between the parties are deemed resolved and laid to rest once a judgment becomes final and executory; execution of the decision proceeds as a matter of right as vested rights are acquired by the winning party. Just as a losing party has the right to appeal within the prescribed period, the winning party has the correlative right to enjoy the finality of the decision on the case. **After all, a denial of a petition for being time-barred is tantamount to a decision on the merits**. Otherwise, there will be no end to litigation, and this will set to naught the main role of courts of justice to assist in the enforcement of the rule of law and the maintenance of peace and order by settling justiciable controversies with finality.[12]

With the outright dismissal of the prior Petition for *Certiorari*, the Court finds no useful need to further belabor itself with resolving the other issues in this MR.

WHEREFORE, the foregoing considered, the Motion for Reconsideration filed on 31 July 2024 filed by petitioner People of the Philippines is hereby **DENIED** for lack of merit.

---

11 Emphasis and italics in the original; citation omitted.

12 *Waterfront Cebu City Casino Hotel, Inc. and Marco Protacio v. Ildebrando Ledesma*, G.R. No. 197556, 25 March 2015.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice