REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED- PHILIPPINE ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10258

Members:
DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO *JJ.*

Promulgated:
OCT 0 5 2023 2:00PM

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DECISION

REYES-FAJARDO, *J.*:

The Petition for Review[1] filed on February 13, 2020, by petitioner CITCO International Support Services Limited- Philippine ROHQ, against respondent Commissioner of Internal Revenue, prays that judgment be rendered ordering respondent to refund or issue in favor of petitioner a tax credit certificate (TCC) in the amount of ₱11,992,609.59, representing the latter's alleged input value-added taxes (VAT) on zero-rated sales for the 3rd and 4th quarters of calendar year (CY) 2017.

PARTIES

Petitioner CITCO International Support Services Limited- Philippine ROHQ is a VAT-registered taxpayer, having been issued by the Bureau of Internal Revenue (BIR) a Certificate of Registration

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1 Docket- Vol. I, pp. 6 to 23.

(COR) No. OCN 9RC000553130 by Revenue Region No. 8, Revenue District Office (RDO) No. 50.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) with office address at BIR Building, Diliman, Quezon City where he may be served with summons, processes, orders and notices. [3]

FACTS

On September 30, 2019, petitioner filed with the BIR VAT Credit Audit Division, an Application for Tax Credits/Refunds (BIR Form No. 1914),[4] and a letter dated September 26, 2019,[5] requesting for a refund of its excess and unutilized input VAT, attributable to its zero-rated sales for periods July 1, 2017 to December 31, 2017, in the amount of ₱11,992,609.59.[6]

On January 14, 2020, petitioner received the BIR's Letter dated December 5, 2019, entirely denying its administrative claim for input VAT refund.[7]

On February 13, 2020, petitioner filed its Petition for Review,[8] docketed as CTA Case No. 10258, to which respondent posted his Answer on September 21, 2020.[9]

On February 4, 2021, the Pre-Trial Conference was held.[10]

On February 15, 2021, the parties filed their Joint Stipulation of Facts and Issues,[11] which was approved through Resolution dated

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2 Par. II.a, Stipulation of Facts, *Joint Stipulation of Facts and Issue* (JSFI), Docket - Vol. I, p. 305.

3 Par. I.1, Summary of Admitted Facts, JSFI, Docket - Vol. I, p. 305.

4 Exhibit "P-38," Docket - Vol. I, p. 259.

5 Exhibit "P-39," Docket - Vol. I, pp. 260 to 272.

6 Par. II.b, Stipulation of Facts, JSFI, Docket - Vol. I, pp. 305 to 306.

7 Par. II.c, Stipulation of Facts, JSFI, Docket - Vol. I, p. 306.

8 Docket - Vol. I, pp. 6 to 23.

9 Docket - Vol. I, pp. 79 to 89. Appended in respondent's Motion to Admit Attached Answer, and admitted by the Court, through Resolution dated October 16, 2020.

10 *Notice of Pre-Trial Conference* dated November 5, 2020, Docket - Vol. I, pp. 94 to 96; Minutes of the hearing held on, and Order dated February 4, 2021, Docket - Vol. I, pp. 293 to 295, and 297 to 300, respectively.

February 22, 2021.[12] On the basis thereof, the Court issued a Pre-Trial Order dated May 26, 2021.[13]

During the trial, petitioner presented: (1) Ms. Jocelyn Payuyo,[14] petitioner's Senior Financial Controller; and (2) Atty. Edward M. Menor,[15] the Court-commissioned Independent Certified Public Accountant (ICPA),[16] as its witnesses.

On October 27, 2021, petitioner filed its Formal Offer of Evidence,[17] without Comment from respondent.[18]

By Resolution dated April 28, 2022,[19] the pieces of evidence offered by petitioner were admitted, *except* for Exhibits "P-581" and "P-639," for not being found in the records of this case. Petitioner rested its case.

In the hearing held on June 28, 2022, respondent Revenue Officer (RO) Jan Kevin S. Bautista[20] as his sole witness.

On June 29, 2021, respondent filed his Formal Offer of Evidence, [21] to which petitioner filed its Comment (to Respondent's Formal Offer of Evidence) on July 8, 2022.[22]

By Resolution dated August 5, 2022,[23] the pieces of evidence offered by respondent were admitted.

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11 Docket - Vol. I, pp. 305 to 313.

12 Docket - Vol. I, p. 316.

13 Docket - Vol. I, pp. 360 to 376

14 Exhibits "P-43" and "P-43-A", Docket - Vol. I, pp. 130 to 148; Minutes of the hearing held on, and Order dated, May 18, 2021, Docket - Vol. I, pp. 345 to 351.

15 Exhibits "P-45" and "P-45-a", Docket - Vol. I, pp. 403 to 414; Minutes of the hearing held on, and Order dated, July 27, 2021, Docket - Vol. I, pp. 494 to 500.

16 *Oath of Commission* posted May 18, 2021, Docket - Vol. I, p. 355; Minutes of the hearing held on, and Order dated, May 18, 2021, Docket - Vol. I, pp. 345 to 353.

17 Docket - Vol. II, pp. 712 to 742.

18 Per Records Verification dated February 28, 2022, Docket - Vol. II, p. 750.

19 Docket - Vol. II, pp. 756 to 758.

20 Exhibits "R-4" and "R-4-A", Docket - Vol. I, pp. 104 to 109; Minutes of the hearing held on, and Order dated, June 28, 2022, Docket - Vol. II, pp. 759 to 761 and 762-A to 762-B, respectively.

21 Docket - Vol. II, pp. 763 to 767.

22 Docket - Vol. II, pp. 768 to 771.

23 Docket - Vol. II, pp. 774 to 775.

In the Resolution dated October 6, 2022,[24] this case was submitted for decision, considering the respective filing of respondent's Memorandum[25] on August 15, 2022 and Memorandum for Petitioner[26] on September 19, 2022.

ISSUE

Is petitioner entitled to a refund in the amount of ₱11,992,609.59 representing unutilized input VAT attributable to zero-rated sales for the 3rd and 4th quarters of CY 2017?[27]

ARGUMENTS

Petitioner argues that its claim for refund of excess and unutilized input VAT attributable to its zero-rated sales for the 3rd and 4th quarters of CY 2017 should be granted because: (a) its export sales of services to its non-resident foreign affiliates in the 3rd and 4th quarters of CY 2017 are VAT zero-rated; (b) its zero-rated sales of services for CY 2017 are properly supported by VAT official receipts and billing invoices in compliance with the invoicing requirements provided under the 1997 National Internal Revenue Code (NIRC), as amended, and its implementing rules; (c) its zero-rated sales of services for CY 2017 were properly reported in petitioner's VAT returns; (d) the input VAT incurred by petitioner are duly paid and have not been applied against output taxes during and in the succeeding quarters; (e) the payment for petitioner's services was made in acceptable foreign currency duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas*; and (f) its judicial claim was filed on time.

In repudiation, respondent counters that petitioner is not entitled to the claim for refund of its unutilized input VAT attributable to zero-rated sales for the 3rd and 4th quarters of CY 2017 because: (a) petitioner failed to substantiate its administrative claim for refund; and (b) claims for refund are strictly construed against petitioner for the same partake the nature of tax exemption.

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24 Resolution dated October 6, 2022, Docket- Vol. unpaged.
25 Docket - Vol. II, pp. 776 to 783.
26 Docket - Vol. II, pp. 785 to 809.
27 See Issue/s to be Tried or Resolved, Pre-Trial Order, Docket - Vol. I, p. 373.

RULING

The Petition for Review deserves outright dismissal.

The Court's jurisdiction over refund cases is found in Section 7(a)(1) and (2) of RA No. 1125,[28] as amended by RA No. 9282, which provides:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions of 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;
>
> 2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations 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 of action, in which case the inaction shall be deemed a denial;
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> ...

Section 3(a)(1) and (2), Rule 4 of the Revised Rules of the Court of Tax Appeals[29] explained that the Court in Division has jurisdiction over the decision or inaction of respondent, involving refund of internal revenue taxes, among others.[30] Specifically, before the Court

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28 An Act Creating the Court of Tax Appeals

29 A.M. 05-11-07-CTA.

30 SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal the following:
(1) Decisions of 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;

(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 or other applicable law provides a specific period for action: ...

in Division may exercise its jurisdiction over unutilized input VAT refund cases, Section 112(C) of NIRC, as amended by Republic Act (RA) No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion Law (TRAIN) must be strictly observed, which reads as follows:

> ***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 ninety (90) days 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.
>
> **In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days 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.[31]

Pertinently, *Energy Development Corporation v. Commissioner of Internal Revenue* (EDC)[32] held that "the recent amendment (TRAIN) to Section 112 (C) finally removed the confusion on the reckoning period for judicial claims by legislating a singular action for the CIR to decide on the administrative claim for input VAT tax credit or refund *within* a period of ninety (90) days."

EDC ordained that respondent is obligated by law to decide or act on the claimant's administrative claim for input VAT refund *within* (90) days from the date of submission of the official receipts or invoices and other documents in support of the application. Said action, too, must be received by the taxpayer-claimant within said period. Revenue Memorandum Circular No. 17-2018[33] confirmed:

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31 Boldfacing supplied.

32 G.R. No. 203367, March 17, 2021. Italics supplied.

33 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

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

A. General Policies

...

5. ...

> **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 of Internal Revenue (CIR)/Deputy Commissioner - Operations Group (DCIR - OG)/ Assistant Commissioner (ACIR)/Regional Director, as the case may be.[34]

Indeed, the Bureau of Internal Revenue (BIR) has ninety (90) days from date of submission of complete supporting documents, to decide on the claimant's administrative claim for input VAT refund. At present, supporting documents are deemed complete upon the filing the refund claimant's administrative claim for input VAT refund.[35] In turn, there are two (2) ways by which a claimant may invoke the Court in Division's jurisdiction: *one,* through a Petition for Review, filed within thirty (30) days from the receipt of the BIR's adverse decision rendered within said ninety (90)-day period; *or two,* through a Petition for Review, filed within thirty (30) days after the lapse of such ninety (90)-day period, whichever comes earlier. In other words, save for the reduction of the BIR's period to act on an administrative claim for input VAT refund, *i.e.,* from 120 to 90 days, *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[36] remains good case-law to date:

> **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.**

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 Tax Reform for Acceleration and Inclusion (TRAIN).

34 Boldfacing supplied.

35 See *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue,* G.R. No. 244154, July 15, 2020. Beginning June 11, 2014, or upon effectivity of RMC No. 54-2014, the documents are deemed complete upon filing of the claimant's administrative claim for input VAT refund.

36 G.R. No. 182737, March 2, 2016.

> 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.[37]

On the strength of the above observations, the judicial claim for input VAT refund was belatedly filed by petitioner. Specifically, petitioner filed its administrative claim for input VAT refund for the 3rd and 4th quarters of CY 2017, as well as its supporting documents on September 30, 2019.[38] Counting ninety (90) days therefrom, the BIR had until December 29, 2019 to decide on said administrative claim. As no BIR adverse decision was received by respondent as of December 29, 2019,[39] the law considered such administrative claim as denied. Counting another thirty (30) days from December 29, 2019, respondent had until January 28, 2020 to seek judicial redress. *Ergo,* petitioner's belated filing of its Petition for Review on February 13, 2020 deprived the Court of jurisdiction over CTA Case No. 10258.

In fine, a claim for unutilized input value-added tax is in the nature of a tax exemption. Thus, strict adherence to the conditions prescribed by the law is required of the taxpayer.[40] Petitioner failed in this regard.

WHEREFORE, the Petition for Review, filed on February 13, 2020, is **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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37 Boldfacing supplied.

38 Exhibit "P-39," Docket – Vol. I, pp. 260-272.

39 The BIR's decision (Exhibit "P-8") on petitioner's input VAT refund claim for the for the period covering the 3rd and 4th quarters of CY 2017 was received by the latter on January 14, 2020, or outside the ninety (90)-day period under Section 112(C) of the NIRC, as amended by TRAIN.

40 See *STEAG State Power, Inc. (formerly State Power Development Corporation) vs. Commissioner of Internal Revenue,* G.R. No. 205282, January 14, 2019 (Resolution on Motion for Reconsideration).

We Concur:

(With due respect, see Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED – PHILIPPINE ROHQ, Petitioner,	**CTA CASE NO. 10258**
	Members: **DEL ROSARIO**, *P.J., Chairperson*, **MANAHAN**, and **REYES-FAJARDO**, *JJ.*
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 05 2023 2:00PM

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DISSENTING OPINION

***DEL ROSARIO, P.J.*:**

With utmost respect, I am constrained to grant my assent to the *ponencia*. I submit that the Court has jurisdiction over the present Petition for Review.

Prior to the enactment of Republic Act (RA) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law, Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, reads:

> "SEC. 112. *Refunds or Tax Credits of Input Tax*. – x x x
>
> (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).
>
> 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

on

> day-period, **appeal the decision or the unacted claim with the Court of Tax Appeals**." (*Boldfacing supplied*)

In construing the aforequoted provision, the Supreme Court opined that the thirty (30)-day period within which an appeal may be made commences **either** from receipt of the denial of the claim for refund or tax credit **OR** after the expiration of the 120-day period within which the Commissioner of Internal Revenue (CIR) is mandated to act on the claim, whichever comes first. Said the Supreme Court in *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue* ("*Silicon*"):[1]

> "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." (*Boldfacing supplied*)

With the enactment of the TRAIN Law, Section 112(C) of the NIRC of 1997, as amended, now reads:

> "SEC. 112. *Refunds or Tax Credits of Input Tax*. – x x x
>
> (C) *Period within which Refund or Tax Credit of Input Taxes shall be Made*. - In proper cases, the Commissioner shall grant a refund for creditable input taxes within **ninety (90) days** 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.
>
> In case of full or partial denial of the claim for tax refund, **the taxpayer affected may, within thirty (30) days 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 ninety (90) days period shall be punishable under Section 269 of this Code." (*Boldfacing supplied*)

At once glaring is the fact that under the TRAIN Law, **the reckoning of the thirty (30)-day period within which an appeal to the Court of Tax Appeals (CTA) may be made specifies only one circumstance**, that is – from receipt of the decision of the CIR denying the claim for tax refund. The provision, as worded, does not give the taxpayer the privilege to appeal the inaction of the CIR to act on the administrative claim within the prescribed period.

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[1] G.R. No. No. 182737, March 2, 2016.

In this case, a careful perusal of the records reveals that petitioner timely appealed the decision denying its administrative claim for refund.

From the simultaneous filing of the administrative claim and submission of official receipts, invoices and supporting documents on **September 30, 2019**, respondent had ninety (90) days therefrom, or until **December 29, 2019**, within which to decide the refund claim. The failure of the concerned BIR official to act on the claim simply exposed said official to criminal liability under Section 269 of the NIRC of 1997, as amended.

On **January 14, 2020**, petitioner received a Letter dated December 5, 2019, which denied the administrative claim. Thus, it had thirty (30) days from receipt of said Letter, or until **February 13, 2020**, within which to file the judicial claim.

Considering that the present Petition for Review was filed on **February 13, 2020**, the same was filed within the prescribed period and the Court has jurisdiction to decide this case.

I am not unaware of Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, which reads as follows:

> "SEC. 7. *Jurisdiction*. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> x x x
>
> 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 <u>specific period of action</u>, in which case the inaction shall be <u>deemed a denial</u>**; x x x" (*Boldfacing and underscoring supplied*)

The above-cited provision of RA No. 1125, as amended, grants jurisdiction to the CTA when: (i) there is a "specific period of action" given to the CIR within which to decide an administrative claim for refund; and, (ii) the CIR fails to act on the refund claim within the said period. The inaction of the CIR shall be deemed a denial of the refund claim, and the taxpayer may appeal said inaction within the thirty (30)-day period reckoned from the lapse of the specific period.

Section 7(a)(2) of RA No. 1125, as amended, is a **general provision** on modes of appeal applicable to inactions of the CIR, including: (a) refunds of taxes, fees and charges, as provided in Section 229 of the NIRC of 1997, as amended; (b) assessment cases under Section 228 of the NIRC of 1997, as amended; and, (c) "other matters" arising from the NIRC of 1997, as amended, and laws administered by the BIR.

On the other hand, the procedure on appeal under Section 112(C) of the NIRC of 1997, as amended, is confined solely to cases involving claims for refund of unutilized input VAT attributable to zero-rated sales.

In *Department of Energy vs. Court of Tax Appeals*,[2] the Supreme Court elucidated on the difference between a special law and general law, and the interpretative rule when faced with such statutes, *viz.*:

> "The Court has defined a general law as 'a law which applies to all of the people of the state or to all of a particular class of persons in the state, with equal force and obligation.' x x x [I]t was also described as 'one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class.' On the other hand, a special law is one which 'applies to particular individuals in the state or to a particular section or portion of the state only' and which 'relates to particular persons or things of a class.' As the Court has consistently held, **where there are two laws which appear to apply to the same subject and where one law is general and the other special, the law specially designed for the particular subject must prevail over the other. Stated more simply, the special law prevails over the general law**. *Generalia specialibus non derogant.*" (*Boldfacing supplied*)

At any rate, even assuming that an appeal upon the expiration of the ninety (90)-day period may be allowed, still, such legal scenario **does not preclude a taxpayer from interposing an appeal from receipt of the decision of the CIR, which is clearly consistent with Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law**.

Section 7(a)(2) of RA No. 1125, as amended, only grants upon this Court jurisdiction over inactions by the CIR involving refund claims

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[2] G.R. No. 260192, August 17, 2022.

when the latter fails to observe the ninety (90)-day period, albeit there is nothing in said provision that mandates the taxpayer to file an appeal within said period lest it loses the right to appeal. **An appeal upon the lapse of the ninety (90)-day period is thus a mere option on the part of the taxpayer. In this case, such option was not exercised by petitioner, as it elected to file the judicial claim before this Court within thirty (30) days from receipt of the ruling on the administrative claim** pursuant to Section 112(C) of the NIRC of 1997, as amended.

It is a rule in statutory construction that an amendment by the deletion of certain words or phrases indicates an intention to change the statutory meaning.[3] With the substantial amendments introduced by the TRAIN Law, Congress intended to change the reckoning period of appeal as provided in Section 112(C) of the NIRC of 1997, as amended. Thus, the *ponencia*'s invocation of *Silicon* is misplaced considering that said case was decided under the aegis of Section 112(C) **prior** to its amendment by the TRAIN Law.

ALL TOLD, I *VOTE* for the Court to assume jurisdiction and proceed with the determination on the merits of petitioner's claim for refund of unutilized input tax.

ROMAN G. DEL ROSARIO
Presiding Justice

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[3] *Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH) vs. St. Vincent de Paul Colleges, Inc.*, G.R. No. 192908, August 22, 2012.