REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ZUELLIG PHARMA ASIA PACIFIC LTD. PHILS. ROHQ, Petitioner,	CTA EB No. 1795 (CTA Case No. 9055)
	Present:
-versus-	DEL ROSARIO, *PJ*, CASTAÑEDA, JR., UY, FABON-VICTORINO, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ*.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 30 2020 8:38 a.m.

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RESOLUTION

Fabon-Victorino, J.:

On October 22, 2019, the Court rendered a Decision,[1] the decretal portion of which reads:

> **WHEREFORE**, the Petition for Review dated March 14, 2018, filed by Zuellig Pharma Asia Pacific Ltd. Phils. ROHQ is **DENIED**. The impugned Decision dated October 3, 2017 and Resolution dated February 7, 2018, both rendered by the Court in Division are **AFFIRMED**.
>
> **SO ORDERED**.

1 *Rollo*, pp. 103-113.

In rejecting the Petition, the Court *En Banc* ratiocinated that Section 112(C) of the National Internal Revenue Code (NIRC), as amended, delimits the legal competence of the Court in Division in claims for refund of excess and unutilized input value-added taxes (VAT), to wit: when respondent's adverse decision rendered *within* the 120-day period is elevated to the Court in Division within 30 days from receipt thereof, or there was inaction on the part of respondent on the administrative claim for input VAT refund within 120-days, and such inaction is assailed by the taxpayer-claimant also within 30 days, counted from the lapse of the prescribed 120-day period. The record shows that respondent had until August 15, 2014[2] to decide on petitioner's administrative claim for refund. The undated decision which petitioner received only on April 25, 2015 was obviously rendered beyond the allowable 120-day period for respondent to decide. In other words, it was no longer within the province of the Court when it was elevated for review.

In its bid[3] for reconsider of the adverse decision, petitioner argues that:

> I. Law and jurisprudence do not prohibit the appeal of respondent's decision even if rendered beyond the 120-day period to decide on a claim for refund; and
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> II. Assuming *arguendo* that only respondent's decision rendered within the 120-day period to decide are appealable to the Court in Division, petitioner timely appealed the decision.

Despite directive,[4] respondent opted not to file any comment/opposition to petitioner's Motion for Reconsideration.

It cannot be denied that petitioner's arguments in its Motion for Reconsideration merely mirror the same flawed arguments in its Petition for Review, all of which have been determined and passed upon by the Court *En Banc*. In the

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2 The 120-day period for respondent to decide on petitioner's administrative claim ended on August 15, 2014. See p. 6, assailed Decision.

3 Petitioner's Motion for Reconsideration dated November 12, 2019, *rollo,* pp. 151.

4 Records verification report dated February 4, 2020.

absence of any new or significant matter justifying modification of, much more deviation from the assailed Decision of October 22, 2019, petitioner's Motion for Reconsideration dated November 12, 2019 is **DENIED**.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I maintain my CDO)
Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice