19-000236-0092

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10090

HP PPS (PHILIPPINES), INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. ALBERT C. ARPON
ATTY. CARL FITRI A. HUSSIN
ATTY. JONELLE ELLINE A. MAGALONG
Bureau of Internal Revenue-Revenue Region No.8A
36th Floor, Legal Division, Export Bank Plaza Building
Sen. Gil Puyat Ave. corner Chino Roces Avenue, Makati City

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26th Street corner 3rd Avenue
Crescent Park West, Bonifacio Global City
Taguig City

GREETINGS:

You are hereby notified by these presents that on **November 15, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **November 18, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

HP PPS (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10090

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
NOV 15 2024 2:00PM

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner HP PPS (Philippines), Inc.'s (**petitioner**'s/**HPPI**'s) "Motion for New Trial"[1] (**MNT**), filed on 22 July 2024[2], with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment/Opposition (To Motion for New Trial)"[3] (**Comment/Opposition**) filed on 19 August 2024.[4]

Petitioner requests that this Court grant its MNT, vacate the Decision promulgated on 02 July 2024[5] (**assailed Decision**), and schedule the presentation of petitioner's witness and pieces of evidence. Additionally, the petitioner seeks an order directing respondent to refund or issue a tax credit certificate (**TCC**) totaling **₱165,249,865.62**, allegedly representing its excess and/or unutilized input value-added

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1 Division Docket, Volume III, pp. 1003-1273, with attached exhibits.
2 Received by the Court on 31 July 2024.
3 Division Docket, Volume III, pp. 1277-1281.
4 Received by the Court on 22 August 2024.
5 Division Docket, Volume II, pp. 976-1002.

tax (**VAT**) incurred and paid on purchase of services, goods other than capital goods, capital goods, and importations which are attributable to zero-rated sales for the period covering 01 November 2016 to 31 October 2017 or the fiscal year (**FY**) 2017.

In the assailed Decision, this Court dismissed the Petition for Review[6] for lack of jurisdiction, as petitioner failed to adduce evidence (from any part of the record or other sources) proving receipt of the Letter dated 30 April 2019[7] (**Denial Letter**), signed by then Regional Director Glen A. Geraldino (**RD Geraldino**) of Revenue Region (**RR**) No. 8–Makati, on **10 May 2019**.[8] Consequently, since the Court could not verify the timeliness of the judicial claim and, therefore, had no choice but to dismiss the petition for lack of jurisdiction.

In the instant MNT[9], petitioner contends that the failure to stamp the Denial Letter and submit it to this Court is attributable to accident, mistake, or excusable negligence that ordinary prudence could not have guarded against, and by reason of which the rights of such aggrieved party have probably been impaired—all of which are grounds for seeking a new trial.

In asserting that the exact date of receipt of the Denial Letter was inadvertently overlooked, petitioner attached to the instant MNT the Affidavit of Merit dated 19 July 2024[10] of petitioner's Finance Analyst, Cherry G. Avecilla (**Avecilla**). In her affidavit, Avecilla states that respondent served the Denial Letter *via* registered mail, which arrived at petitioner's office on 07 May 2019, a day when she was not present. It was only on 10 May 2019, upon her return to the office, that she routed the Denial Letter, contained in an envelope stamped with the date 07 May 2019. According to Avecilla, upon discovering that petitioner's administrative claim was fully denied, she promptly informed her superiors by email that she received the Denial Letter on 10 May 2019.[11]

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6 Filed on 04 June 2019, Division Docket, Volume I, pp. 12-134, with annexes.
7 Exhibit "R-1", BIR Records, pp. 28-30.
8 Par. 14, Petition for Review, supra at note 6, p. 17.
9 Supra at note 1.
10 Annex "A" attached to Petitioner's Motion for New Trial, supra at note 1, pp. 1013-1017.
11 See Printout of Cherry G. Avecilla's email to the Controllership Team attached to the Affidavit of Merit, Proposed Exhibit "P-37414", supra at note 1, p. 1023.

However, despite an extensive search, Avecilla could not locate the original envelope that contained the Denial Letter. Therefore, she requested, in her Affidavit of Merit, that the duly scanned copy be accepted as a substitute.[12]

Petitioner then raises concerns about respondent's decision to serve the Denial Letter[13] *via* registered mail without first attempting personal service. Petitioner contends that, had respondent attempted personal service, petitioner would have the opportunity to annotate respondent's copy of the Denial Letter. Petitioner thus argues that it was prejudiced twice by respondent's mode of service—*first*, when the Denial Letter was sent *via* registered mail without prior notice or coordination for an initial personal visit, and *second*, when it was deprived of the opportunity to affix the date of receipt on respondent's copy of the Denial Letter, which eventually formed part the Court's records.

Furthermore, petitioner argues that respondent has admitted petitioner's receipt of the Denial Letter on 10 May 2019. Before escalating the Denial Letter to this Court, petitioner initially submitted a letter-inquiry dated 15 May 2019, seeking clarification on the basis of respondent's denial. In response, the Bureau of Internal Revenue issued a Clarification Letter dated 06 June 2019[14] (**Bureau of Internal Revenue [BIR] Clarification Letter**), which states, "as discussed in our **Denial Letter** dated **April 30, 2019** and received by [petitioner] on **May 10, 2019** relative to the denial of [petitioner's] claim of **VAT Refund**...".[15] Petitioner thus seeks the admission of the BIR Clarification Letter as evidence supporting its claim that Avecilla received the Denial Letter on 10 May 2019.

Petitioner further asserts that the documents attached to the instant MNT[16] were not forgotten but were inadvertently excluded due to excusable negligence. Petitioner argues that it could not have overlooked documents that it examined and cited in its petition. Petitioner also notes that the Court-commissioned Independent Certified Public Accountant (**ICPA**) acknowledged the existence of the Denial Letter and concluded that the judicial claim was timely filed. This

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[12] See Proposed Exhibit "P-37413" attached to the Affidavit of Merit, supra at note 1, p. 1021.

[13] Exhibit "R-1", supra at note 7.

[14] Attached to the Affidavit of Merit, Proposed Exhibit "P-37415", supra at note 1, pp. 1024-1025.

[15] Emphasis in the original text.

[16] Supra at note 1.

implies that the ICPA must have obtained a copy of the Denial Letter to reach such a conclusion.

Lastly, petitioner implores the Court to liberally apply the rules of procedure in order to promote its objective to administer justice. In this case, petitioner points out that the proper and accurate extent of its entitlement to a VAT refund or tax credit certificate (**TCC**) may only be determined by this Court upon reopening the trial and permitting petitioner to submit the rest of the documents that prove the timely filing of the judicial claim in order to proceed to the next step: a judicial determination on the merits.

Regardless of the actual date of receipt indicated in the documents attached to the instant MNT[17], *i.e.*, whether it was the earlier date of 07 May 2019, as allegedly shown by the stamp on the envelope containing the Denial Letter[18], or 10 May 2019, as evidenced by Avecilla's email communication to the Controllership Team and referenced in the BIR Clarification Letter, petitioner maintains that filing the Petition for Review[19] on 04 June 2019 was well within the thirty (30)-day appeal period, counted from either 07 May 2019 or 10 May 2019.

In his or her Comment/Opposition, respondent argues that petitioner has failed to present any factual or legal grounds to support the instant MNT which should, therefore, be denied for lack of merit. Respondent contends that petitioner's request to reopen the case is unfounded, as the case is already in the post-judgment stage, and petitioner has not cited any paramount interest of justice that would warrant this Court to suspend the strict application of procedural rules.

Further, respondent argues that the documents attached to the instant MNT constitute "forgotten evidence" and should not be allowed, as their introduction would result in a piecemeal presentation of evidence—a practice inconsistent with orderly justice and one that only serves to delay the proceedings.

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17 Supra at note 1.
18 Exhibit "R-1", supra at note 7.
19 Supra at note 6.

Respondent emphasizes that the Denial Letter existed well before the filing of the Petition for Review, the ICPA's audit, and petitioner's presentation of evidence. Petitioner was thus given ample time to submit or present the documents now attached to the instant MNT but chose not to do so. This underscores that petitioner seeks to reopen the case without providing any plausible explanation or justifiable reason for its failure to present these documents during the trial. Moreover, petitioner did not even attach to the instant MNT[20] the additional evidence bearing the alleged date of receipt.

Finally, respondent maintains that the instant MNT should not be given due course, as doing so may set a dangerous precedent, leading to delays in the speedy resolution of cases and potentially endless litigation.

We rule below.

After careful consideration of the parties' arguments, this Court finds no merit in petitioner's MNT.

It is well-settled that cases filed before this Court are litigated *de novo*, party litigants should prove every minute aspect of their cases. No evidentiary value can be given to a document as the rules on documentary evidence require that these documents must be formally offered during trial before this Court.[21] A party should present all its evidence at first instance and not by piecemeal to avoid injurious surprises to the other party.

The reopening of a case for the reception of additional evidence after a case has been submitted for decision rests entirely in the sound judicial discretion of a trial court. In *Ramon J. Alegre v. Hon. Manuel T. Reyes, et al.*[22], the Supreme Court instructively ruled as follows:

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[20] Supra at note 1.

[21] See *Rafael Arsenio S. Dizon, in his capacity as the Judicial Administrator of the Estate of the deceased Jose P. Fernandez v. Court of Tax Appeals and Commissioner of Internal Revenue*, G.R. No. 140944, 30 April 2008.

[22] G.R. No. L-56923, 09 May 1988; Citation omitted, emphasis and underscoring supplied.

> ...
>
> ... [T]he reopening of a case for the reception of additional evidence **<u>after a case has been submitted for decision but before judgment is actually rendered</u>** is, it has been said, **controlled by no other rule than that of the paramount interests of justice, resting entirely in the sound judicial discretion of a Trial Court**; and its concession, or denial, by said Court in the exercise of that discretion will not be reviewed on appeal unless a clear abuse thereof is shown. ...
>
> ...

In this case, the Court already rendered its judgment, considering the pieces of evidence adduced by the parties to prove their respective claims. At this point, no further evidence may be considered unless warranted on the grounds of fraud, accident, mistake or excusable negligence; or of newly discovered evidence, in the manner provided for proof of motions under Sections 1[23] and 2[24], Rule 37 of the Rules of Court,

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[23] SEC. 1. *Grounds of and period for filing motion for new trial or reconsideration.* — Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

[24] SEC. 2. *Contents of motion for new trial or reconsideration and notice thereof.* — The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration shall point out specifically the findings or conclusions of the judgment or final order which are not supported by the evidence or which are contrary to law, making express reference to the testimonial or documentary evidence or to the provisions of law alleged to be contrary to such findings or conclusions.

A *pro forma* motion for new trial or reconsideration shall not toll the reglementary period of appeal.

as amended, in relation to Sections 5[25] and 6[26], Rule 15 of the Revised Rules of the Court of Tax Appeals (**RRCTA**).

Petitioner cites as grounds for new trial that there was mistake and excusable negligence (which ordinary prudence could not have guarded against and by reason of which its rights have been impaired in accordance with Section 5[27], Rule 15 of the RRCTA) in failing to establish the exact date of receipt of the Denial Letter.[28] However, **petitioner has not demonstrated that it exercised ordinary diligence or provided any reasonable explanation for omitting the Denial Letter during the trial stage, especially given its critical relevance to jurisdiction. The belated submission of a scanned copy of the envelope containing the Denial Letter does not sufficiently address this procedural oversight, particularly as the date stamp on the copy is unreadable**.

This Court thus finds no cogent reason to reopen the case for presentation of additional evidence as petitioner failed to raise any compelling reason that would justify the same. Petitioner's plea for the presentation of additional witness and pieces of evidence does not fall under exceptional circumstances, but are in fact considered as

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[25] SEC. 5. *Grounds of motion for new trial.* — A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights: or

(b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result.

A motion for new trial shall include all grounds then available and those not included shall be deemed waived.

[26] SEC. 6. *Contents of motion for reconsideration or new trial and notice.* — The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.

A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.

A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed pro forma, which shall not toll the reglementary period for appeal.

[27] Supra at note 25.

[28] Exhibit "R-1", supra at note 7.

"forgotten evidence." In *Office of the Ombudsman, Represented by Hon. Simeon V. Marcelo v. Carmencita D. Coronel*[29], the Supreme Court ruled as follows:

> ...
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> As it is, the additional evidence offered by Coronel amount to no more than "forgotten" evidence, the belated uncovering of which would not have justified a reconsideration of the case. **Forgotten evidence refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. <u>Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings.</u> A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.**
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> ...

Furthermore, in *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[30], the Supreme Court likewise ruled that:

> ...
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> Besides, litigation is a not a "trial and error" proceeding. A party who moves for a new trial on the ground of mistake must show that ordinary prudence could not have guarded against it. A new trial is not a refuge for the obstinate. **Ordinary prudence in these cases would have dictated the presentation of all available evidence that would have supported the claims for refund/credit of input VAT** of petitioner corporation. ...
>
> ...

Here, the additional evidence that petitioner asks this Court to admit and consider cannot be regarded as omitted due to accident, mistake, or excusable negligence. With reasonable diligence, petitioner could have submitted Avecilla's Judicial Affidavit and the proposed exhibits attached to it, which purportedly confirm receipt of the Denial Letter[31] on 10 May 2019. Therefore, these documents attached to the

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29 G.R. No. 164460, 27 June 2006; Citations omitted, emphasis and underscoring supplied.

30 G.R. Nos. 141104 & 148763, 08 June 2007; Citation omitted and emphasis supplied.

31 Exhibit "R-1", supra at note 7.

instant MNT[32] cannot be considered omitted due to accident, mistake, or excusable negligence; rather, they qualify as "forgotten evidence".

As respondent correctly argues, allowing the documents attached to the instant MNT[33], which petitioner refers to as inadvertently omitted evidence, would effectively enable a piecemeal presentation of evidence. Such a practice disrupts orderly proceedings and contradicts the principle of judicial efficiency, serving only to delay the resolution of cases.

Moreover, petitioner has not demonstrated any paramount interest of justice that would necessitate suspending procedural rules. The strict application of procedural rules is essential to prevent undue delay and to uphold the integrity of judicial proceedings.

Petitioner's argument regarding respondent's choice of registered mail for service, rather than personal service, does not justify the grant of a new trial. The Court finds no indication that registered mail, a permissible mode of service, unfairly prejudiced petitioner's ability to respond to the Denial Letter.[34]

Furthermore, even assuming, for the sake of argument, that the documents attached to the instant MNT are not "forgotten evidence" and that this Court exercises its discretion to relax the rules of procedure in favor of petitioner, the judicial claim would still be dismissible for being filed beyond the 90+30-day mandatory and jurisdictional period.

Section 112(C)[35] of the National Internal Revenue Code (**NIRC**) of 1997, as amended by Republic Act (**RA**) No. 10963 of the Tax Reform for

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32 Supra at note 1.
33 Supra at note 1.
34 Exhibit "R-1", supra at note 7.
35 SEC. **112**. *Refunds or Tax Credits of Input Tax.* —

...

(C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner **shall grant a refund for creditable input taxes within <u>ninety (90) days</u>** from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

Acceleration and Inclusion (**TRAIN Law**), prescribes the period for filing a judicial claim for the refund or tax credit of alleged excess or unutilized input VAT, as follows: (**i**) the period of ninety (90) days which serves as a period for the CIR to act on the administrative claim for refund or credit; and, (**ii**) the 30-day period within which the taxpayer may file its judicial claim with the Court of Tax Appeals (**CTA**).

In *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[36], the Supreme Court summarized the rules regarding the prescriptive periods for filing of the administrative and judicial claims for refund or tax credit of input VAT. The pertinent rules for the judicial claim are quoted below:

> ...
>
> **B. 120 [now 90] + 30 Day Period**
>
> 1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day [now 90-day] period, or (2) file the judicial claim within thirty days from the expiration of the 120-day [now 90-day] period if the Commissioner does not act within the 120-day [now 90-day] period.
>
> 2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.
>
> 3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. *(Aichi and San Roque)*
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> 4. As an exception to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. *(San Roque)*
>
> 5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. *(San Roque)*
>
> ...

In case of full or partial denial of the claim for tax refund, the taxpayer affected may, **within <u>thirty (30) days</u> from the receipt of the decision denying the claim**, appeal the decision with the Court of Tax Appeals: Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code. (Emphasis and underscoring supplied)

36 G.R. No. 173241, 25 March 2015.

In *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*[37], the Supreme Court stated:

> ...
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> A final note, the **taxpayers** are reminded that when the 120-day [now 90-day] period lapses and there is inaction on the part of the CIR, they **<u>must no longer wait</u> for it to come up with a decision thereafter. The CIR's inaction is the decision itself.** It is already a denial of the refund claim. Thus, **the taxpayer <u>must file an appeal within 30 days from the lapse of the 120-day [now 90-day] waiting period</u>**.
>
> ...

Clearly from the foregoing, the filing of the judicial claim within the 30-day period after the expiration of the 90-day period is both mandatory and jurisdictional. Hence, failure to file the claim within the stated period renders the claim outside the jurisdiction of the CTA and, therefore, dismissible, as discussed in the subsequent case of *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[38], to wit:

> ...
>
> **<u>The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day [now 90-day] period, whichever is sooner.</u>**
>
> Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, **any claim filed in a period less than or beyond the 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA**.
>
> ...

Thus, from the filing of petitioner's administrative claim[39] on 31 January 2019, respondent had 90 days or until 01 May 2019, to act on the said claim. In case of inaction within the said 90-day period, petitioner has 30 days from such expiration to file its judicial claim, or until 31 May 2019. Unfortunately, the Petition for Review[40] before this Court was filed only on 04 June 2019, beyond the period prescribed. While there is a Denial Letter[41], the same was allegedly received by

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37 G.R. No. 168950, 14 January 2015; Emphasis and underscoring supplied.
38 G.R. No. 182737, 02 March 2016; Citations omitted, emphasis and underscoring supplied.
39 Exhibit "P-31", Division Docket, Volume I, pp. 310-317.
40 Supra at note 6.
41 Exhibit "R-1", supra at note 7.

petitioner only on 10 May 2019, which was already past the 90+30-day period, ending on 31 May 2019.

As previously noted, the judicial claim must be filed within 30 days of either receiving the CIR's decision or ruling, or the expiration of the 90-day period, **whichever is sooner**. Petitioner's alleged receipt of the Denial Letter on 10 May 2019, which was already beyond the 90+30-day period, does not alter the jurisdictional period for appealing to the CTA based on inaction, which ended on 31 May 2019.

To reiterate, the periods provided in Section 112(C) of the NIRC of 1997, as amended, are mandatory and jurisdictional. Strict compliance with these periods is required for a claim for refund or tax credit to be valid. Moreover, jurisdiction cannot be waived, as it is conferred by law and is not subject to the consent, objection, actions, or inactions of the parties involved. Therefore, the fact that petitioner allegedly received the Denial Letter on 10 May 2019, does not remedy petitioner's failure to seek recourse within the time prescribed under Section 112(C) of the NIRC of 1997, as amended.[42]

In summary, this Court finds that petitioner has failed to demonstrate sufficient grounds for a new trial. The belated submission of documents and claim of excusable negligence do not constitute exceptional circumstances that would justify reopening the case or relaxing procedural rules. Furthermore, petitioner's failure to file within the mandatory and jurisdictional 90+30-day period provided under Section 112(C) of the NIRC of 1997, as amended, renders its judicial claim dismissible. The strict adherence to these procedural rules is not only a matter of law but also essential to maintaining the finality of judgments and upholding the efficient administration of justice.

WHEREFORE, in view of the foregoing, petitioner HP PPS (Philippines), Inc.'s "Motion for New Trial", filed on 22 July 2024, is hereby **DENIED** for lack of merit.

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42 See *Lapanday Foods Corporation v. Commissioner of Internal Revenue*, G.R. No. 252821 (Notice), 02 September 2020.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

I concur in the result

ROMAN G. DEL ROSARIO
Presiding Justice

LANEE S. CUI-DAVID
Associate Justice