REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

<u>SECOND DIVISION</u>

"K" LINE MARITIME ACADEMY PHILIPPINES, INC.,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10270

Present:

RINGPIS-LIBAN, *Chairperson*,
MODESTO-SAN PEDRO, and
FERRER-FLORES, *<u>JJ.</u>*

Promulgated:
DEC 18 2024
2:45 p.m.

x - x

RESOLUTION

FERRER-FLORES, <u>J.</u>:

For the Court's resolution is petitioner's *Motion for Reconsideration [on the Decision promulgated on June 27, 2024]* filed on July 16, 2024, with respondent's *Comment and Opposition (to Petitioner's Motion for Reconsideration [Re: Decision promulgated on June 27, 2024])* filed on August 21, 2024.

Petitioner seeks reconsideration of the Court's Decision dismissing the case on jurisdictional ground, to wit:

> **WHEREFORE**, the instant Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**

In support of its motion, petitioner forwards the following arguments:

1) In the interpretation of the law, the intent of the framers as may be inferred in the legislative history must prevail;

2) The relevant provisions of the Tax Reform for Acceleration and Inclusion Law (TRAIN Law)[1] should determine the timeliness of the petitioner's judicial claim;

3) The *Silicon case*[2] does not apply in this instant case because 1) the Bureau of Internal Revenue (BIR) issued the decision; and, 2) the decision was rendered after the TRAIN Law took effect;

4) Under the TRAIN Law, the taxpayer only has one remedy which is to appeal the decision of the BIR in cases of full or partial denial of its administrative claim;

5) Sec 112 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by the TRAIN Law, must prevail over Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282;

6) The Honorable Court of Tax Appeals is a specialized court of law and justice. In which case, it has the power to liberally construe its own rules.

Petitioner argues that it is the legislative intent to compel the BIR to decide within the 90-day period. For petitioner, the deliberate deletion of the "failure on the part of the Commissioner to act on the application" as a ground for judicial appeal must be given utmost consideration in the interpretation of Sec. 112 (C) of the TRAIN Law.

Further, petitioner contends that the *Silicon case* does not apply in the present case since the BIR issued a decision. The BIR's Decision dated January 8, 2020 partially denying petitioner's claim was served through registered mail on February 6, 2020. Thus, notwithstanding petitioner's receipt of the mail beyond the 90-day period, the material fact remains that the BIR had completed its review of the administrative claim and issued the adverse decision within the 90-day period. For petitioner, the BIR's act of trying to communicate the fact of denial to petitioner also within the 90-day period is over and above the requirement of Sec. 112 of the TRAIN Law.

Petitioner submits that under the TRAIN Law, the taxpayer only has one remedy which is to appeal the decision of the BIR in cases of full or partial denial of its administrative claim.

Respondent, on the other hand, counters that petitioner did not raise any compelling reason or argument to modify or reverse the assailed

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[1] Republic Act No. 10963, Effective January 1, 2018.

[2] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

Decision. It then echoes that the Court is correct in ruling that the judicial claim was belatedly filed.

We resolve.

After a careful consideration of the parties' arguments, the Court finds no cogent reason to reverse or modify the assailed Decision.

Petitioner heavily hinges its arguments on the amendment introduced in the TRAIN Law under Section 112 (C), particularly the removal of the "failure on the part of the Commissioner to act on the application." Thus, according to petitioner, taxpayers had no other option but to wait for the decision of the BIR on the refund application.

The Court disagrees with petitioner.

As discussed in the assailed Decision, the *Petition for Review* was dismissed on jurisdictional ground, particularly Section 7(a)(2) of R.A. No. 1125,[2] as amended by R.A. No. 9282,[3] read as follows:

> Section 7. Jurisdiction. — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> xxx xxx xxx
>
> *(2)* **Inaction by the Commissioner of Internal Revenue** in cases involving disputed assessments, **refunds of internal revenue taxes**, fees, or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial**. *(Emphases supplied)*

Relatedly, Section 11 of R.A. 1125, as amended by R.A. 9282 provides as follows:

> Section 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary

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2 AN ACT CREATING THE COURT OF TAX APPEALS.

3 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES

of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts, **may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein**. *(Emphasis supplied)*

With respect to the processing of administrative claim for refund, Revenue Regulation (RR) 17-2018[4] provides:

I. Claims for value-added tax (VAT) refund

A. General Policies

xxx xxx xxx

5. Any findings in the course of the verification/review of the VAT claims that may lead to a deficiency in internal revenue taxes, other than VAT, shall be communicated by the processing/reviewing office to the concerned investigating office having jurisdiction over the taxpayer-claimant. However, if the findings involve VAT, these may result to disallowance or denial of the claim, or if the case warrants, for possible assessment of VAT liability.

Should the claim be for denial, such fact should be communicated in writing to the taxpayer within the 90-day period. The denial letter shall be signed by the Commissioner (CIR)/Deputy Commissioner – Operations Group (DCIR-OG)/ Assistant Commissioner (ACIR)/ Regional Director as the case may be.

Considering the foregoing, it is clear that the denial of the administrative claim must be communicated to petitioner within the 90-day period. As petitioner did not receive the BIR's decision within the 90-day period, it should have treated the same as inaction and elevated the appeal before this Court within 30 days from the lapse of the 90-day period, regardless of the eventual receipt of the decision *beyond* the 90-day period.

The Court still holds that the *Silicon case* is a good case law and is applicable in this case. To reiterate, 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.**

For petitioner's failure to file the appeal before this Court within 30 days from the lapse of the 90-day period, the Court is bereft of jurisdiction to rule on its claim for refund. This is notwithstanding the fact that petitioner received the BIR's decision after the 90-day period. The reckoning point of

4 SUBJECT: Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/ Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN)

the 30-day period to appeal began the day following the lapse of the 90-day period without any decision received from the BIR.

WHEREFORE, in view of the foregoing, petitioner's *Motion for Reconsideration [on the Decision promulgated on June 27, 2024]* is **DENIED** for lack of merit.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice