

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

PHILIPPINE NATIONAL BANK,
Petitioner,

C.T.A. E.B. NO. 145
(C.T.A. CASE NO. 6264)

Present:

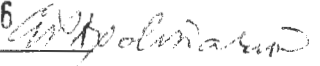
-versus-

ACOSTA, Presiding Justice
CASTAÑEDA, JR.,
BAUTISTA,
UY,
CASANOVA, and
PALANCA-ENRIQUEZ, JJ.

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:

JAN 27 2006



X ----- X

RESOLUTION

The instant Petition For Review filed on December 27, 2005 by petitioner Philippine National Bank is **DENIED DUE COURSE**, and consequently, **DISMISSED** 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.

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*.

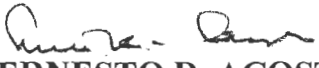
In the case of *Policarpio vs. Court of Appeals*, 269 SCRA 344, 351, the Supreme Court did not hesitate to dismiss the petition for failure to attach an affidavit of service.

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.”

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice


JUANITO C. CASTAÑEDA, JR.
Associate Justice


LOVELL R. BAUTISTA
Associate Justice


ERLINDA P. UY
Associate Justice


CAESAR A. CASANOVA
Associate Justice


OLGA PALANCA-ENRIQUEZ
Associate Justice