REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

ORICA PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10152

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
SEP 26 2024
11:30 a.m.

x - x

RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's **Motion for Reconsideration (Re: Decision on the Petition for Review dated 8 May 2024)**[1] filed on June 24, 2024, praying for giving due course to the instant motion, the reversal of the Court's *Decision* dated May 8, 2024 (Assailed Decision),[2] and granting its claim for refund in the amount of Php27,185,243.95 representing its unutilized input value-added tax (VAT) attributable to its export sales for the second (2nd) to fourth (4th) quarters of fiscal year (FY) ended September 30, 2017 or the period from January 1, 2017 to September 30, 2017.

Petitioner argues that the judicial appeal for VAT refund for the 2nd to 4th quarters of FY 2017 was filed within the prescriptive period provided under the pertinent provisions of the 1997 National Internal Revenue Code (NIRC), as amended, and its implementing rules and regulations.

Petitioner insists that the applicable law at the time of the filing of the administrative and judicial claims for refund is Section 112(C) of the 1997 NIRC, as amended by Republic Act (RA) No. 10963 or the Tax Reform for Acceleration and Inclusion

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[1] Docket, CTA Case No. 10152, Vol. III, pp. 1180-1192.
[2] *Id.*, Vol. III, pp. 1166-1179.

(TRAIN) Law, hence, the jurisprudential basis of this Court is not in all fours with the instant case.

Petitioner also argues that to construe inaction of the respondent as deemed denial contravenes the intention of the lawmakers in deleting the "deemed-denied" provision of the 1997 NIRC, as amended by the TRAIN Law.

On the other hand, respondent, in his **Opposition (Re: Motion for Reconsideration of the Decision dated 8 May 2024)**[3] filed on July 10, 2024, counter argues that the abovementioned arguments by petitioner is utterly misplaced.

The Ruling

This Court shall determine first whether the instant Motion was filed on time.

Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides that:

> "SECTION 1. *Who may and when to file motion.*- **Any aggrieved party may seek a reconsideration** or new trial **of any decision**, resolution, or order **of the Court**. He shall file a motion for reconsideration or new trial **within fifteen days from the date he received notice of the decision**, resolution or order of the Court in question." (*Emphasis supplied*)

The records of the instant case reveal that petitioner, through its counsel, received the copy of the Assailed Decision on May 15, 2024.[4] In accordance with the abovementioned provision of the RRCTA, respondent had fifteen (15) days from receipt of notice of said decision from May 15, 2024 or until May 30, 2024 within which to file his motion for reconsideration.

Based on the records of the case, this Court received the instant motion on June 24, 2024. It appears from the accompanying envelope and the notation made by the Judicial Records Division that the motion was served "via Grab".

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[3] Docket, Vol. III, pp. 1196-1202.
[4] Docket, Vol. III, Notice of Decision, p. 1165.

Thus, the filing of petitioner's *Motion for Reconsideration (Re: Decision on the Petition for Review dated 8 May 2024)* on June 24, 2024 was beyond the prescriptive period.

WHEREFORE, petitioner's *Motion for Reconsideration (Re: Decision on the Petition for Review dated 8 May 2024)* is hereby **DENIED** for being filed out of time.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice