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**SUPREME COURT  
THIRD DIVISION**

**MAGSAYSAY LINES, INC., BALIWAG  
NAVIGATION, INC., FIM LIMITED OF  
THE MARDEN GROUP (HK), and  
NATIONAL DEVELOPMENT  
COMPANY,**

*Petitioners,*

*-versus-*

**G.R. No. 111184  
August 12, 1996**

**HON. COURT OF APPEALS, and THE  
COMMISSIONER OF INTERNAL  
REVENUE,**

*Respondents.*

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**DECISION**

**PANGANIBAN, J.:**

Did the respondent Court act correctly when it set aside its own Resolution dismissing a petition for review on certiorari which, according to the petitioners, had been filed “out of time” by the respondent Commissioner of Internal Revenue? Should the technical rules on reglementary periods for appeal be applied stringently as to deprive the Government of appeal from an adverse ruling on its cause of action involving a substantial tax refund?

These questions are addressed by the Court in resolving the instant petition for certiorari and prohibition under Rule 65, seeking to annul the following Resolutions issued by the respondent Court of Appeals,<sup>[1]</sup> in Ca-G.R. SP No. 29994 entitled “Commissioner of Internal Revenue vs. Magsaysay Lines, Inc., et al.,” to wit:

1) Resolution<sup>[2]</sup> dated February 3, 1993 which ruled that:

“As prayed for, petitioner is hereby granted an extension of thirty (30) days from January 7, 1993 or until February 6, 1993 within which to file the petition for review on certiorari in the above entitled case with a WARNING that no further extension shall be entertained.”

2) Resolution<sup>[3]</sup> dated July 27, 1993 which reads as follows:

“Before Us is a motion for reconsideration filed by counsel for the petitioner (respondent Commissioner herein) from Our resolution dated May 3, 1993 dismissing the petition for review for failure to file the petition within the extension granted.

After a careful study of the grounds relied upon by the petitioner in support of the motion *vis-a-vis* the opposition, We find cogent reason to grant the same, hence, Our resolution dated May 3, 1993 is hereby LIFTED and SET ASIDE in the interest of substantial justice.

Accordingly, private respondents are hereby directed to file its (sic) comment on the petition for review within ten (10) days from notice hereof.”

## **The Antecedent Facts**

Petitioners filed on April 10, 1989 an “Appeal and Petition for Refund” before the Court of Tax Appeals (CTA), followed by a “Supplemental Petition for Review” on July 14, 1989, praying for the reversal of VAT Ruling Nos. 395-88, 568-88 and 007-89 and the refund of P15,120,000.00, representing “erroneously paid” 10% value-added tax on the sale through public bidding of five (5) vessels by the NDC to the group of investors composed of Magsaysay Lines, Inc., Baliwag Navigation and FIM Limited. The case was docketed as CTA No. 4354 and captioned “Magsaysay Lines, Inc., et al. vs. Commissioner of Internal Revenue.”

On April 27, 1992, the CTA rendered a decision ordering respondent Commissioner “to refund in favor of petitioners Magsaysay Lines, Inc., Baliwag Navigation, Inc., and FIM Limited of the Marden Group (HK) for and in behalf of the National Development Corporation the VAT paid amounting to P15,120,000.00 under Confirmation of Receipt No. B 16374703 dated March 16, 1989.”

Respondent Commissioner’s motion for reconsideration was denied by the CTA in a resolution dated December 9, 1992, copy of which was received by respondent Commissioner on January 6, 1993.

Immediately upon receipt of said resolution, respondent Commissioner, through the Office of the Solicitor General (OSG), filed on the same day, January 6, 1993, a motion before respondent appellate court praying for an “extension of thirty (30) days from January 7, 1993 or until February 6, 1993 within which to file the petition for review on certiorari.”<sup>[4]</sup>

However, on February 5, 1993, the Office of the Solicitor General filed on behalf of respondent Commissioner a second motion requesting another “extension of thirty (30) days from February 6, 1993 or until March 8, 1993, within which to file a petition for review.” As shown by the stamped proof of receipt on the face of the motion, it was received by the respondent appellate court on February 5, 1993.<sup>[5]</sup>

Only after it had filed the second motion did the OSG receive, on February 11, 1993, the first assailed resolution issued by respondent appellate court, dated February 3, 1993, which granted respondent commissioner's first motion for extension "with a warning that no further extensions shall be entertained."

Thus, in its Manifestation and Motion dated February 16, 1993, respondent Commissioner thru the OSG prayed that the second motion for extension dated February 5, 1993 be granted in view of the following considerations:

"Considering that said resolution was received by the OSG after the requested period of the first motion for extension had lapsed, the OSG is now left with no recourse but to seek the kind indulgence of this Honorable Court to grant petitioner's second motion for extension."

On March 8, 1993, or within the period prayed for by respondent Commissioner in its second motion for extension, the petition for review (dated March 5, 1993) was filed through registered mail.

In its Resolution<sup>[6]</sup> of May 3, 1993, respondent appellate court dismissed the petition for review on the ground that —

"Considering Our resolution dated February 3, 1993 WARNING petitioner that no further extension shall be entertained, the motion for extension of time dated February 5, 1993 is hereby DENIED, hence, the petition for review filed on March 8, 1993 is hereby DENIED ADMISSION.

ACCORDINGLY, the instant petition for review is hereby DISMISSED pursuant to Section 1 (f), Rule 50 of the Revised Rules of Court."

However, respondent Commissioner's motion for reconsideration of the above ruling was granted by the appellate court in its Resolution dated July 27, 1993 — the second of the herein assailed Resolutions — which set aside the said dismissal and directed the private respondents (petitioners herein) to comment on the reinstated petition.

## **The Issue**

Hence, petitioners filed the instant petition alleging this reversible error:<sup>[7]</sup>

“The questioned resolutions of the Respondent Court of Appeals are erroneous as a matter of law, having been rendered without jurisdiction and contrary to the applicable rules and doctrines firmly established in a long line of decisions.”

## **The Court’s Ruling**

The thrust of the instant petition is that, since the mere filing by respondent Commissioner of the first motion for extension of time, and the pendency thereof, did not suspend the tolling of the reglementary period to appeal; and since that period elapsed on January 7, 1993 without any such appeal having been filed, and without respondent Commissioner’s first motion for extension having been granted by the appellate Court prior to the expiration of said reglementary period, therefore the decision of the Court of Tax Appeals dated April 27, 1992, had become “final, conclusive and unappealable”, and thus, the appellate court “had been divested of all authority and jurisdiction to take cognizance of the case or to act on the appeal.”<sup>[8]</sup>

Petitioners’ position is devoid of merit, and must perforce fail. As pointed out by the Solicitor General, the petition for review pending before the respondent Court had been filed in accordance with this Court’s Circular No. 1-91, dated February 27, 1991, which prescribed the “Rules Governing Appeals to the Court of Appeals from a Final Order or Decision of the Court of Tax Appeals and Quasi-Judicial Agencies.” Paragraph 4 of said Circular provides:

“4. PERIOD OF APPEAL. — The appeal shall be taken within fifteen (15) days from notice of the ruling, award, order, decision, or judgment or from the date of its last publication, if publication is required by law for its effectivity. One (1) motion for reconsideration of said ruling, award, order, decision, or judgment may be allowed. If the motion is denied, the movant

may appeal during the remaining period for appeal reckoned from notice of the resolution of denial.” (Emphasis supplied)

Pursuant to the aforequoted Circular, where an aggrieved party files a motion for reconsideration from an adverse decision of the CTA, he has only the balance of the reglementary period within which to appeal, reckoned from receipt of notice of the resolution denying his motion for reconsideration. There was no violation of said rule in the instant case. Here, the respondent Commissioner received on January 6, 1993 the CTA resolution denying reconsideration, and had only one (1) day left within which to perfect his appeal. On the very day he received said resolution, he filed the (first) motion for extension for thirty days.

While Circular No. 1-91 is silent as to whether a motion for extension of time to file a petition for review with the Court of Appeals may be permitted, nevertheless, this Court in *Liboro vs. Court of Appeals*<sup>[9]</sup> (promulgated on January 29, 1993, or at about the very time the present controversy was taking shape in the respondent Court) already ruled that such motion is allowed and should be granted.

Previously, we had held in *Lacsamana vs. Second Special Cases Division of the Intermediate Appellate Court*<sup>[10]</sup> (which was promulgated in 1986, prior to the issuance of Circular No. 1-91) that:

“The Court rules, for the guidance of Bench and Bar, that a motion for extension of time to file a petition for review under Section 22 of The Judiciary Reorganization Act (Batas Pambansa Blg. 129) and Section 22(b) of the Interim Rules, may properly be filed with and granted by the Intermediate Appellate Court (now renamed Court of Appeals).

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### 3) APPEALS BY PETITION FOR REVIEW TO THE COURT OF APPEALS.

The final judgment or order of a regional trial court in an appeal from the final judgment or order of a metropolitan trial court, municipal trial court and municipal circuit trial court, may be

appealed to the Court of Appeals through a petition for review in accordance with Section 22 of BP No. 129 and Section 22(b) of the Interim Rules, or to this Court through a petition for review on certiorari in accordance with Rule 45 of the Rules of Court and Section 25 of the Interim Rules. The reason for extending the period for the filing of a record on appeal is also applicable to the filing of a petition for review with the Court of Appeals. The period for filing a petition for review is fifteen days. If a motion for reconsideration is filed with and denied by a regional trial court, the movant has only (the) remaining period within which to file a petition for review. Hence, it may be necessary to file a motion with the Court of Appeals for extension of time to file such petition for review.” (Italics are part of original text.)

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#### 6) PERIOD OF EXTENSION OF TIME TO FILE PETITION FOR REVIEW.

Beginning one month after the promulgation of this Decision, an extension of only fifteen days for filing a petition for review may be granted by the Court of Appeals, save in exceptionally meritorious cases.

The motion for extension of time must be filed and the corresponding docket fee paid within the reglementary period of appeal.

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Thus, in *Liboro*, citing *Lacsamana*, we said that:

“From these rules [i.e., the rules on appeals set forth in *Lacsamana*], it is clear that the prohibition against granting an extension of time applies only in a case where ordinary appeal is perfected by a mere notice of appeal. The reason is that only the filing of the notice of appeal is required to perfect an appeal and nothing more. However, it is different in a petition for review where the pleading is required to be verified. A petition for

review, unlike an ordinary appeal, requires careful preparation and operose research in order to put up a persuasive and formidable position. In other words, the drafting of a petition for review entails more time and effort than merely filing a notice of appeal. Hence, in *Lacsamana*, a motion for extension of time was granted to enable a party to file a petition for review from a final decision of the Regional Trial Court to the Court of Appeals in accordance with Sec. 22 of B.P. 129 and par. 22 (b) of the Interim Rules.

Since Circular No. 1-91 now provides that an appeal from the Court of Tax Appeals or other quasi-judicial agencies to the Court of Appeals is by a petition for review, and no longer by mere notice of appeal, a corresponding motion for extension of time to file a petition for review should likewise be granted. There is indeed no reason why a motion for extension of time to file a petition for review pursuant to Circular No. 1-91 may not be filed, if a motion for extension of time to file a petition for review pursuant to Sec. 22 of B.P. 129, and par. 22(b) of the Interim Rules, may be granted.

But the extension nonetheless should be limited only to fifteen (15) days, save in exceptionally meritorious cases where the Court of Appeals may grant a longer period, as similarly provided in *Lacsamana*. Generally, then, a non-extendible period of fifteen (15) days may be granted unless there are compelling reasons which may warrant the allowance of a longer period. Thus, *ubi eadem ratio, ibi eadem legis dispositio.*" (Emphasis ours)

Parenthetically, we should mention that this Court's Administrative Circular No. 1-95 (also known as "Revised Circular No. 1-91") and titled "Rules Governing Appeals to the Court of Appeals from Judgments or Final Orders of the Court of Tax Appeals and Quasi-Judicial Agencies,"<sup>[11]</sup> which took effect on February 15, 1995, has a similar provision on motions for extension to file petitions for review.

In brief, then, we deem the resort to the filing of the first motion for extension dated January 6, 1993 as proper, and consider the said motion as having been validly and timely filed, pursuant to the then

prevailing rules of procedure. The first motion (for 30 days or up to February 6, 1993) having been granted on February 3, 1993, or well within the period of extension asked for, it is unarguable that such grant was no less valid and effective. Therefore, petitioner had until February 6, 1993 to file the subject petition for review.

With respect to respondent Commissioner's second motion for extension filed on February 5, 1993, the OSG reasoned that, aside from the fact that the grant of the first extension was received only after the lapse of the period of extension asked for, the OSG had experienced delays in finishing and submitting the petition caused by "the prolonged daily brownouts which disrupt(ed) office work." We take cognizance of the fact that the intermittent power failure occurring almost daily (and often, several times a day, with durations ranging from a few minutes to several hours) throughout 1993 took a heavy toll on productivity and efficiency at all levels and in all sectors of our society. We therefore hold that considering the difficult working conditions associated with the serious energy situation prevailing in our country at that time, substantial work delays were inevitable. Hence, the second motion for extension was justified, and the grant thereof would have been proper under the circumstances.

This is not to say that technical and procedural rules for appeal, including reglementary periods therefor, need not be observed at all or may be disregarded at will, since appeal may be availed of only in the manner provided for by law.<sup>[12]</sup> While generally speaking, a review on appeal is not a matter of right but of sound judicial discretion, and may granted only when there are special and important reasons therefor,<sup>[13]</sup> still, it must be remembered that appeal is an essential part of our judicial system, and thus, courts should proceed with caution so as not to deprive a party of the right to appeal, particularly if the appeal is meritorious.<sup>[14]</sup> Laws and rules should be interpreted and applied not in a vacuum or in isolated abstraction, but in light of surrounding circumstances and attendant facts in order to afford justice to all. In this instance, we have no doubt that substantial justice would be better served by allowing the appeal.<sup>[15]</sup> Moreover, dismissal of an appeal on purely technical grounds is frowned upon, since the policy of our courts is to encourage hearings of appeals on their merits.<sup>[16]</sup>

In this case, aside from the aforementioned considerations, we are not unmindful of the immediate loss of revenue in the sum of P15,120,000.00 plus interest of at least P734,534,89 (per the computations of respondent Commissioner) which the Government would surely suffer if the dismissal of the subject petition for review by the respondent Court were to be upheld on technicality. And because taxes constitute the lifeblood of the government, through which its agencies continue to operate and with which the State effects its functions for the welfare of its constituents,<sup>[17]</sup> tax exemptions (and, we might add, refunds in the nature of exemptions) must be strictly construed against the taxpayer and liberally in favor of the state.<sup>[18]</sup> Hence, technical rules barring a full hearing on the merits should be relaxed, again in the interest of justice to all.

We therefore hold that it would be ill-advised to allow petitioners to prevail on mere technicality and compel a refund of the not-insubstantial amount of P15 million without affording the government reasonable opportunity to contest the assailed CTA ruling. In any event, the subject petition for review had actually been filed on March 8, 1993, the last day of the period prayed for in the second motion for extension, so there is no further delay to speak of. And we cannot conceive of any additional undue prejudice which may befall the petitioners in the event the appeal is heard on the merits, for if their cause is valid and truly meritorious, petitioners will prevail in the end anyway.

As for the period of extension granted, although the rules provide for fifteen days, we reiterate that, in meritorious cases the Court of Appeals may grant a longer period.<sup>[19]</sup> In a few highly exceptional instances, this Court has allowed the relaxing of the rules on the application of the reglementary period of appeal,<sup>[20]</sup> particularly in the case of Republic vs. Court of Appeals,<sup>[21]</sup> where this Court allowed the perfection of an appeal by the Republic despite the delay of six days to prevent a gross miscarriage of justice, inasmuch as the Republic stood to lose hundreds of hectares of land already titled in its name and devoted for educational purposes.

**WHEREFORE**, in view of the foregoing, the instant Petition is hereby **DISMISSED**, no grave abuse of discretion having been

committed by respondent Court, and the assailed Resolutions are **AFFIRMED** in toto. No costs.

**SO ORDERED.**

**Narvasa, C.J., Davide, Jr., Melo and Francisco, JJ., concur.**

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- [1] Former Special Eighth Division, composed of Associate Justice Justo P. Torres, Jr. (now an Associate Justice of this Court), ponente, and JJ. Pacita Cañizares-Nye and Reynato S. Puno (likewise now an Associate Justice of this Court), later replaced by J. Ma. Alicia Austria-Martinez, concurring.
- [2] Rollo, p. 22.
- [3] Rollo, p. 24.
- [4] Rollo, p. 25.
- [5] Rollo, p. 169.
- [6] Rollo, p. 60.
- [7] Petition, p. 9; rollo, p. 10.
- [8] Petition, p. 13; rollo, p. 14.
- [9] 218 SCRA 193 (January 29, 1993).
- [10] 143 SCRA 643, 645-646 & 649-651 (August 26, 1986).
- [11] Paragraph 4 of Administrative Circular No. 1-95 (Revised Circular 1-91) reads as follows:
  - “4. PERIOD OF APPEAL. — The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution or from date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner’s motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency a quo. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed another period of fifteen (15) days.”
- [12] Paredes vs. Civil Service Commission, 192 SCRA 84 (December 4, 1990).
- [13] Sunbeam Convenience Foods, Inc. vs. Court of Appeals, 181 SCRA 443 (January 29, 1990).
- [14] Goulds Pumps (Phils.), Inc. vs. Court of Appeals, 224 SCRA 127 (June 30, 1993).
- [15] YBL (Your Bus Line) vs. National Labor Relations Commission, 190 SCRA 160 (September 28, 1990).
- [16] Arturo Santos, et al., vs. Court of Appeals, et al., G.R. No. 114726 (February 14, 1996), citing Siguenza vs. Court of Appeals, 137 SCRA 570 (July 16, 1985); see also Goulds Pumps (Phils.), Inc. vs. Court of Appeals, supra;

People's Security, Inc. vs. National Labor Relations Commission, 226 SCRA 146 (September 8, 1993); Insular Bank of Asia and America vs. Court of Appeals, 228 SCRA 420 (December 14, 1993).

[17] Commissioner of Internal Revenue vs. Court of Tax Appeals, 234 SCRA 348 (July 21, 1994).

[18] Misamis Oriental Association of Coco Traders, Inc. vs. Department of Finance Secretary, 238 SCRA 63 (November 10, 1994).

[19] Liboro vs. Court of Appeals, *supra*.

[20] Bank of America, NT & SA vs. Gerochi, Jr., 230 SCRA 9 (February 10, 1994).

[21] 83 SCRA 453 (May 31, 1978).

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