REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

MITSUBA PHILIPPINES TECHNICAL CENTER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. **10025**

Members:

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
MAY 19 2022 1:49 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner's Motion for Reconsideration[1] (**MR**), filed on 22 November 2021, with respondent's "Comment *Ad Cautelam*"[2], filed *via* registered mail on 29 November 2021[3]. It seeks the reversal and setting aside of this Court's Decision in the above-captioned case dated 06 October 2021[4] (**assailed Decision**). The dispositive portion thereof reads:

> ...
>
> **WHEREFORE,** premises considered, the instant Petition for Review filed on 19 February 2019 by petitioner Mitsuba Philippines Technical Center Corporation is hereby **DENIED** for lack of jurisdiction.
>
> **SO ORDERED.**
>
> ...

---

1 Division Docket, Volume II, pp. 810-817.
2 Id., pp. 820-825.
3 Received on 21 December 2021.
4 Division Docket, Volume II, pp. 791-809.

As the records show, petitioner is seeking the issuance of a tax credit certificate (**TCC**) of its excess and unutilized value-added tax (**VAT**) for the 3rd and 4th quarters of the taxable year (**TY**) 2016 in the aggregate amount of ₱3,265,900.00. The administrative claim covering the said taxable quarters was timely filed on 27 September 2018. However, the present Petition for Review was only filed on 19 February 2019, beyond the thirty (30)-day period allowed by law within which to perfect an appeal of the "deemed denial decision" due to respondent's inaction (upon the expiration of the ninety [90]-day period reckoned from the date of filing of its administrative claim or on 27 September 2018). Thus, the Court dismissed the belatedly filed Petition for Review for lack of jurisdiction.

In its MR, petitioner insists that the 90-day period under Section 112(C) of the National Internal Revenue Code (**NIRC**) of 1997, as amended by Republic Act (**RA**) No. 10963 of the Tax Reform for Acceleration and Inclusion (**TRAIN Law**), be reckoned from 22 October 2018, when the Bureau of Internal Revenue (**BIR**) received the original copies of the official receipts or invoices and other documents in support of its administrative claim.

Petitioner asserts that contrary to the Court's ruling in the assailed Decision, the said 90-day waiting period lapsed on 20 January 2019 (reckoned from 22 October 2018) without respondent's decision on its refund claim. Accordingly, it may still appeal respondent's "deemed denied due to inaction" decision within 30 days therefrom, or until 19 February 2019. On this basis, petitioner maintains that its judicial claim for refund was timely filed on 19 February 2019 and this Court should not have dismissed the same for lack of jurisdiction.

Petitioner further contends that it is not required under the law to submit complete documents upon the filing of an administrative claim for VAT refund or tax credit. The pertinent TRAIN Law provision on the matter has deleted the phrase "complete documents" and merely requires the submission of the official receipts (**ORs**) or invoices and other documents in support of the application in order for the 90-day period to start, without prescribing a specific date therefor.

Lastly, petitioner argues that Revenue Memorandum Circular (**RMC**) No. 54-2014[5], which provides that the application for VAT refund or tax credit must be accompanied by complete supporting documents with a statement under oath attesting to the completeness of said supporting documents, is not applicable to the instant case since the said BIR issuance was issued prior to the effectivity of the TRAIN Law.

On the other hand, in his Comment, respondent maintains that the 90-day period to process and decide claims for VAT refund is reckoned from the date of filing of the claim for refund up to the release of payment of the VAT refund.

Respondent points out that, upon the filing of petitioner's administrative claim on 27 September 2018, petitioner already submitted *copies* of its ORs or invoices and other supporting documents of its application for refund. Further, the duly accomplished Revised Checklist of Mandatory Requirements for Claims for VAT Refund submitted and signed on 27 September 2018 shows that as of the said date, petitioner already submitted the required documents.

Given that petitioner already submitted the complete set of documents necessary to support its VAT refund claim for the 3rd and 4th quarters of TY 2016 as early as 27 September 2018, respondent contends that petitioner's submission of the original copies of such supporting documents on 22 October 2018 did not operate to move the reckoning date of the 90-day period within which respondent may decide on petitioner's administrative claim. Instead, as provided under Revenue Regulations (**RR**) No. 3-88[6], respondent argues that the presentation of the original copies is only for the purpose of cancelling the said invoices/receipts prior to the issuance of a refund.

Respondent likewise echoes the Court's finding that the reckoning point should be the date of submission of complete supporting documents which should coincide with the date of filing of the administrative claim. Accordingly, petitioner's claim is considered "deemed denied" as early as 26 December 2018 (or the expiration of the

---

[5] *Clarifying Issues Relative to the Application for Value-Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended.*

[6] *Revenue Regulations Amending Sections 16 and of Revenue Regulations No. 5-87.*

90-day waiting period reckoned from 27 September 2018) and petitioner had 30 days therefrom, or until 25 January 2019, to appeal the BIR's inaction. And since petitioner's judicial claim was filed only on 19 February 2019, it was filed out of time, and therefore, the Court did not acquire jurisdiction over the same.

We rule below.

After due consideration of the parties' arguments, the Court finds petitioner's MR bereft of merit.

To reiterate for emphasis, in the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[7] (**Total Gas**), the Supreme Court ruled that administrative claims filed on or after 11 June 2014 must follow the requirements set forth in RMC No. 54-2014. The said RMC requires the taxpayer to submit its complete supporting documents together with its administrative claim for input VAT refund/credit. The current rule now forbids the submission of additional documents after the filing of the administrative claim. The relevant portion of the case is hereby quoted, as follows:

> ...
>
> ... As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:
>
> > **The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.**
> >
> > **<u>Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation.</u>** A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The

7 G.R. No. 207112, 08 December 2015; Emphasis in the original text; Underscoring and emphasis supplied.

> application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.

> **Thus, under the current rule, the reckoning of the 120-day [now 90-day] period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.**

> ...

In line with *Total Gas*, the standing rule on the reckoning of the 90-day (previously 120-day) period for administrative claims filed on or after 11 June 2014 is that it starts from the filing of the said claim with the BIR. Any submission of documents made thereafter will not affect the counting of the 90-day (previously 120-day) period since the said submission is now no longer legally permitted.

As cited in the assailed Decision, the above standing rule is consistent with the Supreme Court's declaration in the recent case of *Zuellig-Pharma Asia Pacific Ltd. Phils. ROQH v. Commissioner of Internal Revenue*[8] (**Zuellig-Pharma**), declaring that "the prevailing rule now is that all complete documents are to be submitted upon the filing of the taxpayer's administrative claim for refund".

In this case, petitioner filed its administrative claim for refund or tax credit on 27 September 2018. Even though the BIR received the original copies of the official receipts or invoices and other documents in support of petitioner's administrative claim on 22 October 2018, the same would not affect the reckoning date of the 90-day (previously 120-day) period consistent with the mandate of RMC No. 54-2014[9] and *Total Gas*.

Based on the foregoing, respondent had 90 days (previously 120 days) from 27 September 2018, or until 26 December 2018, to act on petitioner's claim. Since respondent did not act on the claim, petitioner had 30 days after the expiration of the 90-day (previously

---

[8] G.R. No. 244154, 15 July 2020.

[9] Supra at note 5.

120-day) period, or from 27 December 2018 to 25 January 2019, within which to file its judicial claim. Here, the Petition for Review was filed only on 19 February 2019. Clearly, petitioner's judicial claim was belatedly filed.

It is well-settled that the filing of the judicial claim within the 30-day period after the expiration of the 90-day (previously 120-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 Court of Tax Appeals (**CTA**) and, therefore, dismissible, as discussed in the case of *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[10], to wit:

> ...
> **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.**
>
> 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.**
> ...

The Court likewise finds no merit in petitioner's claim that RMC No. 54-2014[11] does not apply to the instant case as it was issued before the effectivity of the TRAIN Law. It must be considered that the pertinent ruling in *Zuellig-Pharma* was promulgated in 2020 when the TRAIN Law was already in effect. Thus, when the Supreme Court declared therein that, for administrative claims filed on 11 June 2014 onwards, the taxpayer-applicants are required to submit all supporting documents together with their administrative claim, such declaration covered claims filed after the effectivity of the TRAIN Law such as the subject VAT refund claim filed by petitioner.

In view of the foregoing, the Court finds no compelling reason to reconsider or modify the assailed Decision.

---

10 G.R. No. 182737, 02 March 2016; Citations omitted, emphasis and underscoring supplied.
11 Supra at note 5.

WHEREFORE, premises considered, the present Motion for Reconsideration, filed by petitioner Mitsuba Philippines Technical Center Corporation on 22 November 2021, is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

LANEE S. CUI-DAVID
Associate Justice