REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

SANKYU-ATS CONSORTIUM-B,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10313

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

OCT 01 2024
3:30 p.m.

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RESOLUTION

RINGPIS-LIBAN, J.

Submitted before this Court is petitioner's **Motion for Reconsideration (to the Decision Promulgated on 18 April 2024)** filed on May 13, 2024, with respondent's **Comment (Re: Petitioner's Motion for Reconsideration dated 13 May 2024)** filed through registered mail on June 6, 2024 and received by the Court on June 14, 2024.

On April 18, 2024, the Court promulgated a Decision dismissing petitioner's claim for refund of its excess and/or unutilized input value-added tax (VAT) credits in the total amount of ₱2,518,170.89 due to the Court's lack of jurisdiction over the said claim, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

In its Motion, petitioner primarily insists that the Court has jurisdiction over the present case since the *notice of non-acceptance due to incomplete documents* issued by the Bureau of Internal Revenue (BIR) is equivalent to a denial of the claim for VAT refund, as required under Section 112 of the National Internal Revenue Code (NIRC) of 1997, as amended. Petitioner argues that considering neither the NIRC nor Revenue Regulations (RR) No. 5-2024, which clarified the rules on tax refunds, required a specific format or title with respect to the decision on an application for VAT refund, the phrase "non-acceptance" and "denial" in the administrative level bears the same context seeing that both subsequently warrants judicial recourse.

Petitioner expounds that it had, on two (2) occasions –specifically, on June 16, 2020 and July 15, 2020, filed an application for VAT refund with Revenue District Office (RDO) No. 98 – Cagayan de Oro City in the amount of ₱2,518,170.89 for excess and/or unutilized creditable input tax incurred during the 1st quarter of taxable year 2018. However, petitioner avers that Revenue Officer Maricel Develos from the said RDO, deemed the documents it submitted as incomplete and, thus, the application was not accepted. Considering that time was clearly of the essence, petitioner submits that the situation necessitates an appeal to the Court of Tax Appeals (CTA) since the kept on rejecting the application for allegedly non-submission of complete documents. Petitioner asserts that it only acted in accordance with what is prescribed by the law when it resorted to judicial recourse after receiving the notice from the BIR, and that it should not be faulted for not knowing the regulations which are merely legal directives in nature.

Petitioner further contends that the customary delegation of functions within BIR offices should also be taken into account by the Court. Petitioner asserts that since the notice of non-acceptance was signed by the Assistant Revenue District Officer and not the Regional Director, as indicated in Revenue Memorandum Circular (RMC) No. 17-2018, the Court erroneously concluded that there was no decision on its application for refund and an appeal with the CTA is premature. Petitioner stresses that in the normal course of tax administration and enforcement, authorities are customarily delegated from one office to another and such delegation often includes the power to sign documents which are likewise issued in the regular performance of duties of the delegating office. As such, petitioner can only surmises that the document it received in relation to its application is from the same authorized government body, as in fact it is, regardless of the specific individual who signed the same.

Lastly, petitioner argues that the imperatives of justice, fairness, and equity necessitate the relaxation of technicalities, especially considering the merits of the case. Petitioner asserts that to deny it the chance to find repose under the bastion of judicial recourse is to defeat the end of justice – that is, to allow petitioner to recover its excess or unused input taxes, a claim which it can allegedly prove to be rightfully due to it only if the higher interest of justice is hearken into.

On the other hand, in his Comment, respondent submits that the Court has no jurisdiction over the present case. Respondent points out that the facts of this case disclosed that on June 16, 2020, petitioner filed its administrative claim for refund, and as early as July 3, 2020, it was already notified that its submission was not accepted for failure to comply with the documentary requirements. However, instead of complying with the documentary requirements it failed to submit, petitioner prematurely filed a petition for review before the CTA, insisting that the non-acceptance letter is the denial letter of respondent. Respondent stresses that the non-acceptance letter was not a letter issued by the Regional Director and, as such, it cannot be the denial from which the Court may take jurisdiction of. Lastly, respondent emphasizes that tax refunds are strictly construed against the taxpayer and in favor of the government.

After due consideration, the Court finds petitioner's Motion for Reconsideration bereft of merit.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly within its jurisdiction.[1] It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[2]

In *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*,[3] the Supreme Court held that the CTA's charter clearly provides, among others, that this Court has exclusive appellate jurisdiction to review respondent's decisions. And, that without any "decision" of the respondent Commissioner of Internal Revenue (CIR) or his duly authorized representative, this Court, as a court of special jurisdiction, acquires no jurisdiction over a taxpayer-claimant's judicial claim for refund, to wit:

> **"The charter of the CTA expressly provides that its jurisdiction is to review on appeal '<u>decisions of the Commissioner of Internal Revenue in cases involving x x x refunds of internal revenue taxes</u>.' When a taxpayer prematurely files a judicial claim for tax refund or credit with the CTA <u>without waiting for the decision of the Commissioner</u>, there is <u>no 'decision'</u> of the Commissioner to review and thus the CTA as a court of special jurisdiction has no jurisdiction over the appeal.** The charter of the CTA also expressly provides that if the Commissioner fails to decide within 'a specific period' required by law, such 'inaction shall be deemed a denial' of the application for tax refund or credit. **It is the**

[1] *Commissioner of Internal Revenue v. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.
[2] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. No. 209830, June 17, 2015.
[3] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

> Commissioner's decision, or inaction 'deemed a denial,' **that the taxpayer can take to the CTA for review. Without a decision or an 'inaction x x x deemed a denial' of the Commissioner, the CTA has no jurisdiction over a petition for review.**" *(Emphases and underscoring added)*

Moreover, RMC No. 17-2018[4] further provides that for regional cases, the power to decide applications or claims for refund of creditable input taxes is delegated to the Regional Director, and the participation of an RDO after the filing of the claim is limited only to *"verification/processing"*. Consistently, for applications or claims for refund of creditable input taxes filed with the concerned RDO, the appealable decision to this Court is not one issued by the corresponding RDO, but by the corresponding Regional Director.

Herein, considering that the subject of the present appeal is the letter dated June 29, 2020 of **Assistant Revenue District Officer** (ARDO) Victoria M. Maandig,[5] not by the Regional Director, the Court maintains its ruling that there is no decision of the CIR or his duly authorized representative to speak of that is appealable to and cognizable by this Court.

Petitioner also cannot escape the consequence of its alleged lack of knowledge as to the proper revenue official authorized to approve/disapprove the claim for VAT refund provided for in RMC No. 17-2018. Petitioner cannot feign ignorance since the law is clear that what is appealable to this Court is the decision of **the Commissioner of Internal Revenue or the Regional Director, as the duly authorized representative**. Petitioner should have exercised due diligence seeing that the subject letter dated June 29, 2020 was only signed by the ARDO, a person who is not authorized to approve/disapprove the claim for VAT refund. It should have consulted with its counsel and/or checked the applicable administrative issuances implementing the law to verify if the same is already appealable to this Court. Indeed, the truism ignorance of the law excuses no one from compliance therewith strengthens this conclusion.[6]

Lastly, it should be stressed that the right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.[7] In sum, considering that the subject of the present appeal is not cognizable by this Court, the present *Petition for Review* must perforce be dismissed.

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[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)," February 27, 2018.

[5] Exhibits "P-9" to "P-10", Docket (Vol. 1), pp. 423 to 427.

[6] Article 3, New Civil Code.

[7] *Boardwalk Business Ventures, Inc. v. Elvira A. Villareal, et al.*, G.R. No. 181182, April 10, 2013.

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on April 18, 2024.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (to the Decision Promulgated on 18 April 2024) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice