

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**MTI ADVANCED TEST
DEVELOPMENT CORPORATION,**

Petitioner,

CTA CASE NO. 10112

Members:

- versus -

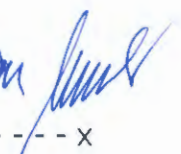
CASTAÑEDA, JR. *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, JJ.

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

MAR 22 2022

3:41 AM 

X ----- X

RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is petitioner's **Motion for Reconsideration (of the Decision dated October 13, 2021)** filed on October 29, 2021, without respondent's comment despite notice as per Records Verification dated March 4, 2022.

On October 13, 2021, the Court promulgated a Decision dismissing petitioner's claim for refund of unutilized input value-added tax (VAT) for being filed out of time, the dispositive portion of which reads as follows:

"**WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.

SO ORDERED."

In its Motion, petitioner primarily claims that the Court erred in dismissing its claim for refund for lack of jurisdiction. Petitioner insists 

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that it is entitled to its claim for refund based on the following grounds, *viz.*:

1. Petitioner timely filed its judicial claim for refund in accordance with Section 112(C) of the National Internal Revenue Code of 1997, as amended;
2. Respondent processed administratively the claims of petitioner pursuant to Revenue Regulation No. 1-2017; and,
3. The Court has jurisdiction over the claim for refund.

As to the first ground, petitioner argues that based on Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, it has thirty (30) days from receipt of respondent's decision or after the expiration of the 120-day period under the said Section within which to appeal before the Court of Tax Appeals (CTA). Petitioner continues that it received respondent's decision on June 13, 2019 denying its administrative claim for refund, thus, petitioner claims it has 30 days, or until July 13, 2019, within which to file its judicial appeal before this Court. Petitioner then maintains that it timely filed the present Petition for Review on July 12, 2019 or twenty-nine (29) days after receipt of respondent's decision.

With regard to the second ground, petitioner claims that the Court overlooked Revenue Regulations (RR) No. 1-2017,¹ which clarified that claims for VAT refund filed prior to the issuance of Revenue Memorandum Circular (RMC) No. 54-2014,² or before June 11, 2014, shall continue to be processed administratively. Petitioner argues that while, admittedly, RMC No. 54-2014 effectively deemed as denied all claims pending upon the expiration of the 120-day period from the date that the said claims were filed; Section 2 of RR No. 1-2017, however, clarified that claims of tax refund filed before June 11, 2014 shall continue to be processed administratively, to wit:

"SEC. 2. *Scope.* – Pursuant to the provisions of Section 244, in relation to Section 246 and Section 112 of the Tax Code, as amended, these Regulations are issued to give effect to the doctrinal rule laid down in the *Je*

¹ "SUBJECT: Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Credit/Refund Filed under Section 112 of the Tax Code, as Amended, Prior to Revenue Memorandum Circular No. 54-2014 dated June 11, 2014", dated January 3, 2017.

² "SUBJECT: Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, As Amended", dated June 11, 2014.

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aforecited *Pilipinas Total Gas* case and to afford fair and adequate relief to taxpayer-claimants whose claims were 'deemed denied' as a result of the retroactive application of RMC No. 54-2014. For this purpose, and consistent with the judicial 'summation of rules' decreed to be 'made applicable to claims of tax credit/refund filed before June 11, 2014,' such claims filed prior to RMC No. 54-2014 shall continue to be processed administratively." (*Underscoring supplied*)

Petitioner further cites the above-mentioned case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*,³ wherein the Supreme Court held that the summation of the rules for VAT refund should only be made applicable to those claims filed prior to June 11, 2014, to wit:

"To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess and unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of the complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of filing, manifest that he no longer wishes to submit any other additional documents to complete his administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing.

In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

It bears mentioning at this point that the foregoing summation of the rules should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014, such as the claim at bench." *jc*

³ G.R. No. 207112, December 8, 2015.

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Petitioner likewise maintains that since the BIR continues to process administrative claims filed prior to June 11, 2014, petitioner's administrative claim for refund filed on March 20, 2013 falls evenly within the said period. Having that in mind, the 30-day period within which to file a judicial claim for refund is clearly reckoned from receipt of respondent's decision on June 13, 2019. Relying on the foregoing jurisprudence and Bureau of Internal Revenue (BIR) issuances, petitioner asserts that the Court erred in treating the present judicial claim as filed out of time.

As to the third ground, petitioner posits that since it timely filed the present Petition for Review, this Court effectively acquired jurisdiction over its claim for refund. Nonetheless, petitioner argues that the Court already acquired jurisdiction when it gave due course to the present Petition for Review and allowed petitioner and respondent to present their respective cases.

The Court finds petitioner's Motion for Reconsideration bereft of merit. Considering that the grounds raised by petitioner are intertwined, the Court shall address them simultaneously.

At the onset, while it is true that RR No. 1-2017 expressly provides that claims filed prior to RMC No. 54-2014 shall continue to be processed administratively, this did not, in any way, mean that all claims during the said period shall already disregard the mandatory 120/30-day rule under Section 112(C) of the NIRC of 1997, as amended, *viz.*:

"SEC. 112. Refunds or Tax Credits of Input Tax. –

X X X

(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the *gr*

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Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.”

Pursuant to the above provision, respondent has 120 days from the submission of complete documents within which to decide petitioner’s claim for refund. In case of full or partial denial, or inaction by respondent, petitioner may file an appeal with the CTA within 30 days from receipt of the decision or from the lapse of the 120-day period. Compliance with both periods is jurisdictional. The period of 120 days is a prerequisite for the commencement of the 30-day period to appeal.⁴

More so, in the case of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*,⁵ the Supreme Court repeatedly held that the 120/30-day prescriptive periods are mandatory and jurisdictional, to wit:

“The Court stresses that the 120/30-day prescriptive periods are mandatory and jurisdictional, and are not mere technical requirements. The Court should not establish the precedent that non-compliance with mandatory and jurisdictional conditions can be excused if the claim is otherwise meritorious, particularly in claims for tax refunds or credit. Such precedent will render meaningless compliance with mandatory and jurisdictional requirements.”

With regard to the *Pilipinas Total Gas, Inc.* case cited by petitioner, the Court finds its reliance thereto misplaced. In the said case, the Supreme Court clearly stated that from the date of filing of the administrative claim, a taxpayer-claimant has thirty (30) days to submit additional documents to support its claim, unless further extended by the Commissioner of Internal Revenue (CIR) or his duly authorized representatives. In all cases, however, all documents must be submitted within two (2) years from filing of the claim for refund. 

⁴ *Hedcor, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207575, July 15, 2015.

⁵ G.R. No. 173241, March 25, 2015.

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In the present case, petitioner filed its judicial claim before this Court way beyond the period provided for under Section 112 of the NIRC of 1997, as amended. Perforce, even if petitioner had been given the whole two years from March 20, 2013, when it filed its administrative claim, to complete its documents, the 120-day period would have ended on July 18, 2015 or four (4) years before it filed its judicial claim with this Court.

Again, it must be emphasized that nowhere is it stated in RR No. 1-2017 that the 120/30-day rule is disregarded. That the phrase "*claims prior to June 11, 2014 would still be processed administratively*" did not mean that all claimants would then have to wait indefinitely until a decision is issued by respondent before it can file a judicial claim. Needless to say, [t]he right to appeal to the CTA from a decision or "deemed a denial" decision of the CIR is merely a statutory privilege, not a constitutional right. The exercise of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise.⁶

Notably, while administrative rules and regulations have the force of law and are entitled to great weight and respect, they must remain consistent with the law they intend to implement. As held by the Supreme Court in *Secretary of Finance Cesar V. Purisima, et al. v. Philippine Tobacco Institute, Inc.*,⁷ to wit:

"It is an elementary rule that administrative rules and regulations enacted by administrative bodies to implement the law which they are entrusted to enforce have the force of law and are entitled to great weight and respect. **These implementations of the law, however, must not override, supplant, or modify the law but must remain consistent with the law they intend to implement.** It is only Congress which has the power to repeal or amend the law." (*Emphasis added*)

With regard to petitioner's argument that this Court had already acquired jurisdiction when it gave due course to the present Petition for Review, and by allowing the parties to present their respective cases, the Court does not agree. *Je*

⁶ *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

⁷ G.R. No. 210251, April 17, 2017.

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In order for the court or an adjudicative body to have the authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter.⁸ When a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without binding legal effect.⁹ Time and again, the CTA is described as a court of record.¹⁰ As cases filed before it are litigated *de novo* and decided based on what has been presented and formally offered by the party-litigants to prove every minute aspect of their cases during the trial. The question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a claim for refund lies within the sound discretion and judgment of the Court.

Herein, petitioner should bear in mind that the right to appeal is but a statutory privilege and must conform to the manner and period prescribed by law. The nature of appeal is stressed in the case of *Team Pacific Corporation v. Josephine Daza in her capacity as Municipal Treasurer of Taguig*,¹¹ to wit:

"Although appeal is an essential part of our judicial process, it has been held, time and again, that the right thereto is not a natural right or a part of due process but is merely a statutory privilege. **Thus, the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but also jurisdictional and failure of a party to conform to the rules regarding appeal will render the judgment final and executory.** Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not and no court- not even the Supreme Court- has the power to revise, review, change, or alter the same. The basic rule of finality of judgment is grounded on the fundamental principle of public policy and sound practice that, at the risk of occasional error, the judgment of courts and the award of quasi-judicial agencies must become final at some definite date fixed by law." (*Emphasis supplied*)

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its Motion, the Court finds *re*

⁸ *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. 209830, June 17, 2015.

⁹ *Bernadette S. Bilag, et al. v. Estela Ay-ay, et al.*, G.R. No. 189950, April 24, 2017.

¹⁰ Section 8 of Republic Act No. 1125, as amended.

¹¹ G.R. No. 167732, June 11, 2012.

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no compelling reason to reverse, amend, or modify the Decision promulgated on October 13, 2021.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (of the Decision dated October 13, 2021) is **DENIED** for lack of merit.

SO ORDERED.


JUANITO C. CASTANEDA, JR.
Associate Justice

We Concur:


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


LANEE S. CUI-DAVID
Associate Justice