REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ZUELLIG PHARMA ASIA PACIFIC LTD. PHILS. ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1656
(CTA Case No. 8899)

Present:
DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
FABON-VICTORINO,
MINDARO-GRULLA,
RINGPIS-LIBAN, *and*
MANAHAN, *JJ.*

Promulgated:
JAN 21 2019 3:45 p.m.

x- x

DECISION

RINGPIS-LIBAN, *J.*:

The Case

Before the Court is a Petition for Review seeking the nullification of the Decision[1] ("Assailed Decision") dated March 09, 2017 and Resolution[2] ("Assailed Resolution") dated May 09, 2017 of the Court of Tax Appeals Second Division ("Second Division"), dismissing for lack of jurisdiction Petitioner's claim for refund or issuance of a Tax Credit Certificate ("TCC") in the amount of Php39,931,971.21, representing its alleged excess and unutilized input tax attributable to its zero-rated sales for the calendar year ("CY") 2010.

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1 Penned by Associate Justice Juanito C. Castañeda, Jr., with Associate Justice Caesar A. Casanova concurring and Associate Justice Catherine T. Manahan dissenting. Docket, pp. 722-754.

2 *Id.*, pp. 785-795.

The Facts

The facts as found by the Second Division are as follows:

"Petitioner is the regional operating headquarters (ROHQ) of Zuellig Pharma Asia Pacific Ltd., a foreign corporation duly organized and existing under the laws of Hong Kong. Petitioner's office is located at the 27th Floor, Philippine AXA Life Centre, Sen. Gil Puyat Avenue cor. Tindalo Street, Makati City.

Petitioner was licensed by the Securities and Exchange Commission (SEC) to do business as an ROHQ in the Philippines on December 4, 2001, pursuant to the Omnibus Investments Code of 1987, as amended by Republic Act No. 8756, and its implementing rules and regulations, to engage in the business development, general administration and planning, sourcing of IT components and services, marketing control, sales promotion, training, technical support and maintenance.

Petitioner is registered with the BIR as a VAT taxpayer in accordance with Section 236 of the National Internal Revenue Code of 1997, as amended (1997 NIRC) with Tax Identification No. 215-025-090-000.

On the other hand, [R]espondent is the duly appointed Commissioner of Internal Revenue (CIR) empowered to perform the duties of said office including, among others, the power to decide, approve, and grant claims for refund or tax credit of erroneously or excessively paid taxes, as provided by law. [H]e may be served with summons, pleadings, and other processes of this Court at her office located at the 5th Floor, Bureau of Internal Revenue (BIR) National Office Building, BIR Road, Diliman, Quezon City.

Petitioner filed its original Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of CY 2010 with the BIR on the following dates through the BIR's Electronic Filing and Payment System (EFPS):

Taxable Quarter	Date of Filing of Return
1st	April 22, 2010
2nd	July 21, 2010
3rd	October 20, 2010
4th	January 20, 2011

On the following dates, [P]etitioner electronically filed with the BIR its amended Quarterly VAT Returns (BIR Form No. 2550-Q) for the 1st to 4th quarters of CY 2010:

Taxable Quarter	Date of Filing of Return
1st	February 15, 2011
2nd	February 15, 2011
3rd	February 15, 2011
4th	February 15, 2011

On February 17, 2011, [P]etitioner filed with the BIR, Revenue District Office (RDO) No. 49 an administrative claim for refund, with attached Application for Tax Credits/Refunds (BIR Form No. 1914), requesting the refund of its excess and unutilized input VAT for the four quarters of CY 2010 in the total amount of [Php]39,931,971.21.

On March 3, 2011, [P]etitioner received from the BIR Letter of Authority (LOA) No. eLA201000037096 authorizing Revenue Officer Joaquin Tinio and Group Supervisor Socrates Regala to examine [P]etitioner's books of accounts and other accounting records for VAT for the period covering January 1, 2010 to December 31, 2010, in connection with [P]etitioner's administrative claim for refund of excess and unutilized input VAT for the four quarters of CY 2010.

On June 29, 2011, [R]espondent requested the presentation of the Company's records and the submission of supporting documents in relation to its administrative claim for refund of excess and unutilized input VAT.

Accordingly, on July 5, 2011, [P]etitioner submitted the requested documents to the BIR. Petitioner likewise submitted additional documents in support of its administrative claim for refund on the following dates:

- May 8, 2012;
- July 25, 2012;
- December 6, 2012;
- September 11, 2013;
- December 5, 2013; and
- April 29, 2014

> In its letter dated April 29, 2014, [P]etitioner manifested that it has already submitted the complete supporting documents for its administrative claim for refund of excess and unutilized input VAT for the four quarters of CY 2010.
>
> Due to [R]espondent's inaction on [P]etitioner's administrative claim for refund, [P]etitioner filed the present Petition for Review before this Court on September 25, 2014."[3]

The Ruling of the Second Division

On March 09, 2017, the Second Division promulgated the Assailed Decision dismissing the Petition for Review, the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **DENIED** for lack of jurisdiction.
>
> **SO ORDERED.**"[4]

Aggrieved, Petitioner filed a "Motion for Reconsideration (Re: Decision dated March 9, 2017)"[5] on March 27, 2017, which the Second Division denied in the Assailed Resolution on May 09, 2017, thus:

> "**WHEREFORE**, [P]etitioner's Motion for Reconsideration is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[6]

On May 25, 2017, Petitioner filed a "Motion for Extension of Time to File Petition for Review"[7], which the Court granted in a Resolution dated May 30, 2017.[8]

On June 08, 2017, Petitioner filed the present "Petition for Review".[9]

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[3] *Id.*, pp. 723-725.
[4] *Id.*, p. 748.
[5] *Id.*, pp. 755-775.
[6] *Id.*, p. 794.
[7] Rollo, pp. 1-6. Record shows that Petitioner received the Assailed Resolution on May 11, 2017; Docket, p. 784.
[8] Rollo, p. 7.
[9] *Id.*, pp. 20-47.

On July 25, 2017, the Court issued a Resolution[10] which ordered Respondent to submit the original or certified true copy of the Certification authorizing Ana Liza A. Peralta to sign the verification and certification of non-forum shopping, within ten (10) days from receipt. Petitioner filed on August 17, 2017 its "Manifestation and Compliance"[11], attaching thereon the original consularized and authenticated copy of the Certification dated June 12, 2017 which authorized Ana Liza A. Peralta to sign the verification and certification of non-forum shopping.

On September 13, 2017, the Court issued a Resolution[12] which noted the "Manifestation and Compliance" of Petitioner, and ordered Respondent to comment on the Petition for Review.

On October 25, 2017, a Records Verification Report was issued by the Judicial Records Division stating that Respondent failed to file a comment on the Petition for Review.[13]

On November 29, 2017, the Court issued a Resolution[14] giving due course to the Petition for Review and which ordered the parties to file their respective memoranda within thirty (30) days from notice.

On January 16, 2018, Respondent filed his "Memorandum"[15].

Petitioner on the other hand filed a "Motion for Extension of Time to File Memorandum"[16] which the Court granted in a Resolution[17] dated February 12, 2018. On February 26, 2018, Petitioner filed its "Memorandum"[18].

On March 15, 2018, the Court issued a Resolution[19] submitting the case for decision.

The Issues

Petitioner raises the following grounds in support of its petition:

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[10] *Id.*, pp. 101-102.
[11] *Id.*, pp. 103-109.
[12] *Id.*, pp. 111-112.
[13] *Id.*, p. 113.
[14] *Id.*, pp. 115-116.
[15] *Id.*, pp. 117-123.
[16] *Id.*, pp. 124-126.
[17] *Id.*, p. 127.
[18] *Id.*, pp. 128-155.
[19] *Id.*, pp. 156-157.

1) Petitioner timely filed its judicial claim for refund or issuance of TCC within the period prescribed under Section 112(C), Tax Code;

2) The case of *Pilipinas Total Gas* has been erroneously applied in this case; and

3) Respondent is estopped from questioning the jurisdiction of the CTA Division over Petitioner's judicial claim for refund or issuance of TCC.[20]

The Ruling of the Court

The petition is bereft of merit.

At the outset, Petitioner presents no new argument to persuade Us that it has a meritorious case. It merely reiterates the arguments it raised in its Motion for Reconsideration which have been extensively addressed by this Court in the Assailed Resolution. Needless to state, the issue of jurisdiction over Petitioner's judicial claim for input VAT refund has already been laid to rest in the Assailed Decision and Assailed Resolution. Nevertheless, we will discuss at length, once again, the demerits of Petitioner's arguments which may serve as a guidepost in deciding issues of similar nature in the future.

Under the law, a taxpayer is given the remedy of refund in case of unutilized input VAT. The filing of a claim however, is subject to two (2) time requirements: (a) the two-year prescriptive period for filing an application for refund or credit of unutilized input VAT (*i.e.*, administrative claim); and (b) the 30-day period for filing an appeal with this Court (*i.e.*, judicial claim).

For clarity and reference, Sections 112(A) and (C) of the National Internal Revenue Code ("NIRC") of 1997, as amended, are reproduced below:

> "SEC. 112. **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, **<u>within two (2) years after the close of the taxable quarter when the sales were made</u>, 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

[20] *Id.*, p. 26.

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 of 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.

xxx xxx xxx

(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 <u>from the date of submission of complete documents</u> in support of the application filed** in accordance with Subsections (A) hereof.

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, <u>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.</u>"[21]

Pursuant to the above-quoted Section 112(A), the administrative claim for the issuance of TCC or refund of input VAT must be filed with the Bureau of Internal Revenue ("BIR") within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made. Correspondingly, Petitioner's last day for filing of its administrative claim for the four (4) quarters of CY 2010 fell on the following dates:

Period covered	Last day of the Two-year period
January to March 2010 (1st Quarter)	March 31, 2012
April to June 2010 (2nd Quarter)	June 30, 2012
July to September 2010 (3rd Quarter)	September 30, 2012
October to December 2010 (4thQuarter)	December 31, 2012

[21] *Emphasis and underscoring supplied.*

Petitioner filed its administrative claim for the refund or issuance of a TCC in the amount of Php39,931,971.21 with the BIR Revenue District Office No. 49 on February 17, 2011. Evidently, Petitioner's administrative claim was filed well within the two-year prescriptive period.

Anent the timeliness of the judicial appeal, the rule is that the taxpayer can file the appeal in one of two (2) ways:

1) file the judicial claim within thirty days after the Commissioner denies the claim within the one hundred twenty-day period ("120-day period"), counted from the date of submission of complete documents, or

2) file the judicial claim within thirty (30) days from the expiration of the 120-day period ("120 + 30 days") if the Commissioner does not act within the one hundred twenty-day period.[22]

Petitioner insists that contrary to the Court in Division's ruling, the 120-day period did not start on July 05, 2011 for there were additional documents submitted on various succeeding dates in compliance to the BIR's continued requests. Petitioner contends that it is for the taxpayer to determine whether or not the documents it had submitted are already complete, as was ruled in *Team Sual Corporation v. Commissioner of Internal Revenue*[23] ("*Team Sual Corporation*"). Consequently, the reckoning date of the 120-day period should be counted from April 29, 2014 when it submitted its last transmittal to the BIR assessment service and signified that it had submitted complete documents.

Petitioner also argues that it cannot be faulted when in good faith, it exercised due diligence in complying with all the requests of Respondent. Moreover, Respondent entertained the application for refund even after one thousand one hundred ten (1,110) days[24] when Respondent assured Petitioner that the processing of the same will be made within the 120-day period.

Lastly, Petitioner avers that Respondent is estopped from questioning the jurisdiction of the Court *a quo* over its judicial claim for refund or issuance of TCC. This is because Respondent did not consider the 120-day period to run from July 05, 2011.

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22 Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership, G.R. No. 191498, January 15, 2014 *citing* Commissioner of Internal Revenue v. San Roque Power Corporation, G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

23 CTA EB Nos. 649 and 651, Resolution dated March 21, 2012 *cited* in Chevron Holdings, Inc. v. Commissioner of Internal Revenue, CTA Case No. 8436, October 22, 2014.

24 Days between the filing of the Application for Refund on February 17, 2011 and the Letter dated March 12, 2014 from Deputy Commissioner Nestor Aspe.

The 120-day period is said to be crucial in filing a judicial appeal. In order for the Court to conclude that there is an administrative "denial due to inaction" of Respondent during the 120-day period, the correct reckoning point of the 120-day period is imperative. In this regard, We agree with the Second Division that the pronouncement of the High Tribunal in the case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[25] ("*Pilipinas Total*") is squarely applicable to the present case. As in *Pilipinas Total Gas*, the question involved here is when should the submission of supporting documents (to the administrative claim) be deemed completed, for purposes of determining the running of the 120-day period.

In *Pilipinas Total Gas*, the High Court emphatically ruled as follows –

> "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 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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> xxx xxx xxx
>
> If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Notice, by way of a request from the tax collection authority to produce the complete documents in these cases, became essential.** It is only upon the submission of these documents that the 120-day period would begin to run.
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> xxx xxx xxx
>
> Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.**

[25] G.R. No. 207112, December 29, 2015.

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, the rule is 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 other addition 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 also 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*..."[26]

Pursuant to *Pilipinas Total Gas* above, for claims filed before June 11, 2014, or prior to the effectivity of Revenue Memorandum Circular ("RMC") No. 54-14, the rules provided under RMC No. 49-2003 in relation to Section 112 of the NIRC of 1997, as amended, shall apply. Thus, Petitioner had thirty (30) days from the time of filing of its administrative claim for tax credit or refund to submit all the required supporting documents. If in the course of the investigation, additional documents are required, the BIR must inform Petitioner of the need to submit additional documents through a notice, and Petitioner shall

[26] *Emphasis supplied; Underscoring and Italicize not ours.*

have thirty (30) days to comply. Upon completion of all required documents, the 120-day period shall commence; but in all cases, all filings and submissions must be completed within the two-year period under Section 112(A) of the NIRC of 1997, as amended.

In this connection, the Second Division found the following facts to have been established by the evidence:

> "In the present case, it was established that on June 29, 2011, [R]espondent requested the presentation of [P]etitioner's company records and the submission of supporting documents in relation to [P]etitioner's administrative claim for refund of excess and unutilized input VAT for CY 2010.
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> On July 5, 2011, or six (6) days from date of [R]espondent's request, [P]etitioner submitted additional supporting documents.
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> However, it was likewise established that after the lapse of three hundred eight (308) days from the foregoing submission, [P]etitioner made subsequent submissions of additional documents on the following dates:
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> - May 8, 2012;
> - July 25, 2012;
> - December 6, 2012;
> - September 11, 2013;
> - December 5, 2013; and
> - April 29, 2014."[27]

This Court notes that no notices as required in *Pilipinas Total Gas* were received by Petitioner when it made the subsequent submissions of documents after July 05, 2011. Hence, the said submissions did not toll the running of the 120-day period. Besides, some of the alleged request for additional documents made by the revenue officers to Petitioner and the subsequent compliance therewith were made beyond the 120-day period. Thus, We agree with the Court *a quo* that the 120-day period within which Respondent should act on the administrative claim shall be reckoned from July 05, 2011, when Petitioner submitted additional documents in response to Respondent's request dated June 29, 2011.

For a better appreciation of the timeline, below is a table of the pertinent dates:

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[27] Docket, pp. 746-747.

Year	Date of Filing the Administrative Claim	Date of Notice for Submission of Documents[28]	Additional Submission of Documents	End of the 120-Day Period	End of the 30-Day Period to File with the CTA
2010	February 17, 2011	June 29, 2011	July 5, 2011, May 8, 2012, December 6, 2012, September 11, 2013, December 5, 2013 and April 29, 2014	November 02, 2011[29]	December 02, 2011

Evidently, Petitioner belatedly filed its Petition for Review with the Second Division on September 25, 2014. The Court in Division did not acquire jurisdiction.

Time and again, it has been held that decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.[30] In this regard, this Court can only apply the law as ruled upon and/or interpreted by the High Court. We have no other option but to abide by the ruling of the Supreme Court in the cases above-mentioned regarding the interpretation of Section 112(C) of the NIRC of 1997, as amended.[31]

Moreover, as was ruled by the Court *a quo* – "while it is true that it is the taxpayer who ultimately determines when complete documents have been submitted for purposes of commencing and continuing the running of the 120-day period, such discretion is not absolute and is subject to limitations as comprehensively discussed by the Supreme Court in *Pilipinas Total Gas*."[32]

Further, Petitioner cannot invoke the Resolution rendered in the case of *Team Sual Corporation* because it was declared in no uncertain terms in *Commissioner of Internal Revenue v. San Roque Power Corporation*[33] that decisions of this Court do not constitute as binding precedents, to wit:

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28 Formal Notices sent by Respondent as enunciated in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 29, 2015.
29 Considering that there was only one (1) notice sent by Respondent as enunciated in *Pilipinas Total*, the additional submissions by Petitioner did not move the commencement of the 120-day period to a later date.
30 Visayas Geothermal Power Company v. Commissioner of Internal Revenue, G.R. No. 197525, June 4, 2014.
31 Commissioner of Internal Revenue v. San Roque Power Corporation, G.R. Nos. 187485, 196113 and 197156, February 12, 2013 *citing* The Philippine Veterans Affairs Office v. Brigida V. Segundo, G.R. No. L-51570, August 15, 1988.
32 Docket, p. 794.
33 G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

> "Suffice it to state that CTA decisions do not constitute precedents, and do not bind this Court or the public. That is why CTA decisions are appealable to this Court, which may affirm, reverse or modify the CTA decisions as the facts and the law may warrant. Only decisions of this Court constitute binding precedents, forming part of the Philippine legal system."

Considering that only decisions of the Supreme Court can be cited as binding precedents, Petitioner's reliance on the decisions and resolutions of this Court, is clearly misguided, if not misplaced.

Lastly, Petitioner's argument that Respondent should be deemed estopped from questioning the Court's jurisdiction due to the alleged representation by the BIR Deputy Commissioner that they would exert all the necessary effort to ensure the timely processing of Petitioner's VAT claim within the 120-day period, must perforce fail.

The Court *En Banc* agrees with the Second Division in disposing the issue in the following fashion –

> "Jurisdiction over the subject matter 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. Consequently, questions of jurisdiction may be raised at any stage of the proceedings, even for the first time on appeal.
>
> In the leading case of *Tijam v. Sibonghanoy*, the Supreme Court carved out an exception to the foregoing rule by holding that a party may be barred from raising issue regarding the court's jurisdiction on the ground of laches or estoppel....
>
> xxx xxx xxx
>
> In *Celia S. Vda. De Herrera v. Bernardo*, the Supreme Court, citing the previous case of *Regalado v. Go*, emphasized that laches should be clearly present for the Sibonghanoy doctrine to apply....
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> xxx xxx xxx
>
> The Court notes that the facts of the present case are substantially different from that in the *Sibonghanoy* case. Hence, there is no basis for the application of the doctrine laid down by the Supreme Court therein in the present case.

At any rate, it is well-settled that the government cannot be estopped by the mistakes, errors or omissions of its agents...."[34]

Considering all these pronouncements, Petitioner's judicial claim for the aforementioned quarters was filed way beyond the mandatory 120 + 30 days to seek judicial recourse. A claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. Strict compliance with the 120 + 30 day periods is necessary for such a claim to prosper.[35]

Such non-compliance with the said mandatory period of 120 + 30 days is fatal to Petitioner's claim of refund on the ground of prescription, resulting in the Second Division's lack of jurisdiction over the said judicial claim.

WHEREFORE, premises considered, the Petition for Review is **DISMISSED** for lack of jurisdiction. The Decision dated March 09, 2017 and the Resolution dated May 09, 2017 of the Second Division in CTA Case No. 8899 are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

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[34] Docket, pp. 790-793.

[35] Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (now TeaM Energy Corporation), G.R. No. 180434, January 20, 2016 *citing* Commissioner of Internal Revenue v. San Roque Power Corporation, G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(I reiterate my Dissenting Opinion dated March 09, 2017 to the Court in Division decision)
CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice