Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

MITSUBA PHILS. TECHNICAL CENTER CORP. Petitioner,	**CTA Case No. 9032**
	Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson* **CASANOVA**, *and* **COTANGCO-MANALASTAS**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** APR 1 3 2016 1:25 p.m.

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RESOLUTION

Before this Court is respondent's Motion for Reconsideration filed, *via* registered mail, on February 3, 2016, with petitioner's Comment (on Respondent's Motion for Reconsideration) filed, thru registered mail, on March 10, 2016, praying for this Court to reconsider and set aside the Resolution promulgated January 18, 2016, and enter a new one dismissing the Petition for Review for lack of jurisdiction; and, to defer for the meantime the scheduled pre-trial conference until the instant Motion has been duly resolved by the Court. The dispositive of the assailed Resolution reads:

> "**WHEREFORE,** premises considered, petitioner's Motion for Reconsideration, filed on October 28, 2015, is **GRANTED**. Accordingly, the Resolution promulgated on October 12, 2015 is hereby **REVERSED** and **SET ASIDE.** Thus, respondent's Motion to Dismiss, filed on June 15, 2015, is **DENIED** for lack of merit.
>
> Let a Pre-trial Conference be set on March 3, 2016 at 1:30 p.m.

SO ORDERED."

In her Motion, respondent reiterates that this Court has no jurisdiction to try the instant case on the ground that petitioner's Petition for Review was not seasonably filed. Accordingly, petitioner violated the 120+30 day periods provided under Section 112 (C) of the 1997 National Internal Revenue Code, as amended, when it filed its judicial claim on April 15, 2015, or three (3) years after filing its administrative claim for refund or credit with the Bureau of Internal Revenue (BIR) on March 9, 2012.

Respondent also insists that the alleged March 12, 2015 Decision of Revenue District Officer Isabel A. Paulino has no force and effect on the ground that respondent was only given a period of 120-days to grant or deny the taxpayer's claim for refund. Accordingly, petitioner should not have waited for the said Decision before filing its judicial claim since the mere lapse of the 120-day period is already a denial of its claim for refund; And, considering that there was already a denial of its claim on November 8, 2012 (lapse of the 120-day period), counted from petitioner's last submission of documents on July 11, 2014, petitioner should have filed its judicial claim within thirty (30) days from November 8, 2012, or not later than December 8, 2012.

Lastly, respondent claims that no additional document was submitted by petitioner which can possibly help this Honorable Court in determining the reckoning date of the 120-day period.

By way of comment/opposition, petitioner argues, among others, that respondent merely reiterates her argument in her Motion to Dismiss that the Rohm case, which held that the 120+30 day period is mandatory and jurisdictional, is squarely applicable to the instant case; that this Court has thoroughly dissected, discussed and weighed the arguments of both parties in arriving at the assailed Resolution dated January 18, 2016; and, that respondent did not cite any new argument, case or ground for this Court to reverse the said Resolution.

The instant Motion is bereft of merit.

After carefully evaluating the arguments raised by both parties, the Court agrees with petitioner that the contentions presented by respondent in the subject motion are mere rehash of her previous arguments which have been duly considered by the Court in the assailed Resolution.

The Court reiterates its position that the interest of justice would be more adequately served if trial would ensue and both parties be given the opportunity to present both testimonial and documentary evidence to support their respective claim. Thus, the Court finds no cogent reason to reconsider and set aside the assailed Resolution.

WHEREFORE, premises considered, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.

Let a Pre-trial Conference be set on April 28, 2016 at 1:30 p.m.

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice