REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

TECHNOGAS PHILIPPINES MANUFACTURING CORPORATION, *Petitioner,*	**CTA Case No. 9509**
	Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson, and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 04 2019 2:50 pm

x- x

RESOLUTION

MANAHAN, *J.:*

This resolves petitioner's *Motion for Reconsideration (of the Decision dated 4 October 2018)*,[1] filed on October 19, 2018. Despite notice,[2] respondent failed to file his comment or opposition.[3]

Petitioner seeks reconsideration of this Court's Decision dated October 4, 2018, which denied petitioner's claim for refund of capital gains tax (CGT) amounting to Php19,283,040.00, arising from the sale of property and paid for in 2004. Such sale of property was subsequently cancelled in the year 2014. The Court found that petitioner's claim for refund was filed out of time.

In its *Motion*, petitioner states that its right to receive a refund for the CGT being claimed for refund is not premised on Sections 204 and 299 of the 1997 National Internal Revenue Code, as amended (NIRC), but on the principles of "unjust enrichment" and "solution indebiti." Petitioner states that the CGT previously paid to the Bureau of Internal Revenue (BIR) should be refunded because of the events that transpired (the

[1] Docket, Vol. II, pp. 570-582.
[2] Docket, Vol. II, Resolution dated October 29, 2018, p. 584.
[3] Docket, Vol. II, Records Verification dated November 26, 2018.

cancellation of the sale of property) causing the collection of the CGT to be unwarranted and bereft of legal basis. Petitioner insists that the two-year prescriptive period should be counted from the occurrence of the supervening event. Thus, in this case, petitioner insists that the 2-year period should be counted from the cancellation of the sale on December 23, 2014.

The Court disagrees. Sections 204 (C) and 229 of the NIRC provide:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchases, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. <u>No credit or refund of taxes or penalties shall be allowed unless the taxpayer filed in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty</u>: *Provided, however,* That a return filed showing an overpayment shall be considered as a written claim for credit or refund.
>
> ---
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> <u>In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any</u>

> supervening cause that may arise after payment: *Provided, however*, That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (*Underscoring supplied*)

Clearly, the claim for refund must be claimed within two years from the date of payment of the tax, regardless of any supervening event. Petitioner's position to reckon the prescriptive period from the occurrence of the supervening event would be "tantamount to overruling or supplanting an express provision of the law."[4]

Thus, the Court finds no merit in petitioner's motion, and reiterates the Decision's ruling, as follows:

> The 2-year period, therefore, cannot be stretched to allow for other special circumstances, when none has been provided. Where the law speaks in clear and categorical language, there is no room for interpretation. There is only room for application. The Court may not construe a statute that is free from doubt. Considering the clear and explicit provision of Section 229 that refunds must be claimed within two years after the date of payment, regardless of any supervening cause that may arise after such payment, relaxing the rule on the mandatory nature of the 2-year prescriptive period for reasons of equity would be tantamount to overruling or supplanting the express provision of the law.
>
> Thus, when the CGT was withheld and paid on October 5, 2004, the 2-year period to file a claim for refund has already started. The execution of the said Compromise Agreement on December 4, 2014, and the subsequent cancellation of the sale of property from which the CGT arose, is precisely a "supervening cause that occurs after payment" which should be disregarded in determining the prescriptive period. This is in accordance with the clear provision of Section 229 that claims for refund must be filed within two years after the date of payment of the tax, regardless of any supervening cause that may arise after such payment.

---

[4] *Commissioner of Internal Revenue v. Manila Electric Co., Inc.*, CTA EB No. 773, May 8, 2012.

Clearly, petitioner's claim for refund was filed out of time and must be denied. (*Citations omitted*)

WHEREFORE, petitioner's *Motion for Reconsideration (of the Decision dated 4 October 2018)* is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

I CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice