REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ADVANCED WORLD SYSTEMS, INC., Petitioner,	**CTA EB NO. 2246** **(CTA Case No. 9984)**
	Present:
- versus -	DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 0 1 2021 11:37 a.m.

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DECISION

DEL ROSARIO, P.J.:

Before the Court *En Banc* is the Petition for Review[1] filed by Advanced World Systems, Inc. on June 30, 2020 assailing the Resolutions dated August 14, 2019[2] and February 10, 2020[3] issued by the Court in Division,[4] which granted the Commissioner of Internal Revenue's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court filed on May 31, 2019.

The dispositive portions of the assailed Resolutions read:

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[1] CTA EB No. 2246 Docket, pp. 34-187.
[2] CTA EB No. 2246 Docket, pp. 59-64.
[3] CTA EB No. 2246 Docket, pp. 65-74.
[4] By the Court of Tax Appeals (CTA) - Third Division composed of Associate Justice Erlinda P. Uy, Chairperson; Associate Justices Ma. Belen M. Ringpis-Liban; and Maria Rowena Modesto-San Pedro, Members.

Resolution dated August 14, 2019

"**WHEREFORE**, finding merit, respondent's **Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court**, filed on May 31, 2019 is **GRANTED**.

Accordingly, in light of the above findings, the instant **Petition for Review** is **DISMISSED** for lack of jurisdiction.

SO ORDERED."[5]

Resolution dated February 10, 2020

"**WHEREFORE**, premises considered, petitioner's **Motion for Reconsideration [Re: Resolution dated 14 August 2019]** is **DENIED** for lack of merit.

SO ORDERED."[6]

The present Petition prays for the Court to vacate and set aside the assailed Resolutions, and, after due consideration, give due course to its judicial claim for tax credit for the period from April 1, 2012 to March 31, 2013 in the total amount of ₱4,144,388.14.

THE PARTIES

Petitioner Advanced World Systems, Inc. (petitioner) is a corporation duly organized and existing under the laws of the Philippines. It is a software development company established in 1993 and registered to engage primarily in the development, manufacturing, buying, selling, distributing and marketing software, computers, peripherals and other related products and parts. It also engages in computer consultancy and advisory and other related auxiliary services.[7]

Respondent Commissioner of Internal Revenue[8] (CIR or respondent) is sued in his official capacity, having been duly appointed to exercise the powers and perform the duties of his office, including, *inter alia*, the power to decide disputed assessments, other charges,

[5] CTA EB No. 2246 Docket, p. 64.
[6] CTA EB No. 2246 Docket, p.74.
[7] Paragraph 9, Petition for Review (PFR), CTA EB No. 2246 Docket, pp. 36-37.
[8] The incumbent CIR is Hon. Caesar R. Dulay.

penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code (NIRC) of 1997, as amended.[9]

THE FACTS

On March 13, 2014, petitioner filed with the Bureau of Internal Revenue (BIR) an administrative claim for tax credit of excess input tax attributable to zero-rated export sales covering the period April 1, 2012 to March 31, 2013.[10]

On March 14 and 18, 2014, petitioner submitted additional documents.[11]

On March 25, 2014, the BIR issued Letter of Authority (LOA) No. LOA-411-2014-00000033/SN: eLA201000050382.[12]

On June 11, 2014, Revenue Memorandum Circular (RMC) No. 54-2014[13] was issued. Thereafter, on January 3, 2017, Revenue Regulations (RR) No. 1-2017[14] was issued.

On November 8, 2018, petitioner received the Letter dated October 18, 2018 (Denial Letter),[15] denying its claim for value-added tax (VAT) credit for the period from April 1, 2012 to March 31, 2013 in the amount of ₱4,144,388.14.[16]

On December 10, 2018, petitioner filed a Petition for Review[17] with the Court in Division seeking the cancellation and setting aside of

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[9] Paragraph 12, PFR, CTA EB No. 2246 Docket, p. 37.
[10] Paragraph 18, PFR, CTA Case No. 9984 Docket, Vol. 1, p. 13; Paragraph 1, Answer, CTA Case No. 9984 Docket, Vol. 7, p. 2689.
[11] Paragraph 19, PFR, CTA Case No. 9984 Docket, Vol. 1, p. 14; Paragraph 1, Answer, CTA Case No. 9984 Docket, Vol. 7, p. 2689.
[12] Paragraph 22, PFR, CTA Case No. 9984 Docket, Vol. 1, p. 15; Paragraph 3, Answer, CTA Case No. 9984 Docket, Vol. 7, p. 2689; BIR Records, p. 362.
[13] Subject: Clarifying Issues Relative to the Application of Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended.
[14] Subject: Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Refund/Credit Filed Under Section 112 of the Tax Code, as Amended, Prior to Memorandum Circular No. 54-2014 dated June 11, 2014.
[15] BIR Records, p. 402.
[16] Paragraph 4, PFR, CTA Case No. 9984 Docket, Vol. 1, p. 11; Paragraph 1, Answer, CTA Case No. 9984 Docket, Vol. 7, p. 2689.
[17] CTA Case No. 9984 Docket, Vols. 1 to 7, pp. 10-2676.

the Denial Letter, and, after due consideration, grant its claim for tax credit for the period April 1, 2012 to March 31, 2013.[18]

Summons was served to respondent on January 8, 2019.[19] On February 22, 2019, respondent filed his Answer,[20] raising the following special and affirmative defenses:

1. The Court has no jurisdiction over the instant case as the Petition for Review was filed out of time;

2. RR No. 1-2017 does not modify the rule that the inaction of the CIR to the claim for refund/tax credit is "deemed a denial". Further, the denial letter was issued long after the lapse of the 120-day period under Section 112(C) of the NIRC of 1997, as amended. Thus, the filing of the instant petition within 30 days from receipt of the Denial Letter does not confer the Court jurisdiction over the present case; and,

3. Assuming without conceding that the Court has acquired jurisdiction to take cognizance of the case, the tax credit being claimed by petitioner was properly disallowed. Hence, petitioner's judicial claim for tax credit should be denied.

The Pre-Trial Conference was set on June 4, 2019.[21] On May 28, 2019, Respondent's Pre-Trial Brief *Ad Cautelam*[22] was filed. On May 30, 2019, petitioner filed its Pre-Trial Brief.[23]

On May 31, 2019, respondent filed a Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court,[24] which the Court in Division found meritorious in the assailed Resolution dated August 14, 2019.

On September 18, 2019, petitioner timely filed its Motion for Reconsideration [Re: *Resolution* dated August 14, 2019],[25] which was

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[18] CTA Case No. 9984 Docket, Vol. 1, p. 17.
[19] CTA Case No. 9984 Docket, Vol. 7, p. 2677.
[20] CTA Case No. 9984 Docket, Vol. 7, pp. 2689-2706.
[21] Notice of Pre-Trial Conference, CTA Case No. 9984 Docket, Vol. 7, pp. 2709-2710.
[22] CTA Case No. 9984 Docket, Vol. 7, pp. 2711-2715.
[23] CTA Case No. 9984 Docket, Vol. 7, pp. 2728-2735.
[24] CTA Case No. 9984 Docket, Vol. 7, pp. 2759-2768.
[25] CTA Case No. 9984 Docket, Vol. 7, pp. 2789-2796.

denied by the Court in Division in the equally assailed Resolution dated February 10, 2020.

Unfazed, petitioner filed the present Petition for Review with the Court *En Banc*.

On September 4, 2020, respondent filed a Motion to Admit Attached Comment[26] that was granted in the Resolution dated September 29, 2020,[27] which also submitted for decision the present Petition for Review.

On September 25, 2020, petitioner filed a Motion for Leave to File Reply[28] with attached Reply [Re: Comment dated 31 August 2020].[29]

THE ISSUES

Petitioner submits the following issues for the resolution of the Court *En Banc*:

> "A. **WHETHER OR NOT PETITIONER WAS DEPRIVED OF ITS REMEDY OF APPEAL WITHOUT ITS FAULT;**
>
> B. **WHETHER OR NOT *RR NO. 1-2017* AND THE DENIAL LETTER [ARE EXCEPTIONS] TO THE APPLICATION OF THE 120+30-DAY PERIOD;**"[30]

THE PARTIES' ARGUMENTS

PETITIONER'S ARGUMENTS

Petitioner submits that the Court in Division erred in holding that *(i)* petitioner should have filed its judicial claim within 30 days from the lapse of the 120-day period; *(ii)* petitioner's failure to file its judicial claim within the 120+30-day period warrants the dismissal of its Petition; *(iii)* there was late filing of the petition with the Court in Division, which is absolutely prohibited; and, *(iv)* RR No. 49-2003

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[26] CTA EB No. 2246 Docket, pp. 198-211.
[27] CTA EB No. 2246 Docket, pp. 213-214.
[28] CTA EB No. 2246 Docket, pp. 215-218.
[29] CTA EB No. 2246 Docket, pp. 219-228.
[30] CTA EB No. 2246 Docket, p. 40.

applies to the exclusion of RMC No. 54-2014 and RR No. 1-2017, to petitioner's appeal."[31] In support thereof, petitioner argues that:

(i) RMC No. 54-2014 presumed that the pending claims had been filed with complete documents and the same have remained unacted upon beyond the 120-period and treated such inaction as "deemed denial" of petitioner's claim final and unappealable;

(ii) Respondent recognized the "final and unappealable" character of the "deemed denial" of its claim pursuant to RMC No. 54-2014 and as clarified in RR No. 1-2017;

(iii) The cases of *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership,*[32] *Commissioner of Internal Revenue vs. Dash Engineering Philippines, Inc.*[33] and *Pilipinas Total Gas Inc. vs. Commissioner of Internal Revenue,*[34] cited by the Court in Division, do not squarely apply to the present case as they do not involve RR No. 1-2017. Allegedly, the Court in Division's lack of due consideration of RMC No. 54-2014 and RR No. 1-2017 resulted in the erroneous application of the aforecited cases;

(iv) When the 120-day period to decide elapsed, it could not appeal to the CTA because of RMC No. 54-2014 stating that the "deemed denial" thereunder was "final and unappealable". It was only when RR No. 1-2017 (which prescribes the regulations governing claims for VAT refund filed prior to RMC No. 54-2014) was issued and petitioner's receipt of the Denial Letter that it could pursue its recourse with the CTA;

(v) The circumstances brought about by RMC No. 54-2014 and RR No. 1-2017, taken in light of Section 246 of the NIRC of 1997, as amended, which allows it to rely on respondent's issuances, call for the application of the doctrine of equitable estoppel;

(vi) Petitioner is in good faith that its claim had been deemed denied and that such denial was final and unappealable following the effectivity of RMC No. 54-2014; and,

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[31] CTA EB No. 2246 Docket, p. 41.
[32] G.R. No. 191498, January 15, 2014.
[33] G.R. No. 184145, December 11, 2013.
[34] G.R. No. 207112, December 8, 2015.

(vii) By virtue of the rule that "deemed denial" is final and unappealable under RMC No. 54-2014, it was constrained to file its appeal only after its receipt of the Denial Letter.

RESPONDENT'S COUNTER-ARGUMENTS

Respondent, on the other hand, submits the following counter-arguments:

(i) The Court in Division correctly ruled that the petition was filed out of time as the administrative claim for refund or issuance of a tax credit certificate was filed by petitioner on March 13, 2012 while the judicial claim was initiated only on December 10, 2018 or several years after the filing of its administrative claim;

(ii) The petition was belatedly filed with the Court in Division and thus, his "deemed a denial" decision has already become final and unappealable;

(iii) As the Court in Division lacks jurisdiction over the case, it correctly dismissed the Petition for Review;

(iv) The mandatory and jurisdictional 120+30-day rule is not merely founded on an administrative issuance but on law;

(v) There is nothing in RR No. 1-2017 which gives the impression that claims covered by the regulation may be subject to judicial claim for refund or tax credit albeit the lapse of the 120+30-day period provided under Section 112 (C) of the NIRC of 1997, as amended;

(vi) Petitioner's subsequent receipt of the Denial Letter does not justify the late filing of its petition. While Section 112 (C) of the NIRC of 1997, as amended, provides that an appeal may be filed within 30 days from receipt of the actual decision of the CIR, the decision must be made within the 120-day period for the CIR to act on the claim.

THE COURT *EN BANC'S* RULING

The present Petition for Review was timely filed

Section 18 of Republic Act No. 1125, as amended, *vis-à-vis* Section 3 (b), Rule 8 of the 2005 Revised Rules of the Court of Tax Appeals (RRCTA), provides that a party adversely affected by a decision or a resolution of a Division of the Court on a motion for reconsideration or new trial, may file a petition for review with the Court *En Banc* within 15 days from receipt of the questioned decision or resolution.

In the case at bar, the assailed Resolution dated August 14, 2019 was received by petitioner on September 3, 2019. Petitioner timely filed its Motion for Reconsideration on September 18, 2019. Its Motion for Reconsideration was, however, denied in the assailed Resolution dated February 10, 2020, which was received by petitioner on February 20, 2020.

Thus, petitioner had 15 days from February 20, 2020 or until March 6, 2020 within which to file its appeal with the Court *En Banc.*

On March 3, 2020, petitioner seasonably filed a Motion for Extension of Time to File Petition for Review with the Court *En Banc*, which was granted in the Minute Resolution dated March 10, 2020, giving it until March 21, 2020 within which to file its Petition for Review.

Considering the apparent exponential spread of COVID-19 cases in the country which placed several regions, provinces, and cities on either "community quarantine" or " lockdown", the Supreme Court extended, for 30 calendar days counted from June 1, 2020, the filing of petitions and appeals, among others, that fall due during the period from March 15, 2020 to May 31, 2020.[35]

Therefore, the filing of the present Petition for Review on June 30, 2020 was timely.

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[35] Supreme Court Administrative Circular Nos. 31-2020, 34-2020, 35-2020 and 39-2020.

RMC No. 54-2014 did not deprive petitioner of its right to appeal

Petitioner mainly justifies the belated filing of its Petition for Review with the Court in Division on its purported honest belief that by virtue of the issuance of RMC No. 54-2014, its then pending administrative claim for refund was "deemed denied" and such "deemed denial" is final and unappealable. Hence, it was constrained to file its appeal only after its receipt of the Denial Letter.

The Court *En Banc* cannot sustain petitioner's stance.

Petitioner relies on Paragraph V on "Pending Administrative Claim" of RMC No. 54-2014, in insisting that its claim for refund then pending was "deemed denied" and that such "deemed denial" is final and unappealable. Paragraph V thereof reads:

> "V. Pending Administrative Claim
>
> In cases where the taxpayer has filed a "petition for review" with the CTA, the Commissioner loses jurisdiction over the administrative claim. However, the Processing Office of the Administrative Agency shall still evaluate internally the administrative claim for purposes of intelligently opposing the taxpayer's judicial claim.
>
> Indubitably, **failure to file a judicial claim with the CTA <u>within thirty (30) days from the expiration of the 120-day period</u> rendered the Commissioner's decision, or inaction "deemed a denial", final and unappealable. This applies to all currently pending administrative claim for refund/tax credit**." *(Citation omitted; boldfacing and emphasis supplied)*

RMC No. 54-2014 is clear and unequivocal that respondent's inaction (which is "deemed a denial") on an application for refund/credit shall become final and unappealable where there is failure on the party of the taxpayer to file a judicial claim with the CTA within thirty (30) days from the **expiration** of the 120-day period. Stated differently, RMC No. 54-2014 is explicit that the taxpayer must file its judicial claim within a period of thirty (30) days from receipt of respondent's decision or after the expiration of the one hundred twenty (120)-day period within which the CIR must decide on the claim, **whichever is earlier.**

Contrary to petitioner's posture, its pending administrative claim for refund was not deemed denied by the mere issuance of RMC No. 54-2014.

Petitioner apparently disregarded the clear instruction of Paragraph III on "Mandatory 120+30 Day Period" of RMC No. 54-2014, which summarizes how taxpayers can file an appeal in case of full or partial denial of claims for refund or tax credit, or the failure of respondent to act on the application for tax refund/credit within the prescribed period, to wit:

> "III. Mandatory 120+30 Day Period -
>
> 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 (120) day-period, appeal the decision or the unacted claim with the CTA. Verily, a judicial claim must be filed with the CTA within 30 days from the receipt of the Commissioner's decision denying the administrative claim or from the expiration of the 120-day period without any action from the Commissioner, as the case may be. In this regard, the taxpayer/claimant is required to observe the 120+30 day rule before lodging a petition for review with the CTA.
>
> In sum, the **taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim <u>within</u> the 120-day period, or (2) file the judicial claim within thirty days from the <u>expiration</u> of the 120-day period if the Commissioner does not act within the 120-day period**." *(Citation omitted; boldfacing and underscoring supplied)*

Petitioner obviously misread RMC No. 54-2014. There is nothing therein, which prohibited it from availing the remedy of appeal. In fact, it reiterated the long-standing rule of the mandatory 120+30-period in the filing of appeals. What RMC No. 54-2014 sought to introduce are *(i)* taking away from the taxpayer the reckoning of the 120-day waiting period by requiring that the application or claim be already accompanied by complete supporting documents and *(ii)* barring taxpayers from submitting additional documents after the filing of the administrative claim,[36] which were, however, ruled by the Supreme Court in *Pilipinas Total Gas, Inc.*,[37] **to be applicable to claims for refunds/credit filed after June 11, 2014**, to wit:

> "xxx As it now stands, **RMC 54-2014 dated June 11, 2014** mandates that:

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[36] See Paragraph II on "Filing and Processing of Administrative Claims" of RMC No. 54-2014.
[37] *Supra*, note 34.

> The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that the said documents are the only documents which the taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.
>
> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.

Thus, **under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.**

On this score, **the Court finds that the foregoing issuance cannot be applied rectroactively to the case at bar since it imposes new obligations upon taxpayers in order to perfect their administrative claim**, that is, [1] compliance with the mandate to submit the "supporting documents" enumerated under RMC 54-2014 under its "Annex A"; and [2] the filing of "a statement under oath attesting to the completeness of the submitted documents," referred to in RMC 54-2014 as "Annex B." This should not prejudice taxpayers who have every right to pursue their claims in the manner provided by existing regulations at the time it was filed. *(Boldfacing supplied)*

Contrary to petitioner's assertion, its then pending administrative claim for refund was not deemed denied by the issuance of RMC No. 54-2014. In truth, it was 'deemed denied' since respondent failed to act on its application within the 120-day period.

On this point, the Court *En Banc* quotes with approval the Court in Division's disquisition anent the filing of the judicial claim beyond the reglementary period, to wit:

"xxx, [T]he Court observes that regardless of whether the counting of the 120 days is reckoned from (a) the date of the last filing of petitioner's additional document on March 18, 2014; or (b) the date of issuance of the LOA on March 25, 2014, whereby petitioner was required by the Bureau of Internal Revenue (BIR) to submit its books of accounts, records, and documents; or (c) expiration of the 15-day[38]; or (d) expiration of the 30-day[39] period to comply with such submission, assuming the LOA was received on March 25, 2014; petitioner's judicial claim remains to be filed out of time on December 10, 2018, as shown below:

<table>
<tr><th></th><th>Date</th><th>End of 120 days for the CIR to decide</th><th>End of 30 days to appeal before the CTA</th><th>Date of Filing of Petition for Review</th></tr>
<tr><td>Filing of Additional Document</td><td>March 18, 2014</td><td>July 16, 2014</td><td>August 15, 2014</td><td rowspan="4">December 10, 2018</td></tr>
<tr><td>Issuance of the LOA</td><td>March 25, 2014</td><td>July 23, 2014</td><td>August 22, 2014</td></tr>
<tr><td>Expiration of 15-day period</td><td>April 9, 2014</td><td>August 7, 2014</td><td>September 6, 2014 (falls on a Saturday, or until September 8, 2014)</td></tr>
<tr><td>Expiration of 30-day period</td><td>April 24, 2014</td><td>August 22, 2014</td><td>September 21, 2014 (falls on a Sunday, or until September 22, 2014)</td></tr>
</table>

xxx xxx xxx

As shown above, judicial recourse before this Court was availed of beyond the 120+30 day mandatory and jurisdictional periods under Section 112 (C) of the NIRC of 1997, as amended. Hence, this Court has no jurisdiction to entertain the instant petition for review."[40] *(Additional boldfacing supplied)*

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[38] The lower portion of the LOA states that the submission/presentation of books of accounts, records and documents should be within fifteen (15) days from receipt of the LOA.

[39] In *Pilipinas Total Gas, Inc.*, the Supreme Court held that "[u]nder 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". The Supreme Court further held that "[t]hen, 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." These pronouncements were made applicable to claims for input tax credit or refund filed prior to June 11, 2014.

[40] Resolution dated August 14, 2019, CTA EB No. 2246, Docket, pp. 62-63.

The Denial Letter stating that petitioner's refund claim was denied pursuant to RMC No. 54-2014 is inconsequential because it was issued after the 120-day period. This point was concisely elucidated by the Court in Division, *viz.*:

> "Moreover, petitioner's receipt of respondent's Denial Letter dated October 18, 2018 on November 8, 2018, is of no moment since the CIR's inaction after the lapse of the 120-day period is deemed a denial of its administrative claim. This is pursuant to the ruling of the Supreme Court in *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue* to wit:
>
> > 'A final note, the taxpayers are reminded that that [sic] **when the 120-day period lapses and there is inaction on the part of the CIR, they must no longer wait for it to come up with a decision thereafter.** The CIR's inaction is the decision itself. It is already a denial of the refund claim. Thus, the taxpayer must file an appeal within 30 days from the lapse of the 120-day waiting period.'
>
> Thus, petitioner had 30 days from the expiration of the 120-day period to file its judicial claim with the CTA. Petitioner's failure to do so rendered the "deemed a denial" decision of the CIR final and inappealable."[41] *(Citations omitted; boldfacing supplied)*

At this juncture, the Court *En Banc* finds it worthy to reiterate the clear pronouncement of the Supreme Court in the consolidated cases of *Commissioner of Internal Revenue vs. San Roque Power Corporation, Taganito Mining Corporation vs. Comissioner of Internal Revenue, and Philex Mining Corporation vs. Commissioner of Internal Revenue* [42] as to what constitute decisions of respondent in claims for VAT refund that are appealable to the CTA:

> "The charter of the CTA expressly provides that its jurisdiction is to review on appeal "**decisions** of the Commissioner of Internal Revenue in cases involving x x x refunds of internal revenue taxes." When a taxpayer prematurely files a judicial claim for tax refund or credit with the CTA without waiting for the decision of the Commissioner, there is no "decision" 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 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**

[41] Resolution dated August 14, 2019, CTA EB No. 2246 Docket, p. 63.
[42] G.R. Nos. 187485, 196113 & 197156, February 12, 2013.

> **x x deemed a denial" of the Commissioner, the CTA has no jurisdiction over a petition for review.**" *(Boldfacing supplied)*

RR No. 1-2017 did not create an exception to the 120+30 day mandatory and jurisdictional period

Contrary to petitioner's proposition, the Court *En Banc* finds that RR No. 01-2017 did not create an exception to the 120+30-day mandatory and jurisdictional period. Instead, it was issued "to give effect to the doctrinal rule laid down in the aforecited *[Pilipinas Total Gas, Inc.]* and to afford fair and adequate relief to taxpayers whose claims were 'deemed denied' as a result of the retroactive application of RMC No. 54-2014"[43] by providing that claims of tax refund or credit filed before June 11, 2014 shall continue to be processed administratively.

Sections 2 and 3 of RR No. 01-2017 state:

> "SECTION 2. Scope. — Pursuant to the provisions of Section 244, in relation to Section 246 and Section 112 of the Tax Code, as amended, these Regulations are issued to give effect to the doctrinal rule laid down in the aforecited Pilipinas Total Gas case and to afford fair and adequate relief to taxpayer-claimants whose claims were "deemed denied" as a result of the retroactive application of RMC No. 54-2014. For this purpose, and consistent with the judicial "summation of rules" decreed to be "made applicable to claims of tax credit/refund filed before June 11, 2014," **such claims filed prior to RMC No. 54-2014 shall continue to be processed administratively**.
>
> SECTION 3. Processing of Administrative Claims. — VAT claims filed and pending prior to the effectivity of RMC 54-2014, the claims solely covered by these Regulations, shall be processed and approved in accordance with the following rules:
>
> 1. The claimant-taxpayer, under Section 112 (A) of the Tax Code, as amended, 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 have submitted 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 clarified under RMC No. 49-2003.

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[43] Section 2, RR No. 1-2017.

> 2. 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 Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents.
>
> Hence, **pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period**. For this purpose, the result shall be communicated in writing by the concerned revenue official." *(Boldfacing supplied)*

The Court in Division did not err in applying the rules laid down in *Pilipinas Total Gas Inc.* as adopted by RR No. 1-2017, which petitioner invokes.

RR No. 01-2017 did not and could not amend Section 112 of the NIRC of 1997, as amended. It is an elementary rule that administrative rules and regulations enacted by administrative bodies to implement the law which they are entrusted to enforce have the force of law and are entitled to great weight and respect. These implementations of the law, however, must not override, supplant, or modify the law but must remain consistent with the law they intend to implement.[44] More so in this instance, when there is nothing in the revenue regulation relied upon that remotely suggests such grant of claimed exception.

All told, petitioner failed to show that the Court in Division committed reversible error to warrant a modification, much more reversal of the challenged Resolutions.

Petitioner's Motion for Leave to File Reply

Considering that the case was submitted for decision on September 29, 2020, the Motion for Leave to File Reply filed on September 25, 2020 is rendered moot.

WHEREFORE, premises considered, the Petition for Review filed on June 30, 2020 by Advanced World Systems, Inc. is hereby

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[44] *Secretary of Finance Cesar V. Purisima and Commissioner of Internal Revenue Kim S. Jacinto-Henares vs. Philippine Tobacco Institute, Inc.*, G.R. No. 210251, April 17, 2017.

DENIED for lack of merit. The Court in Division's assailed Resolutions dated August 14, 2019 and February 10, 2020 are hereby **AFFIRMED**.

Meanwhile, petitioner's Motion for Leave to File Reply filed on September 25, 2020 is **NOTED WITHOUT ACTION**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

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

ERLINDA P. UY
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
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