REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ADVANCED WORLD SYSTEMS, INC.,
Petitioner,

CTA EB NO. 2097
(CTA CASE NO. 9864)

-versus-

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 17 2020
11:25 a.m.

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DECISION

RINGPIS-LIBAN, J.

Before the Court *En Banc* is a Petition for Review[1] seeking nullification of the Resolutions dated January 17, 2019[2] and June 14, 2019[3] (Assailed Resolutions), all promulgated by the Second Division of this Court (Court in Division) in CTA Case No. 9864 entitled "*Advanced World Systems, Inc. vs. Commissioner of Internal Revenue*" which granted respondent's "Motion to Dismiss" and denied petitioner's "Motion for Reconsideration [Re: *Resolution* dated 17 January 2019]" for lack of merit.

The dispositive portions of the assailed Resolutions read as follows:

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[1] Rollo, CTA EB No. 2097, pages 49-65, with annexes.
[2] Ibid., pp. 66-73.
[3] Ibid. 74-78.

January 17, 2019 Resolution:

"**WHEREFORE**, premises considered, respondent's **Motion to Dismiss** is **GRANTED.** Accordingly, the instant **Petition for Review** filed by Advanced World Systems, Inc. on August 28, 2018 is hereby **DISMISSED**.

SO ORDERED."

June 14, 2019 Resolution:

"**WHEREFORE**, finding no cogent reason to reverse or modify the assailed Resolution promulgated on January 17, 2019, dismissing the instant Petition for Review for lack of jurisdiction, petitioner's **Motion for Reconsideration [Re: *Resolution* dated 17 January 2019]** is **DENIED** for lack of merit. On the other hand, petitioner's **Manifestation** filed by registered mail on October 17, 2018 and received by the Court on November 8, 2018, as well as its **Manifestation** filed on October 19, 2018 and received by the Court on November 8, 2018 are **NOTED**.

SO ORDERED."

THE PARTIES

Petitioner is a corporation duly organized and existing under the laws of the Philippines. It is a software development company established in 1993 and is registered to engage primarily in the development, manufacturing, buying, selling, distributing and marketing software, computers, peripherals and other related products and parts. It also engages in computer consultancy and advisory and other related auxiliary services.[4]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is being sued in his official capacity, having been duly appointed to exercise the powers and perform the duties of his office including, inter alia, the power to decide disputed assessments, application for refunds or tax credits of internal revenue taxes, fees and other charges, penalties imposed in relation thereto, or other matters arising under the Tax Code, as amended. Respondent holds office at the Office of the Commissioner of Internal Revenue, Bureau of Internal Revenue, National Office Building, Agham Road, Diliman, Quezon City, Metro Manila.[5]

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[4] Petition for Review, pp. 3-4.
[5] Ibid., p. 4

THE FACTS

The facts as culled from the records of the case are as follows:

On March 11, 2011, petitioner filed with the Bureau of Internal Revenue (BIR) an administrative claim for tax credit on excess input tax in the aggregate amount of Php3,181,710.17, representing its alleged unutilized input value-added tax (VAT) for the period covering the period April 1, 2009 to March 31, 2010.

Petitioner filed the said administrative claim within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made, to wit:

Taxable Quarter	Close of the Taxable Quarter	Date of the Filing of VAT Return	End of the 2-year period to file Administrative Claim	Filing of the Administrative Claim
2nd Quarter 2009	30 June 2009	24 July 2009	30 June 2011	11 March 2011
3rd Quarter 2009	30 September 2009	21 October 2009	30 September 2011	11 March 2011
4th Quarter 2009	31 December 2009	22 January 2010	31 December 2011	11 March 2011
1st Quarter 2010	31 March 2010	20 April 2010	31 March 2012	11 March 2011

According to petitioner, it had submitted the complete documentary requirements in support of its application during the period required.

On March 28, 2018, petitioner allegedly received a letter dated March 16, 2018 from respondent denying its administrative claim for refund.

On June 28, 2018, petitioner filed a Petition for Review before the Court in Division docketed as *CTA Case No. 9864 entitled "Advanced World Systems, Inc., vs. Commissioner of Internal Revenue."*

In the "Answer with Motion to Dismiss" filed by respondent CIR on August 15, 2018,[6] he raised the following as his Special and Affirmative Defenses, that: as mandated under Section 112 (A) of the National Internal Revenue Code (NIRC) of 1997, as amended, the administrative claim for refund of input VAT must be filed with the BIR within two years after the close of the taxable quarter when the relevant zero-rated or effectively zero-rated sales were made; the present claim pertained to the alleged input VAT incurred by petitioner for the period April 1, 2009 to March 31, 2010 which are

[6] Docket, CTA Case No. 9865, pp. 78-86.

allegedly attributable to its reported zero-rated sales; the Court of Tax Appeals, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction; the Court of Tax Appeals' exclusive appellate jurisdiction to review by appeal the inaction of the CIR in cases involving refunds of internal revenue taxes is conferred under Section 7(a)(2) of RA No. 9282; Section 112(C) of the NIRC of 1197, as amended states the time requirements for filing a judicial claim for refund or issuance of TCC of input VAT; the CIR has 120 days from the date of submission of complete documents within which to rule on taxpayer's application for tax refund or credit, and only after the lapse of this period without any action on his part (wherein the inaction is deemed a denial pursuant to Section 7(a)(2) of R.A. No. 9282) that the aggrieved party may, within 30 days, elevate the case to the Court of Tax Appeals; petitioner had admitted that upon filing of its administrative claim for refund that it had submitted the complete documentary requirements in support of its application during the period required; since no written notice was sent to respondent requiring petitioner to submit additional documents, the 120-day period commenced from the filing of the administrative claim on March 11, 2011 giving petitioner 120 days or until July 9, 2011 to act on the said claim; petitioner had 30 days from July 9, 2011 or until August 8, 2011 to appeal the inaction of the CIR to the Court of Tax Appeals; the Petition for Review for the period covering April 1, 2009 to March 31, 2020 should have been filed on or before August 8, 2011; the Petition for Review was instituted in the Court of Tax Appeals only on June 28, 2018, way beyond the prescriptive period thereby depriving the Court of jurisdiction to determine the same.

On October 15, 2018, petitioner filed its "Comment/Opposition [Re: Respondent's *Answer with Motion to Dismiss* dated 15 August 2018]."

On January 17, 2019, the Court in Division rendered the questioned Resolution.[7]

On February 6, 2019, petitioner filed a "Motion for Reconsideration *(*Re: *Resolution* dated 17 January 2019*)*."[8]

On June 14, 2019, the Court in Division issued a Resolution[9] on the Motion for Reconsideration.

On July 8, 2019, the Court *En Banc* received petitioner's "Motion for Extension of Time to File Petition for Review"[10] stating that it received the Court in Division's Resolution dated June 14, 2019 on June 21, 2019; that petitioner anticipates that it will not be able to file and finalize the said Petition

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[7] Docket, CTA Case No. 9864, pp. 114-121.
[8] Ibid. pp.122-133.
[9] Ibid., pp. 150-154.
[10] Rollo, CTA EB No. 2097, pp. 1-12.

until July 8, 2019. Hence, petitioner prayed that it be granted an extension of fifteen (15) days from July 8, 2019 or until July 23, 2019 within which to file its Petition for Review.

On July 10, 2019, the Court *En Banc* issued a Minute Resolution[11] granting petitioner's "Motion for Extension of Time to File Petition for Review." Hence, as prayed for, petitioner is granted a final and non-extendible period of fifteen (15) days from July 6, 2019, or until July 21, 2019 within which to file its Petition for Review.[12]

On July 22, 2019,[13] petitioner filed through registered mail the instant Petition for Review, which was received by the Court on July 24, 2019.[14]

In the Resolution dated August 9, 2019, the Court *En Banc* issued a Resolution ordering respondent to file a Comment, not a Motion to Dismiss, to the instant Petition for Review within ten (10) days from notice.

On October 28, 2019, the Judicial Records Division of the Court issued a Records Verification Report stating that respondent failed to file a Comment.[15]

On November 13, 2019, the Court issued a Resolution stating that respondent failed to file his Comment. Hence, the Court *En Banc* deemed the case submitted for decision.[16]

THE ASSIGNMENT OF ERRORS

Petitioner submits that the Court in Division erred in holding that:

a. Petitioner's failure to comply with the 120+30-day mandatory and jurisdictional requirement warrants the dismissal of its petition;

b. To constitute an exception to the mandatory and jurisdictional requirement, Revenue Regulation (RR) No. 1-2017 must fall under either of the exceptions cited by the High Court in Team Energy Corporation vs. Commissioner of Internal Revenue;

c. Late filing is absolutely prohibited despite the circumstances surrounding petitioner's judicial claim; and

[11] Ibid., p. 48.
[12] Petitioner received the June 14, 2019 Resolution on June 21, 2019. It has until July 6, 2019 within which to file the Petition for Review before the Court *En Banc*.
[13] The last day to file the Petition for Review was on July 21, 2019 (Sunday).
[14] Ibid., pp. 49-65, with Annexes.
[15] Ibid., p. 173.
[16] Ibid., pp. 175-176.

d. RR No. 1-2017 has no application on petitioner's appeal because there was no retroactive application of Revenue Memorandum Circular (RMC) No. 54-2014 in counting the 120+30-day period.

THE RULING OF THE COURT *EN BANC*

The Petition for Review before the Court in Division was filed in accordance with Section 112 of the NIRC of 1997, as amended, in relation to Section 7 of Republic Act No. 1125, as amended, to review and set aside the Letter dated March 15, 2018, issued by the BIR.

Section 112(A) of the NIRC of 1997 provides:

> *Refunds or Tax Credits of Input Tax.* –
>
> (A) *Zero-rated or Effectively Zero-rated Sales.* – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> xxx xxx xxx
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> (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.
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> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the 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-quoted provision and as laid down by the Supreme Court in a number of cases[17], a taxpayer engaged in zero-rated or effectively zero-rated transactions may claim a refund or tax credit certificate for input taxes attributable to such sales upon compliance with the following requisites:

1. That the taxpayer must be VAT-registered;
2. That the claim for refund was filed within the two-year prescriptive period;
3. That there must be zero-rated or effectively zero-rated sales;
4. That input taxes were incurred or paid;
5. That such input VAT payments are directly attributable to zero-rated sales or effectively zero-rated sales; and
6. That the input VAT payments were not applied against any output VAT liability.

JURISDICTION OF THE COURT

Petitioner argues that RR No. 1-2017 is relevant to the disposition of the present judicial claim. Petitioner insists that it was reversible error on the part of the Court in Division to have applied the 120+30-day period to petitioner's appeal without qualification. Hence, there is no basis for the dismissal of the instant petition, thus, the assailed Resolution must be vacated.

The Court *En Banc* agrees with the findings of the Court in Division that the Petition for Review was filed out of time. Petitioner should have filed a judicial claim before this Court within thirty (30) days from the time the Commissioner failed to act on its administrative claim within one hundred

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[17] *Commissioner of Internal Revenue vs. Toledo Power Company*, G.R. Nos. 195175 and 199645, August 10, 2015; *Luzon Hydro Corporation vs. Commissioner of Internal Revenue*, G.R. No. 188260, November 13, 2013; *Southern Philippines Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 179632, October 19, 2011; *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 172378, January 17, 2011; *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007.

twenty (120) days from submission of complete documents in support of its claim.

In *Commissioner of Internal Revenue v. San Roque Power Corporation*[18], Section 112(C) of the 1997 NIRC was interpreted as follows –

> "The taxpayer can file the judicial claim (1) only within thirty days after the Commissioner partially or fully denies the claim within the 120-day period, or (2) only within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period."[19]

As can be gleaned from above, the Supreme Court categorically declared that an appeal to a denial of a taxpayer's administrative claim may only be made if such denial was issued within the 120-day period.

The pronouncement in *San Roque* was echoed in *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*[20], to wit:

> "The San Roque pronouncement is clear. The taxpayer can file the appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period."[21]

Thus, when the High Court provided a summary of rules on prescriptive periods for claiming refund or credit of Input VAT in *Mindanao II*, it was reiterated that in order to appeal the denial by respondent, such denial must be within the 120-day period:

> "SUMMARY OF RULES ON PRESCRIPTIVE PERIODS FOR CLAIMING REFUND OR CREDIT OF INPUT VAT
> The lessons of this case may be summed up as follows:
>
> A. Two-Year Prescriptive Period
>
> 1. It is only the administrative claim that must be filed within the two-year prescriptive period. (Aichi) 2. The proper reckoning date for the two-year prescriptive period

[18] G.R. Nos. 187485, 196113 and 197156, February 12, 2013.
[19] *Emphasis and underscoring supplied.*
[20] G.R. No. 191498, January 15, 2014.
[21] *Emphasis and underscoring supplied.*

is the close of the taxable quarter when the relevant sales were made. (San Roque)

3. The only other rule is the Atlas ruling, which applied only from 8 June 2007 to 12 September 2008. Atlas states that the two-year prescriptive period for filing a claim for tax refund or credit of unutilized input VAT payments should be counted from the date of filing of the VAT return and payment of the tax. (San Roque)

B. 120+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 period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-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)

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)"[22]

In *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*[23], taxpayers were even reminded that the lapse of the 120-day period constitutes a denial by respondent, and an appeal within thirty (30) days therefrom must already be made:

"when the 120-day period lapses and there is inaction on the part of the CIR, they must no longer wait for it to come up

[22] *Emphasis and underscoring supplied.*
[23] G.R. No. 168950, January 14, 2015.

> with a decision thereafter. The CIR's inaction is the decision itself. It is already a denial of the refund claim. Thus, the taxpayer must file an appeal within 30 days from the lapse of the 120-day waiting period."[24]

Applying the disquisition above, in *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*[25], it was held that "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 period, whichever is sooner."[26]

From the foregoing, it was repeatedly emphasized that **an appeal to a denial of a taxpayer's administrative claim may only be made if such denial was issued within the 120-day period. And when the 120-day period lapses without any decision issued by Respondent, only an appeal to the inaction of respondent may be made.**

The pronouncements made in RMC No. 54-2014 applies to administrative cases filed after June 11, 2014 only. In the present case, the administrative claim for refund was filed on March 11, 2011[27] and petitioner admitted in its Petition for Review before the Court in Division that it submitted the complete documentary requirements in support of its application during the period required.[28]

In the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue,*[29] the Supreme Court *En Banc* held that **in claims for tax credit or refund filed prior to June 11, 2014**, or the issuance of RMC No. 54-2014, **the reckoning point in counting the 120-day period is the date of submission of complete documents.** The Supreme Court held:

> "Thus, the question must be asked: In an administrative claim for tax credit or refund of creditable input VAT, from what point does the law allow the CIR to determine when it should decide an application for refund? Or stated differently: *Under the present law, when should the submission of documents be deemed "completed" for purposes of determining the running of the 120-day period?*
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> Ideally, upon filing his administrative claim, a taxpayer should complete the necessary documents to support his claim for tax credit or refund or for excess utilized VAT. After all, should the taxpayer decide to submit additional documents and

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[24] *Emphasis and underscoring supplied.*
[25] G.R. No. 182737, March 02, 2016.
[26] *Underscoring supplied.*
[27] Petition for Review, paragraph 17, p. 4.
[28] Ibid., paragraph 19, p. 5.
[29] G.R. No. 207112, December 8, 2015.

effectively extend the 120-period, it grants the CIR more time to decide the claim. Moreover, it would be prejudicial to the interest of a taxpayer to prolong the period of processing of his application before he may reap the benefits of his claim. Therefore, *ideally,* the CIR has a period of 120 days from the date an administrative claim if filed within which to decide if a claim for tax credit or refund of excess unutilized VAT has merit.

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Moreover, under Section 112(A) of the NIRC, as amended by RA 9337, a taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must be able to submit his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was "officially received" as provided under RMC No. 49-2003.

To summarize, for the just disposition of the subject controversy, that from the date an administrative claim for excess 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 his 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 his filing, manifest that he no longer wishes to submit any addition *(sic)* 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 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. xxx

On this score, the Court finds that the foregoing issuance cannot be applied retroactively to the case at bar since it imposes new obligations upon taxpayers in order to perfect their administrative claim, that is [1] compliance with the mandate to submit the "supporting document" enumerated under RMC 54-2014 under its "Annex A"; and [2] the filing of "a statement under oath attesting to the completeness of the submitted documents," referred to in RMC 54-2014 as "Annex B." This should not prejudice taxpayers who have every right to pursue their claims in the manner provided by existing regulations at the time it was filed."

As aptly discussed in the assailed Resolution dated June 14, 2019:[30]

"In the case of *Team Energy Corporation vs. Commissioner of Internal Revenue*, the Supreme Court clarified that <u>the mandatory and jurisdictional nature of the 120-30-day rule does not apply on claims for refund that were prematurely field during the interim period from the issuance of the Bureau of Internal Revenue (BIR) Ruling No. DA-489-03 on December 10, 2003 to October 6, 2010 when the Aichi doctrine was adopted.</u> The exemption was premised on the fact that prior to the promulgation of the Aichi decision, there was an existing interpretation laid down in BIR Ruling No. DA-489-03 were the BIR expressly ruled that the taxpayer need not wait for the expiration of the 120-day period before it could seek judicial relief with the CTA. It expounded on the matter in this wise:

> 'BIR Ruling No. DA-489-03 does provide a valid claim for equitable estoppels under Section 246 of the Tax Code. <u>BIR Ruling No. DA-489-03 expressly states that the 'taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review.' Prior to this ruling, the BIR held, as shown by its position in the Court of Appeals, that the expiration of the 120-day period is mandatory and jurisdictional before a judicial claim can be filed.</u>
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> There is no dispute that the 120-day period is mandatory and jurisdictional, and that the CTA does not acquire jurisdiction over a judicial claim that is field before the expiration of the 120-day period. There are, however, two exceptions to this rule. The **first exception** is if the

[30] Resolution dated June 14, 2019, pp. 3-4. Citations omitted.

> **Commissioner, through a specific ruling, misleads a particular taxpayer to prematurely file a judicial claim with the CTA. Such specific ruling, misleads a particular taxpayer to prematurely file a judicial claim with the CTA**. Such specific ruling is applicable only to such particular taxpayer. The second exception is where the Commissioner , through a general interpretative rule issued under Section 4 of the Tax Code, misleads all taxpayers into filing prematurely judicial claims with the CTA. In these cases, the Commissioner cannot be allowed to later on question the CTA's assumption of jurisdiction over such claim since equitable estoppel has set in as expressly authorized under Section 246 of the Tax Code.' (underscoring and emphasis supplied)

RR No. 1-2017 does not fall within either of the exceptions abovementioned as it did not mislead petitioner to file its judicial claim prematurely, as in fact its right to bring the case to Court has already prescribed, as previously elucidated in the Court's Resolution dated January 17, 2019. Further, in the *Mindanao case*, the Supreme Court has held that late filing is absolutely prohibited, even during the time when the BIR Ruling No. DA-489-03 was in force.

In this case, the judicial claim was clearly filed out of time as petitioner's administrative claim was already deemed denied upon the lapse of the 120-day period given for the respondent to decide on the said administrative claim.

As found by the Court, whether counting of the 120-day period to decide be from the day the application was filed, or from the last day allowed for the filing of additional documents, petitioner's right to file its petition before this Court ended in 2011, following RMC No. 49-2003 and the *Pilipinas Total Gas case* (and not RMC No. 54-2014). Thus, regardless of the Denial Letter allegedly issued by respondent, the administrative claim for refund was already deemed denied in the year 2011. Therefore, the Court is correct in ruling that the instant Petition for Review filed only on June 28, 2018 was already filed out of time.

Clearly, there is no reason for the Court to further elucidate on the effect of RR No. 1-2017 on the prescriptive period for filing a judicial claim and consequently, petitioner's appeal as the same finds no application in this case, considering that there was no retroactive application of RMC No. 54-2014 in counting the 120-30-day period provided by law."

The 120-day period commenced to run from the filing of the administrative claim on March 11, 2011. From then, respondent had until July 9, 2011 to act on the administrative claim. Counting 30 days from July 9, 2011, **the Petition for Review should have been filed on or before August 8, 2011. However, the Petition for Review was filed only on June 28, 2018, which is the 30th day after its receipt of the Decision of the CIR.** The petitioner's non-compliance with the mandatory period of 120+30 days is fatal to its claim for refund on the ground of prescription. Accordingly, the Court of Tax Appeals has no jurisdiction over the petitioner's judicial claim for refund.

Well-settled in this jurisdiction is the fact that actions for tax refund, as in this case, are in the nature of a claim for exemption and the law is construed in *strictissimi juris* against the taxpayer. The pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[31] In this case, petitioner was not able to prove that it is entitled to a refund or issuance of a tax credit certificate for its excess input VAT for the period April 1, 2010 to March 31, 2010.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),* [32] the Supreme Court ruled that "it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties.

There being no reversible error committed by the Court in Division, hence, the Court *En Banc* finds no cogent reason to disturb the assailed Resolutions.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Court in Division properly dismissed CTA Case No. 9864 for lack of jurisdiction. Accordingly, the assailed Resolutions dated January 17, 2019 and June 14, 2019 are affirmed.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[31] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.
[32] G. R. No. 188016, January 14, 2015, citing Sea-Land Service, Inc. vs. Court of Appeals, G.R. No. 122605, April 30, 2001.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision have been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice