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for having been sent without authority of the Board of Directors of respondent, insisted on the renewal of the lease, and tendered payment of past due lease rentals. Respondent, through Alomesen, timely acted to correct Velayo's mistakes. In the 15-day interval between Velayo's Letter dated March 10, 1992 and Alomesen's Letter dated March 25, 1992, there is no showing that petitioner, relying in good faith on Velayo's Letters, acted or did not act as to have caused it injury, detriment, or prejudice. There is an utter lack of clear, convincing, and satisfactory evidence on the part of petitioner, as the party claiming estoppel, of the second and third elements for the application of said principle against respondent.

WHEREFORE, the instant Petition is hereby *DENIED* for lack of merit. The Decision dated January 8, 2004 of the Court Appeals in CA-G.R. CV No. 68787, which affirmed the Decision dated October 29, 1999 of Branch 111 of the RTC of Pasay City in Civil Case No. 8847, is hereby *AFFIRMED*.

SO ORDERED.

Corona, C.J. (Chairperson), Bersamin, del Castillo, and *Villarama, Jr., JJ.,* concur.

FIRST DIVISION

[G.R. No. 172458. December 14, 2011]

PHILIPPINE NATIONAL BANK, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; PLEADINGS AND PRACTICES; A PLEADING FILED BY ORDINARY MAIL OR BY PRIVATE MESSENGERIAL SERVICE IS DEEMED FILED ON THE DAY IT IS ACTUALLY

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RECEIVED BY THE COURT, AND NOT ON THE DAY IT WAS MAILED OR DELIVERED TO THE MESSENGERIAL SERVICE.— It is stated under Section 3, Rule 1 of the Revised Rules of the Court of Tax Appeals that the Rules of Court shall apply suppletorily. Thus, the manner in which petitions are filed before the CTA is also covered by the relevant provision of the Rules of Court x x x. To recall, PNB filed its petition with the CTA *En Banc* four days beyond the ***extended*** period granted to it to file such petition. PNB argues that it was filed on time since it was mailed on *the last day of the extended period*, which was on December 23, 2005. It has been established that a pleading "filed by ordinary mail or by private messengerial service x x x is deemed filed on the day it is actually received by the court, and not on the day it was mailed or delivered to the messengerial service." In *Benguet Electric Cooperative, Inc. v. National Labor Relations Commission*, we said: 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, and that in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading.

2. ID.; ID.; ID.; SERVICE BY ORDINARY MAIL IS ALLOWED ONLY IN INSTANCES WHERE NO REGISTRY SERVICE EXISTS.— It is, however, curious why PNB chose to risk the holiday traffic in an effort to personally file its petition with the CTA *En Banc*, when it already filed a copy to the other party, the CIR, *via* registered mail. Considering the circumstances, it would have been more logical for PNB to send its petition to the CTA *En Banc* on the same occasion it sent a copy to the CIR, especially since that day was already the last day given to PNB to file its petition. Moreover, PNB offered no justification as to why it sent its petition via ordinary mail instead of registered mail. "Service by ordinary mail is allowed only in instances where no registry service exists." Rule 13, Section 7 reads: **Sec. 7.** *Service by mail.* Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (l0) days if undelivered. **If no registry service is available in the locality**

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of either the sender or the addressee, service may be done by ordinary mail.

3. **ID.; ID.; ID.; NON-COMPLIANCE WITH THE MANDATORY REQUIREMENT OF ATTACHING DUPLICATE ORIGINALS OR CERTIFIED TRUE COPIES OF THE ASSAILED DECISION TO A PETITION FOR REVIEW IS A SUFFICIENT GROUND FOR THE DISMISSAL THEREOF.—** This Court has already upheld the mandatory character of attaching duplicate originals or certified true copies of the assailed decision to a petition for review. Moreover, pursuant to Section 7, Rule 43 of the Rules of Court, non-compliance with such mandatory requirement is a sufficient ground to dismiss the petition, *viz*: **Sec. 7.** *Effect of failure to comply with requirements.* The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, **proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**

4. **ID.; ID.; ID.; FAILURE TO ATTACH THE REQUIRED AFFIDAVIT OF SERVICE IS NOT FATAL IF THE REGISTRY RECEIPT ATTACHED TO THE PETITION CLEARLY SHOWS SERVICE TO THE OTHER PARTY AND THAT THE PARTY ADEQUATELY EXPLAINED HIS FAILURE TO ABIDE BY THE RULES.—** Although the failure to attach the required affidavit of service is not fatal if the registry receipt attached to the petition clearly shows service to the other party, it must be remembered that this was not the only rule of procedure PNB failed to satisfy. In *Suarez v. Judge Villarama, Jr.* we said: It is an accepted tenet that rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal interpretation of the rules of procedure, however, should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules.

5. **ID.; RULES OF PROCEDURE; ONE CANNOT ESCAPE THE RIGID OBSERVANCE OF BASIC PROCEDURAL RULES IN A PETITION FOR REVIEW BY CLAIMING LACK OF FORESIGHT; NEITHER CAN IT BE TRIFLED WITH AS**

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A MERE TECHNICALITY TO SUIT THE INTEREST OF A PARTY.— This Court agrees with the CTA *En Banc* that PNB has not demonstrated any cogent reason for this Court to take an exception and excuse PNB's blatant disregard of the basic procedural rules in a petition for review. Furthermore, the timely perfection of an appeal is a mandatory requirement. One cannot escape the rigid observance of this rule by claiming oversight, or in this case, lack of foresight. Neither can it be trifled with as a "mere technicality" to suit the interest of a party. Verily, the periods for filing petitions for review and for *certiorari* are to be observed religiously. "Just as [the] losing party has the privilege to file an appeal within the prescribed period, so does the winner have the x x x right to enjoy the finality of the decision." In *Air France Philippines v. Leachon*, we held: Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right but a mere statutory privilege. Hence, parties who seek to avail of the privilege must comply with the statutes or rules allowing it. The requirements for perfecting an appeal within the reglementary period specified in the law must, as a rule, be strictly followed. Such requirements are considered indispensable interdictions against needless delays, and are necessary for the orderly discharge of the judicial business. For sure, the perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional as well. Failure to perfect an appeal renders the judgment appealed from final and executory.

6. ID.; ID.; THE COURT MAY DEVIATE FROM PROCEDURAL RULES ONLY IF THE APPEAL IS MERITORIOUS ON ITS FACE.— While it is true that the Court may deviate from the rule, this is true only if the appeal is meritorious on its face. The Court has not hesitated to relax the procedural rules in order to serve and achieve substantial justice. "In the circumstances obtaining in this case however, the occasion does not warrant the desired relaxation." PNB has not offered any meritorious legal defense to justify the suspension of the rules in its favor. The CTA Division has taken into consideration all of the evidence submitted by the PNB, and actually allowed it a refund of ₱1,428,661.66, in addition to the ₱4,154,353.42 the BIR already gave. The CTA Division explained why it disallowed the remaining balance of ₱445,578.92 in its Decision dated August 11, 2005. When PNB moved to

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reconsider this decision, it did not offer the CTA any other evidence or explanation aside from the ones the CTA Division had already evaluated. Nevertheless, the CTA carefully considered and deliberated anew PNB's grounds, albeit they found them lacking in merit. Thus, it cannot be said that PNB was deprived of its day in court, as in fact, it was given all the time it had asked for. While PNB may believe that it has a meritorious legal defense, this must be weighed against the need to halt an abuse of the flexibility of procedural rules. It is well established that faithful compliance with the Rules of Court is essential for the prevention and avoidance of unnecessary delays and for the organized and efficient dispatch of judicial business.

APPEARANCES OF COUNSEL

Flerida P. Zaballa-Banzuela for petitioner.
The Solicitor General for respondent.

D E C I S I O N

LEONARDO-DE CASTRO, *J.*:

This **Petition for Review on *Certiorari***[1] seeks to reverse and set aside the January 27, 2006[2] and April 19, 2006[3] **Resolutions** of the **Court of Tax Appeals *En Banc* (CTA *En Banc*)** in **C.T.A. E.B. NO. 145**, which dismissed outright the Petition for Review filed by the Philippine National Bank (PNB) dated December 27, 2005 for being filed four days beyond the additional 15 days granted to file such petition.

On April 15, 1999, petitioner PNB filed with the Bureau of Internal Revenue (BIR) its Tentative Return for 1998 with the documents enumerated in the "List of Attachments to Annual Income Tax Return Calendar Year Ended December 31, 1998"

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[1] Rule 45 of the 1997 Rules of Court.

[2] *Rollo*, pp. 12-14; Ordered by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez.

[3] *Id.* at 8-11.

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enclosed. On September 30, 1999, PNB filed its Amended Income Tax Return for 1998, with the corresponding attachments to an amended annual income tax return appended, including copies of the Certificates and Schedule of Creditable Withholding Taxes for 1998. PNB likewise filed its Corporate Quarterly Returns for the calendar year 1998.[4]

On February 8, 2001, PNB filed with respondent Commissioner of Internal Revenue (CIR) an administrative claim for refund in the amount of ₱6,028,594.00, which were payments made in excess of its income tax liability for 1998.[5]

As BIR did not act upon PNB's claim for refund, PNB, on March 30, 2001, filed with the Second Division of the Court of Tax Appeals (CTA Division) a Petition for Review,[6] and prayed that it be refunded or issued a tax credit certificate in the amount of ₱6,028,594.00, representing creditable taxes withheld from PNB's income from the sale of real property, rental income, commissions, and management fees for the taxable year 1998.

In his Answer,[7] the CIR alleged that PNB's claim for refund/tax credit is subject first to an investigation and that it failed to establish its right to a refund.

After PNB had rested its case, the CIR manifested that he would not be presenting evidence. The parties were thereafter required to submit their memoranda.[8]

On May 19, 2003, the BIR issued in PNB's favor Tax Credit Certificate No. SN 023837 for ₱4,154,353.42, leaving a balance of ₱1,874,240.58 out of PNB's total claim of ₱6,028,594.00.

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[4] *Id.* at 79.

[5] Records (CTA Division), p. 6.

[6] *Id.* at 1-5.

[7] *Id.* at 375-378.

[8] *Rollo*, p. 22.

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PNB then informed the CTA Division of such tax credit certificate, and manifested that its acceptance was without prejudice to recovering the balance of its total claim.[9]

Consequently, the CIR filed a Motion,[10] asking that he be allowed to present evidence on PNB's excluded claim. The CIR argued that the amount of ₱1,874,240.58 was disallowed because it was not remitted to the BIR, as verified by its Regional Accounting Division.[11]

On August 11, 2005, the CTA Division rendered its Decision,[12] the dispositive portion of which reads:

> WHEREFORE, premises considered, the present Petition For Review is hereby partially **GRANTED**. Respondent is hereby ORDERED to REFUND or ISSUE a Tax Credit Certificate in favor of herein petitioner in the amount of **₱1,428,661.66,** representing the latter's unutilized creditable withholding tax for the year 1998.[13]

The CTA Division held that payments of withholding taxes for a certain taxable year were creditable to the payee's income tax liability as determined after it had filed its income tax returns the following year. The CTA Division said that since PNB posted net losses, it was not liable for any income tax and consequently, the taxes withheld during the course of the taxable year, which was 1998, while collected legally under Revenue Regulations No. 02-98, Section 2.57 (B), became untenable and took on the nature of erroneously collected taxes at the end of that year. The CTA Division averred that while the right to a refund is not automatic and must be established by sufficient evidence, there is nothing in the Tax Code that would suggest that the actual remittance of the withholding tax is a condition precedent

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[9] Records (CTA Division), pp. 579-580.

[10] *Id.* at 589-592.

[11] *Rollo*, p. 86.

[12] *Id.* at 77-92; penned by Associate Justice Olga Palanca-Enriquez with Associate Justices Juanito C. Castañeda, Jr. and Erlinda P. Uy, concurring.

[13] *Id.* at 91.

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to claim for a tax refund. Moreover, the CTA Division added, that the CIR failed to present the certification to prove his contention of PNB's non-remittance of the disallowed amount. However, the CTA Division affirmed the disallowance of eight transactions, amounting to ₱445,578.92 as they had already been reported as income for other years, had not been recorded, or were not supported by pertinent documents.[14]

On September 14, 2005, PNB filed a Motion for Partial Reconsideration,[15] asserting its entitlement to be refunded the amount of ₱445,578.92, by explaining each transaction involved and pinpointed by the CTA Division. This however was still denied by the CTA Division in its Resolution[16] dated November 15, 2005, for lack of merit.

Aggrieved, PNB, filed a partial appeal by way of Petition for Review[17] under Section 18 of Republic Act No. 9282[18] before the CTA *En Banc*, to review and modify the CTA Division's August 11, 2005 Decision. This petition was received by the CTA *En Banc* on December 27, 2005, four days beyond the additional 15 days granted to PNB to file its petition.

Thus, on January 27, 2006, the CTA *En Banc* issued a Resolution[19] denying due course and consequently dismissing PNB's petition for the following reasons:

1) The Petition For Review was filed four (4) days late on December 27, 2005, the reglementary deadline for the timely filing of such petition being December 23, 2005.

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[14] *Id.* at 84-90.

[15] Records (CTA Division), pp. 691-695.

[16] *Rollo*, pp. 93-94.

[17] Records (CTA *En Banc*), pp. 7-16.

[18] An act expanding the jurisdiction of the Court of Tax Appeals (CTA), elevating its rank to the level of a collegiate court with special jurisdiction and enlarging its membership, amending for the purpose certain sections of Republic Act No. 1125, as amended, otherwise known as the law creating the Court of Tax Appeals, and for other purposes.

[19] *Rollo*, pp. 12-14.

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Appeal is a statutory privilege and must be exercised in the manner provided by law. Therefore, perfection of an appeal in the manner and within the period prescribed by law is not only mandatory, but jurisdictional, and non-compliance is fatal having the effect of rendering the judgment final and executory (*Cabellan vs. Court of Appeals, 304 SCRA 119*). Not only that, late appeals deprives the appellate court of jurisdiction to alter the final judgment much less entertain the appeal (*Pedrosa vs. Hill, 257 SCRA 373*).

2) The petition is not accompanied by the duplicate original or certified true copies of the assailed Decision dated August 11, 2005 and Resolution dated November 15, 2005, in violation of *Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals,* in relation to *Section 6, Rule 43 of the Rules of Court.*

3) The Petition does not contain an Affidavit of Service, in violation of *Section 13, Rule 13 of the Rules of Court.*

In the case of *Policarpio vs. Court of Appeals, 269 SCRA 344, 351,* the Supreme Court did not hesitate to dismiss the petition for failure to attach an affidavit of service.

Lastly, *Section 7 of Rule 43 of the Rules of Court* provides that:

> SEC. 7. *Effect of failure to comply with requirements.*— The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof."

Persistent in its claim, PNB filed a Motion for Reconsideration with Manifestation of Compliance[20] on February 23, 2006, and answered each ground propounded by the CTA *En Banc* in its Resolution.

PNB asserted that its petition was filed on December 23, 2005, which was the last day of the additional 15-day period granted by the CTA *En Banc, via* LBC Express, as shown by the copy of LBC Official Receipt No. 12990350[21] dated

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[20] *Id.* at 57-69.

[21] Records (CTA *En Banc*), p. 60.

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December 23, 2005. PNB explained that its counsel, Atty. Flerida P. Zaballa-Banzuela, accompanied by her administrative assistant, tried to personally file the petition with the CTA *En Banc* on December 23, 2005. However, PNB claimed, that due to heavy traffic, Atty. Zaballa-Banzuela arrived at the CTA office in Quezon City at 4:30 p.m., just as the CTA personnel were leaving the CTA premises in their shuttle bus.[22]

PNB attached to its Motion the Affidavit[23] of Christopher Sarmiento, the Security Guard who was then assigned at the CTA main gate. Sarmiento averred that he did not allow Atty. Zaballa-Banzuela to enter the CTA compound because there was no one left to receive her document. He also alleged that Atty. Zaballa-Banzuela even tried to ask some of the CTA personnel who were on board the CTA shuttle that passed her by, if they could receive her document, but they declined. This was corroborated by Atty. Zaballa-Banzuela's administrative assistant, Macrina J. Cataniag, in her Affidavit,[24] also annexed to PNB's Motion.

PNB argued that while its petition was deposited with LBC Express on December 23, 2005, very well within the reglementary period, CTA *En Banc* received it only on December 27, 2005, as December 24 to 26, 2005 were holidays.[25]

Addressing the second ground that the CTA *En Banc* used to dismiss the petition, PNB said that its non-submission of the duplicate original or certified true copy of the CTA Division's decision and resolution was not intended for delay but was "mere inadvertence and unintentional, but an honest mistake, an oversight, an unintentional omission, and a human error occasioned by too much pressure of work."[26]

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[22] *Id.* at 47.

[23] *Id.* at 61.

[24] *Id.* at 62.

[25] *Id.* at 48.

[26] *Id.* at 48-49.

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In compliance, PNB attached to its Motion the Affidavit of Service[27] and certified true copies of the CTA Division's decision and resolution supposed to be attached to its petition before the CTA *En Banc*.

On April 19, 2006, the CTA *En Banc* denied PNB's motion for lack of merit. The CTA *En Banc* held that "absent any cogent explanation [to not] comply with the rules, the rules must apply to the petitioner as they do to all."[28] The CTA *En Banc* ratiocinated in this wise:

> It is a jurisprudential rule 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, and that in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading (*Benguet Electric Corporation, Inc. vs. NLRC, 209 SCRA 60-61*). Clearly, the present Petition For Review was filed four (4) days late.
>
> The instant Petition For Review is an appeal from the decision of the Court in Division. Accordingly, the applicable rule is that the fifteen-day reglementary period to perfect an appeal is mandatory and jurisdictional in nature; that failure to file an appeal within the reglementary period renders the assailed decision final and executory and no longer subject to review (*Armigos vs. Court of Appeals, 179 SCRA 1; Jocson vs. Baguio, 179 SCRA 550*). Petitioner had thus lost its right to appeal from the decision of this Court in Division.[29]

The CTA *En Banc* added:

> Although petitioner subsequently attached to its present motion, certified true copies of the assailed Decision, dated August 11, 2005, and Resolution, dated November 15, 2005, and the Affidavit of Service, this did not stop the questioned decision from becoming final and executory. It has been held that strict compliance with procedural requirements in taking an appeal cannot be substituted by "good faith

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[27] *Id.* at 66-67.

[28] *Rollo,* p. 9.

[29] *Id.*

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compliance". To rule otherwise would defeat the very purpose of the rules of procedure, *i.e.*, to "facilitate the orderly administration of justice" (*Santos vs. Court of Appeals, 198 SCRA 806, 810; Ortiz vs. Court of Appeals, 299 SCRA 712*).[30]

PNB thereafter filed a Petition for Review[31] before this Court on June 16, 2006, which was the last day of the additional thirty days it was granted[32] to file such petition.

In order to convince this Court to allow its petition, PNB posits the following arguments:

I

THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN FAILING TO CONSIDER THE EXPLANATION SUBMITTED BY PNB IN ITS MOTION FOR RECONSIDERATION WITH MANIFESTATION OF COMPLIANCE WITH RESPECT TO THE FILING OF THE PETITION ON DECEMBER 23, 2005 (THE DUE DATE FOR FILING THEREOF) VIA LBC SERVICE INSTEAD OF REGISTERED MAIL WITH RETURN CARD.

II

THE PROCEDURAL LAPSE OBSERVED BY THE HONORABLE COURT OF TAX APPEALS SHOULD BE LIBERALLY CONSTRUED IN THE INTEREST OF SUBSTANTIAL JUSTICE, AS POSTULATED IN VARIOUS SUPREME COURT DECISIONS.

III

THE PETITION FILED BY PNB BEFORE THE CTA *EN BANC* RAISES A MERITORIOUS LEGAL DEFENSE WARRANTING JUDICIAL RESOLUTION.[33]

PNB once again narrated the circumstances leading to its counsel's decision to mail its petition for review via LBC

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[30] *Id.* at 10.

[31] *Id.* at 18-38.

[32] *Id.* at 16.

[33] *Id.* at 24-25.

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Express, a private letter-forwarding company, instead of registered mail. It claims that since this Court has repeatedly pronounced the primacy of substantive justice over technical rules, then its procedural lapses should likewise be excused, especially since no substantial rights of the CIR are affected.

This Court's Ruling

The only issue to be resolved here is whether or not this Court should require the CTA *En Banc* to give due course to C.T.A. E.B. No. 145 despite PNB's failure to comply with the formal requirements of the Revised Rules of the Court of Tax Appeals and the Rules of Court in filing a petition for review with the CTA *En Banc*.

Not having been successfully convinced by PNB, we answer the above issue in the negative.

This Court would like to underscore the fact that PNB failed to comply with not just one, but **three** procedural rules when it filed its petition for review with the CTA *En Banc*.

Petition was filed late

It is stated under Section 3, Rule 1 of the Revised Rules of the Court of Tax Appeals that the Rules of Court shall apply suppletorily. Thus, the manner in which petitions are filed before the CTA is also covered by the relevant provision of the Rules of Court, to wit:

Rule 13. x x x.

x x x x x x x x x

Sec. 3. *Manner of filing.* The filing of pleadings, appearances, motions, notices, orders, judgments and all other papers shall be made by presenting the original copies thereof, plainly indicated as such, personally to the clerk of court or by sending them **by registered mail**. In the first case, the clerk of court shall endorse on the pleading the date and hour of filing. In the second case, the date of the mailing of motions, pleadings, or any other papers or payments or deposits, **as shown by the post office stamp on the envelope or the registry receipt**, **shall be considered as the date of their filing, payment,**

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or deposit in court. The envelope shall be attached to the record of the case. (Emphases ours.)

To recall, PNB filed its petition with the CTA *En Banc* four days beyond the ***extended*** period granted to it to file such petition. PNB argues that it was filed on time since it was mailed on *the last day of the extended period*, which was on December 23, 2005. It has been established that a pleading "filed by ordinary mail or by private messengerial service x x x is deemed filed on the day it is actually received by the court, and not on the day it was mailed or delivered to the messengerial service."[34] In *Benguet Electric Cooperative, Inc. v. National Labor Relations Commission*,[35] we said:

> 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, and that in such cases, the date of actual receipt by the court, and not the date of delivery to the private carrier, is deemed the date of filing of that pleading.[36]

It is worthy to note that PNB already asked for an additional period of 15 days within which to file its petition for review with the CTA *En Banc*. This period expired on December 23, 2005. Knowing fully well that December 23, 2005 not only fell on a Friday, followed by three consecutive non-working days, but also belonged to the busiest holiday season of the year, PNB should have exercised more prudence and foresight in filing its petition.

It is, however, curious why PNB chose to risk the holiday traffic in an effort to personally file its petition with the CTA *En Banc*, when it already filed a copy to the other party, the CIR, *via* registered mail.[37] Considering the circumstances, it

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[34] *Industrial Timber Corp. v. National Labor Relations Commission*, G.R. No. 111985, June 30, 1994, 233 SCRA 597, 602.

[35] G.R. No. 89070, May 18, 1992, 209 SCRA 55.

[36] *Id.* at 60-61.

[37] Records (CTA *En Banc*), p. 66.

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would have been more logical for PNB to send its petition to the CTA *En Banc* on the same occasion it sent a copy to the CIR, especially since that day was already the last day given to PNB to file its petition. Moreover, PNB offered no justification as to why it sent its petition via ordinary mail instead of registered mail. "Service by ordinary mail is allowed only in instances where no registry service exists."[38] Rule 13, Section 7 reads:

Sec. 7. *Service by mail.* Service by registered mail shall be made by depositing the copy in the post office, in a sealed envelope, plainly addressed to the party or his counsel at his office, if known, otherwise at his residence, if known, with postage fully pre-paid, and with instructions to the postmaster to return the mail to the sender after ten (l0) days if undelivered. **If no registry service is available in the locality of either the sender or the addressee, service may be done by ordinary mail**. (Emphasis ours.)

Petition was not accompanied by the required duplicate originals or certified true copies of the decision and resolution being assailed, and Affidavit of Service

The following provisions are instructive:

Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals:

SEC. 2. *Petition for review; contents.* – The petition for review shall contain allegations showing the jurisdiction of the Court, a concise statement of the complete facts and a summary statement of the issues involved in the case, as well as the reasons relied upon for the review of the challenged decision. The petition shall be verified and must contain a certification against forum shopping as provided in Section 3, Rule 46 of the Rules of Court. **A clearly legible duplicate original or certified true copy of the decision appealed from shall be attached to the petition**. (Emphasis supplied.)

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[38] *Bank of the Philippine Islands v. Far East Molasses Corporation*, G.R. No. 89125, July 2, 1991, 198 SCRA 689, 701.

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Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals:

Sec. 4(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court *en banc* shall act on the appeal.

Sections 6, Rule 43 of the Rules of Court:

Sec. 6. *Contents of the petition.* The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; **(c) be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from,** together with certified true copies of such material portions of the record referred to therein and other supporting papers; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (Emphasis ours.)

This Court has already upheld the mandatory character of attaching duplicate originals or certified true copies of the assailed decision to a petition for review.[39] Moreover, pursuant to Section 7, Rule 43 of the Rules of Court, non-compliance with such mandatory requirement is a sufficient ground to dismiss the petition, *viz*:

Sec. 7. *Effect of failure to comply with requirements.* The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, the deposit for costs, **proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.** (Emphasis ours.)

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[39] *Spouses Lim v. Uni-Tan Marketing Corporation*, 427 Phil. 762, 770-771 (2002).

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Anent the failure to attach the Affidavit of Service, Section 13, Rule 13 of the Rules of Court provides:

> **Sec. 13.** *Proof of service.* Proof of personal service shall consist of a written admission of the party served, or the official return of the server, or the affidavit of the party serving, containing a full statement of the date, place and manner of service. If the service is by ordinary mail, proof thereof shall consist of an affidavit of the person mailing of facts showing compliance with Section 7 of this Rule. If service is made by registered mail, proof shall be made by such affidavit and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender, or in lieu thereof the unclaimed letter together with the certified or sworn copy of the notice given by the postmaster to the addressee.

Although the failure to attach the required affidavit of service is not fatal if the registry receipt attached to the petition clearly shows service to the other party,[40] it must be remembered that this was not the only rule of procedure PNB failed to satisfy. In *Suarez v. Judge Villarama, Jr.*[41] we said:

> It is an accepted tenet that rules of procedure must be faithfully followed except only when, for persuasive and weighting reasons, they may be relaxed to relieve a litigant of an injustice commensurate with his failure to comply with the prescribed procedure. Concomitant to a liberal interpretation of the rules of procedure, however, should be an effort on the part of the party invoking liberality to adequately explain his failure to abide by the rules.[42]

This Court agrees with the CTA *En Banc* that PNB has not demonstrated any cogent reason for this Court to take an exception and excuse PNB's blatant disregard of the basic procedural rules in a petition for review. Furthermore, the timely

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[40] *Philippine Amusement and Gaming Corporation v. Angara*, 511 Phil. 486, 498 (2005).

[41] G.R. No. 124512, June 27, 2006, 493 SCRA 74.

[42] *Id.* at 83-84.

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perfection of an appeal is a mandatory requirement. One cannot escape the rigid observance of this rule by claiming oversight, or in this case, lack of foresight. Neither can it be trifled with as a "mere technicality" to suit the interest of a party. Verily, the periods for filing petitions for review and for *certiorari* are to be observed religiously. "Just as [the] losing party has the privilege to file an appeal within the prescribed period, so does the winner have the x x x right to enjoy the finality of the decision."[43] In *Air France Philippines v. Leachon*,[44] we held:

> Procedural rules setting the period for perfecting an appeal or filing an appellate petition are generally inviolable. It is doctrinally entrenched that appeal is not a constitutional right but a mere statutory privilege. Hence, parties who seek to avail of the privilege must comply with the statutes or rules allowing it. The requirements for perfecting an appeal within the reglementary period specified in the law must, as a rule, be strictly followed. Such requirements are considered indispensable interdictions against needless delays, and are necessary for the orderly discharge of the judicial business. For sure, the perfection of an appeal in the manner and within the period set by law is not only mandatory, but jurisdictional as well. Failure to perfect an appeal renders the judgment appealed from final and executory.[45]

While it is true that the Court may deviate from the foregoing rule, this is true only if the appeal is meritorious on its face. The Court has not hesitated to relax the procedural rules in order to serve and achieve substantial justice. "In the circumstances obtaining in this case however, the occasion does not warrant the desired relaxation."[46] PNB has not offered any meritorious legal defense to justify the suspension of the rules in its favor. The CTA Division has taken into consideration all of the evidence submitted by the PNB, and actually allowed

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[43] *Cuevas v. Bais Steel Corporation*, 439 Phil. 793, 805 (2002).

[44] G.R. No. 134113, October 12, 2005, 472 SCRA 439.

[45] *Id.* at 442-443.

[46] *Id.* at 443.

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it a refund of ₱1,428,661.66, in addition to the ₱4,154,353.42 the BIR already gave. The CTA Division explained why it disallowed the remaining balance of ₱445,578.92 in its Decision dated August 11, 2005. When PNB moved to reconsider this decision, it did not offer the CTA any other evidence or explanation aside from the ones the CTA Division had already evaluated. Nevertheless, the CTA carefully considered and deliberated anew PNB's grounds, albeit they found them lacking in merit. Thus, it cannot be said that PNB was deprived of its day in court, as in fact, it was given all the time it had asked for.

While PNB may believe that it has a meritorious legal defense, this must be weighed against the need to halt an abuse of the flexibility of procedural rules. It is well established that faithful compliance with the Rules of Court is essential for the prevention and avoidance of unnecessary delays and for the organized and efficient dispatch of judicial business.[47]

WHEREFORE, the petition is hereby *DENIED* for lack of merit.

SO ORDERED.

Corona, C.J.(Chairperson), Bersamin, del Castillo, and *Villarama, Jr., JJ.,* concur.

[47] *Saint Louis University v. Cordero,* 478 Phil. 739 (2004).