REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10431

Members:
MANAHAN, *Chairperson,*
REYES-FAJARDO, *and*
ANGELES, *JJ.*

Promulgated:
JUN 2 3 2025
10:20 a.m.

x---x

DECISION

REYES-FAJARDO, *J.*:

Before the Court is a Petition for Review[1] filed by Stefanini Philippines, Inc. (petitioner or Stefanini Philippines) against respondent Commissioner of Internal Revenue (CIR), seeking the refund of or issuance of a tax credit certificate (TCC) amounting to ₱3,157,406.31 representing alleged unutilized input value-added tax (VAT) on purchases of goods and services attributable to zero-rated sales relative to the first quarter of calendar year (CY) 2018.

FACTS

Stefanini Philippines is a corporation organized under Philippine law, with registered office address at 3, 5 & 6/F iMET BPO Metrobank Ave., Metropolitan Park, Roxas Blvd., Pasay City 1300.[2] It is engaged in the business of providing business process outsource solutions and allied contact or call center services[3] to clients, including

---

1 Docket – Vol. 1, pp. 6-20.

2 Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), incorporated in the parties' *Compliance* dated November 25, 2022, Docket – Vol. 2, p. 557.

3 Par. 1.1, Stipulation of Facts, JSFI, incorporated in the parties' *Compliance* dated November 25, 2022, Docket – Vol. 2, p. 557; Exhibits "P-2" and "P-3", Docket – Vol. 3, pp. 1150 to 1161.

non-resident foreign entities such as Stefanini, Inc., Stefanini Sarl, Stefanini Australia Pty Ltd., and Stefanini NV/SA.

Respondent is the head of the Bureau of Internal Revenue (BIR) empowered to perform the duties of the office, including acting upon and approving claims for refund or tax credit. Its office address is at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City.[4]

Tax Returns.

1) Output VAT

For the first quarter of CY 2018, Stefanini Philippines filed its Quarterly VAT Return (BIR Form No. 2550-Q),[5] reporting total sales of ₱176,529,652.00, which included zero-rated sales of ₱175,791,086.00; output VAT arising from its vatable sales amounted to ₱88,627.92, *viz.*:

	Total Sales	**VAT Rate**	**Output VAT**
VATable Sales	₱ 738,566.00	12%	₱ 88,627.92
Zero-rated Sales	175,791,086.00	0%	-
Total	₱ 176,529,652.00		₱ 88,627.92

2) Input VAT

Stefanini Philippines also declared total input VAT amounting to ₱3,246,034.23 arising from its purchases of goods and services computed, as follows:

Input Tax Due on Capital Goods exceeding ₱1M (amortized)		
Deferred from previous quarter	₱2,602,771.56	
Purchase of Capital Goods Exceeding P1M	-	
Total	₱2,602,771.56	
Less: Deferred for the succeeding period	2,425,659.57	₱177,111.99
Input Tax Due on Current Purchases of Goods other than Capital Goods		
Input tax on purchase of capital goods not exceeding ₱1M	₱ -	
Input tax on domestic purchases of goods other than capital goods	113,977.80	113,977.80
Input Tax Paid on domestic purchases of services		2,954,944.44
Total input tax during the period		₱3,246,034.23

[4] Par. 2, Stipulation of Facts, JSFI, incorporated in the parties' *Compliance* dated November 25, 2022, Docket – Vol. 2, pp. 557 to 558.

[5] Exhibit "P-69," Docket – Vol. 3, pp. 1258 to 1259.

3) VAT Payable

The total input VAT exceeded the total output VAT (₱88,627.92) during the subject quarter. Thus, Stefanini Philippines reported a net VAT *overpayment* amounting to ₱64,412,886.78.[6]

Proceedings before the BIR.

On **July 15, 2020**, Stefanini Philippines filed with the BIR its Application for Tax Credits/Refunds (BIR Form No. 1914),[7] accompanied by a letter of even date (**administrative claim**), averring as follows: that it incurred excess and/or unutilized input VAT attributable to its zero-rated sales; and that it is entitled to the refund or credit of excess input VAT relative to the first quarter of CY 2018 in the amount of ₱3,157,406.31.[8]

The CIR issued a VAT Verification Notice[9] dated July 15, 2020, authorizing Revenue Officers Estela G. Buenviaje and Jonathan G. Simon to verify the supporting documents and/or pertinent records relative to petitioner's claim for VAT refund covering the said taxable period.

On November 24, 2020, Stefanini Philippines received a letter dated September 30, 2020[10] from the BIR,[11] denying its administrative claim for lack of legal and factual basis. Thereafter, it filed the present Petition for Review (**judicial claim**) on **December 23, 2020.**[12]

Proceedings before the Court.

The CIR filed an Answer[13] and submitted the BIR Records[14] on May 26, 2021.

---

6 Line 29, Docket - Vol. 3, p. 1259.
7 Exhibits "P-75" and "R-1," BIR Records (Exhibit "R-7"), p. 148.
8 Line 10A, Exhibit "R-50," Docket - Vol. 2, p. 847.
9 Exhibit "R-3," BIR Records (Exhibit "R-7"), p. 156.
10 Exhibit "P-76," Docket - Vol. I, pp. 50-52; Exhibit "R-6," BIR Records (Exhibit "R-7"), pp. 184-186.
11 Through Assistant Commissioner Maria Luisa I. Belen.
12 Docket - Vol. 1, pp. 6-26.
13 Docket - Vol. 1, pp. 216-226.
14 Compliance dated May 24, 2021, Docket - Vol. 1, pp. 228-229.

Thereafter, the parties submitted their respective pre-trial briefs.[15] After several re-settings, the pre-trial conference was held on October 27, 2022.[16] Thereafter, the Court approved[17] the parties' Joint Stipulation of Facts and Issues (JSFI),[18] which marked the termination of pre-trial. The Court issued a Pre-Trial Order on January 17, 2023.[19]

During trial, Stefanini Philippines presented the testimonies of the following: (1) Ms. Jeanina B. Pepito,[20] Finance Manager, Stefanini Philippines; and (2) Mr. Joseph Cedric V. Calica,[21] the Court-commissioned Independent Certified Public Accountant (ICPA).[22]

The ICPA's Report was submitted on June 5, 2023.[23]

Stefanini Philippines filed its Formal Offer of Evidence[24] on September 19, 2023. After the CIR' Comment[25] thereon, the Court resolved[26] to admit all exhibits offered by Stefanini Philippines.

For its part, the CIR presented the testimony of Jonathan G. Simon, BIR Revenue Officer.[27] Subsequently, the Court also admitted[28] all exhibits offered[29] by the CIR.

After the submission of the parties' respective memoranda,[30] this case was submitted for decision on June 20, 2024.[31]

---

15 For petitioner, Docket - Vol. 1, pp. 235-248. For respondent, Docket - Vol. 2, pp. 513-517.

16 Notice of Resetting dated August 30, 2022, Docket - Vol. 2, p. 529; Minutes of the hearing held on, and Order dated, October 27, 2022, Docket - Vol. 2, pp. 534 and 536 to 537, respectively

17 In a Resolution dated December 15, 2022, Docket - Vol. 2, p. 573.

18 Docket - Vol. 2, pp. 557-571.

19 Docket - Vol. 2, pp. 575-583.

20 Exhibits "P-77" and "P-87," Docket - Vol. 1, pp. 53-71, and 287-293, respectively; Minutes of the hearing held on, and Order dated, March 9, 2023, Docket - Vol. 2, pp. 609-610.

21 Exhibit "P-143," Docket - Vol. 2, pp. 1082-1102; Minutes of the hearing held on, and Order dated, August 30, 2023, Docket - Vol. 3, pp. 1105 and 1107-1108.

22 *Oath of Commission* dated May 4, 2023, Docket - Vol. 2, p. 612; Minutes of the hearing held on, and Order dated, May 4, 2023, Docket - Vol. 2, pp. 611 and 613-614, respectively.

23 Exhibit "P-140", Docket - Vol. 2, pp. 623-644.

24 Docket - Vol. 3, pp. 1114-1148.

25 Docket - Vol. 3, pp. 1476-1478.

26 In a Resolution dated January 16, 2024, Docket - Vol. 3, pp. 1482-1484.

27 Exhibit "R-8", Docket - Vol. 2, pp. 506-512; Minutes of the hearing held on, and Order dated, January 17, 2024, Docket - Vol. 3, pp. 1485-1487.

28 In a Resolution dated March 26, 2024, Docket - Vol. 3, pp. 1532-1533.

29 Docket - Vol. 2, pp. 959-961.

30 For petitioner, Docket - Vol. 3, pp. 1534-1575; for respondent, Docket - Vol. 3, pp. 1576-1595, respectively.

31 Resolution dated June 20, 2024, Docket - Vol. 3, pp. 1598 to 1600.

Stefanini Philippines's Arguments.

Petitioner anchors its claim for refund or credit on Sections 108(B)(2) and 112(A), in relation to Section 110(B), of the National Internal Revenue Code (Tax Code), as amended.[32] It avers as follows: *First*, it is a VAT-registered taxpayer.[33] *Second*, the business process outsource solutions and allied contact or call center services rendered to its foreign clients,[34] which were paid for in acceptable foreign currency and accounted for in accordance with Bangko Sentral ng Pilipinas (BSP) rules,[35] qualify for zero-rating.[36] *Third*, the input VAT subject of the present claim was derived from purchases of goods and services attributable to the above-described sales of services.[37] *Fourth*, said input VAT has remained unutilized and/or unapplied against its output VAT liability.[38] *Fourth*, it filed administrative and judicial claims within reglementary period prescribed by the Tax Code.[39]

The CIR's Arguments.

Respondent CIR insists that Stefanini Philippines failed to substantiate its claim for refund at the administrative level. The taxpayer bears the burden to show the CTA not only its entitlement to the claim for refund or credit, but also the satisfaction of all documentary and evidentiary requirements for an administrative claim; it must convince the Court that the CIR should have granted the claim in the first place.

It also argues that tax refunds are strictly construed against the taxpayer and in favor of the government.

Lastly, it emphasizes that the Court's jurisdiction over the present case is strictly appellate in nature; judicial scrutiny shall be

---

32 Par. 12, *Petition for Review*, Docket - Vol. 1, p. 8.
33 Par. 13, *Petition for Review*, Docket - Vol. 1, p. 11; Par. 42, Petitioner's *Memorandum*, Docket - Vol. 2, p. 988.
34 Par. 4, *Memorandum*, Docket - Vol. 3, p. 1535.
35 Par. 5, *Memorandum*, Docket - Vol. 3, p. 1536.
36 Pars. 56-80, *Memorandum*, Docket - Vol. 3, pp. 1548-1559.
37 Par. 12, *Petition for Review*, Docket - Vol. 1, p. 10. Pars. 81-83, *Memorandum*, Docket - Vol. 3, pp. 1560-1563.
38 Par. 12, *Petition for Review*, Docket - Vol. 1, p. 10; Pars. 84-86, *Memorandum*, Docket - Vol. 3, pp. 1564-1568.
39 Pars. 16-19, *Petition for Review*, Docket - Vol. 1, pp. 10-12; Pars. 48-54, Petitioner's *Memorandum*, Docket - Vol. 3, pp. 1546-1548.

ff

confined to the same documents submitted before the BIR. Petitioner cannot present evidence before the Court, other than those already submitted at the administrative level.

ISSUE

The Court shall ascertain Stefanini Philippines's entitlement to a refund or credit of alleged unutilized input VAT attributable to zero-rated sales relative to the first quarter of CY 2018.

RULING

We dismiss the Petition.

The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction.[40] In this regard, Our jurisdiction over refund cases is found in Section 7(a)(1) and (2) of Republic Act (RA) No. 1125,[41] 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;
>
> ...

---

40 See *Commissioner of Internal Revenue v. Court of Tax Appeals – Third Division, et al.*, G.R. No. 239464, May 10, 2021, citing *Commissioner of Internal Revenue v. Villa*, G.R. No. L-23988, January 2, 1968.

41 An Act Creating the Court of Tax Appeals.

Section 3(a)(1) and (2), Rule 4 of the Revised Rules of the Court of Tax Appeals[42] clarified that the Court of Tax Appeals (CTA) in Division has jurisdiction over the decision or inaction of respondent, involving refund of internal revenue taxes, among others.[43] Before the CTA in Division may exercise its jurisdiction over unutilized input VAT refund cases, Section 112(C) of NIRC, as amended by 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.[44]

---

[42] A.M. 05-11-07-CTA.

[43] 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: ...

[44] Boldfacing supplied.

Relevantly, *Energy Development Corporation v. Commissioner of Internal Revenue (EDC)*[45] 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 act on the refund claimant's administrative claim for input VAT refund *within* ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application. If said action constitutes a denial of such claim, it must be communicated in writing to, and received by the refund claimant within said period. Revenue Memorandum Circular No. 17-2018[46] is explicit:

> 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.[47]

As it stands, 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. Supporting documents are deemed complete upon the filing the refund claimant's administrative claim for input VAT refund.[48] In turn,

---

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

46 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 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).

47 Boldfacing supplied.

48 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,

there are two (2) ways by which a claimant may invoke the CTA in Division's jurisdiction: *first,* 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** second,* 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 one hundred twenty (120) to ninety (90) days, *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[49] 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.**
>
> 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.[50]

On July 15, 2020, Stefanini Philippines filed[51] its administrative claim for input VAT refund covering the 1st Quarter of CY 2018 with the BIR. Counting ninety (90) days from July 15, 2020, the BIR had until October 13, 2020 to rule on said administrative claim, and communicate the same to Stefanini Philippines. There being no[52] adverse decision communicated to, and received by Stefanini Philippines from the BIR as of October 13, 2020, its administrative claim is deemed denied by law. Counting another thirty (30) days from October 13, 2020, Stefanini Philippines had until November 12, 2020 to seek judicial redress. *Ergo,* the belated[53] filing of the Petition for Review on December 23, 2020 robbed Us of jurisdiction over CTA Case No. 10431.

In conclusion, it has been pronounced that the party who intends to appeal must comply with the procedures and rules governing

the documents are deemed complete upon filing of the claimant's administrative claim for input VAT refund.

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

50 Boldfacing supplied.

51 *Supra* note 7.

52 Stefanini Philippines received the BIR's adverse decision on November 24, 2020. *Supra* note 10.

53 *Supra* note 12.

appeals; otherwise, the right of appeal may be lost or squandered.[54] Petitioner turned deaf to this injunction.

WHEREFORE, CTA Case No. 10431 is **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

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

WE CONCUR:

CATHERINE T. MANAHAN
Associate Justice

With Dissenting Opinion
HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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.

CATHERINE T. MANAHAN
Chairperson
Third Division

---

54 See *Herarc Realty Corporation v. The Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Third Division Chairperson's Attestation, 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

THIRD DIVISION

STEFANINI PHILIPPINES INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10431

Members:

MANAHAN, Chairperson,
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:
JUN 23 2025 10:20 a.m.

x - x

DISSENTING OPINION

ANGELES, *J.*:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the *ponencia*, which dismissed the *Petition for Review* for lack of jurisdiction, anchored on the purported belated filing of petitioner's judicial claim for refund before this Court.

The *ponencia* takes the position that "there are two (2) ways by which a claimant may invoke the CTA in Division's jurisdiction: *first*, 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*** *second*, through a Petition for Review, filed within thirty (30) days, after the lapse of such ninety (90)-day period, whichever comes earlier."[1]

On this basis, it was concluded that, since the petitioner filed its administrative claim on July 15, 2020, the Bureau of Internal Revenue (BIR) had until October 13, 2020 to act thereon. The absence of any decision as of said date is deemed by law to constitute a denial, thereby commencing the thirty (30)-day period to elevate the matter to the Court of Tax Appeals (CTA). As the instant *Petition* was filed only on

---

[1] Decision, p. 9.

December 23, 2020, the *ponencia* held that the same was filed out of time, thereby depriving this Court of jurisdiction over the case.[2]

Respectfully, I submit hereunder the considerations that impel this dissent.

Judicial remedies for the refund or credit input taxes under the TRAIN Law

Section 112(D) of the Tax Code, **prior** to the effectivity of the Tax Reform for Acceleration and Inclusion (TRAIN) Law, read, as follows:

> SECTION 112. *Refunds or Tax Credits of Input Tax.* —
>
> xxx xxx xxx
>
> (D) *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 Subsections (A) and (B) 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**, 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. *(Emphasis and underscoring supplied)*

After the TRAIN Law took effect on January 01, 2018, the above-cited provision was **amended**, to wit:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> xxx xxx xxx
>
> (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.

---

[2] *Ibid.*

> **<u>In case of full or partial denial of the claim for tax refund,</u>** 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. *(Emphasis and underscoring supplied)*

As can be gleaned from the foregoing, among the changes brought by the TRAIN Law to the Tax Code, is the **deletion of the taxpayer's remedy of appeal from the Commissioner of Internal Revenue's (CIR) failure to act on the refund claim within the prescribed period.**

In view of the aforesaid deletion of the taxpayer's appeal from the CIR's inaction, it appears that the CTA may take cognizance of an appeal only when it is filed within thirty (30) days from the taxpayer's receipt of the **decision** of the CIR denying the refund claim. This necessarily assumes that the CIR or his duly authorized representative acted on the refund claim through a written decision.

However, under Section 7(a)(2) of the CTA Law, in relation to Section 11 thereof, the CTA may also take cognizance of an appeal from the **inaction** of the CIR in a refund claim, provided that such appeal is filed within thirty (30) days from the expiration of the period fixed by law for the CIR's action (*i.e.*, ninety (90) days).

Thus, while Section 112(C) of the Tax Code, as amended by the TRAIN Law, provides only a single scenario when an appeal in an administrative refund claim may be brought to the CTA (appeal from the CIR's decision), Sections 7(a)(2) and 11 of the CTA Law, which remain unchanged, provide another scenario when such appeal may be made (appeal from the CIR's inaction). Applying the TRAIN Law and CTA Law together, **the taxpayer may avail of an appeal to the CTA either from the decision of the CIR or his inaction.**

The question now is whether the taxpayer may still appeal the decision of the CIR to the CTA within thirty (30) days from receipt thereof, even if such decision was issued after the CIR failed to act within the ninety (90)-day period; or is the taxpayer constrained to appeal the CIR's inaction within thirty (30) days from the lapse of the ninety (90)-day period, despite the subsequent issuance of a decision of the CIR, pursuant to the "whichever is sooner" rule.

It is my most humble opinion that in order to give full effect to the above-cited provisions of the TRAIN Law and the CTA Law, and to allow both laws to stand in harmony, We must recognize the **taxpayer's option to appeal either the decision of the CIR or his inaction**, regardless of whichever is sooner.

"Plain meaning rule" construction of Section 112(c) of the Tax Code, as amended

Well-entrenched in jurisprudence is the basic principle that **if the language of the law is clear, explicit and unequivocal, it admits no room for interpretation but merely application.** Only statutes with an ambiguous or doubtful meaning may be the subject of statutory construction.[3]

A statute is deemed ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its judicial functions, which is to interpret the law according to its true intent.[4] Otherwise, from the words of a statute there should be no departure.[5]

In this case, the language of Section 112(C) of the Tax Code, as amended by the TRAIN Law, is **straightforward, uncomplicated and unambiguous** so much so that the letter and intent thereof cannot be mistaken. The said provision categorically states that the thirty (30)-day period to appeal to the CTA is reckoned "**from the receipt of the decision denying the claim**." Accordingly, this should be applied as written. Any interpretation that recalls and applies the concept of "inaction" as a separate basis for judicial recourse under the TRAIN Law amounts to judicial legislation—an exercise that lies beyond the province of the courts.

Moreover, the deletion of the relevant phrases from the Tax Code by the TRAIN Law cannot be lightly dismissed as inadvertent or without purpose. To the contrary, such deletion should be presumed deliberate, intending to remove the effects of the deleted phrases, *i.e.*, the mandatory and jurisdictional nature of the ninety plus thirty (90+30)-day period in cases of inaction, where the CIR decides to issue a decision after the lapse of the ninety (90)-day period.

---

3 *Miramar Fish Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 185432, June 04, 2014.
4 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.
5 *Camp John Hay Development Corp. v. Central Board of Assessment Appeals*, G.R. No. 169234, October 02, 2013.

This conclusion is in line with the rule that an amendment by the deletion of certain words or phrases indicates an intention to change the meaning of the law or rule. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.[6]

It is also consistent with Section 4.112-1 of Revenue Regulations (RR) No. 26-18,[7] amending RR No. 13-18 or the implementing rules of the TRAIN Law, which expressly allows the BIR to continue to process administrative refund claims even after the lapse of the ninety (90)-day period, subject to the imposition of penalties on the erring BIR officer.

The clear grant to the taxpayer of the remedy of judicial appeal from the decision of the CIR, as provided under the TRAIN Law and its implementing rules, taken together with the express recognition under the BIR rules that the BIR may still continue to process the administrative refund claim even after the lapse of the ninety (90)-day period, incontrovertibly shows that the taxpayer is allowed to wait for the decision of the CIR on its administrative refund claim beyond the ninety (90)-day period. To hold otherwise would unduly penalize the taxpayer who simply replied on the plain wording of the statute.

Corollarily, the taxpayer may still file an appeal with the CTA within thirty (30) days from the receipt of the CIR's decision, even if such decision was issued after the lapse of the ninety (90)-day period.

"Whichever is sooner" rule does not apply in light of the TRAIN Law amendments

I am aware that in *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*,[8] among other cases, the Supreme Court ruled that the judicial claim for refund shall be filed within thirty (30) days after the receipt of the CIR's decision or after the expiration of the one hundred twenty (120)-day period, whichever is sooner.

---

[6] *Laguna Metts Corp. v. Court of Appeals*, G.R. No. 185220 (Resolution), July 27, 2009.

[7] *Amends Certain Provisions of RR No. 13-2018 to Implement the 90-Day Processing of Claim for VAT Refund under Section 112 (C) of the Tax Code of 1997, as Amended by Republic Act (R.A.) No. 10963, Otherwise Known as the Tax Reform for Acceleration and Inclusion or TRAIN*, December 21, 2018.

[8] G.R. No. 182737, March 02, 2016.

A careful examination of this case, however, shows that **the "whichever is sooner" rule was based on and has been used in relation to Section 112 of the Tax Code prior to the effectivity of the TRAIN Law.** Understandably, under the old provision, the filing of an appeal with the CTA could be reckoned from either the decision of the CIR or his inaction. But due to instances where both the decision and inaction of the CIR were appealable to the CTA, issues on timeliness of the judicial appeal and on which remedy was more proper to take, arose. Hence, the aforementioned ruling was drawn relating the mandatory and jurisdictional nature of the one hundred twenty plus thirty (120+30)-day period, to the "whichever is sooner" rule.

With the deletion of the appeal from the inaction of the CIR under the TRAIN Law, the appeal from the decision of the CIR remained as the one clear and unmistakable remedy of the taxpayer under the Tax Code. Thus, in view of the differences in the version of the applicable rule in, and context of the aforesaid case *vis-a-vis* the present case, the Court in Division was incorrect when it ruled that the aforesaid case is still applicable in interpreting Section 112(C) of the Tax Code, as amended by the TRAIN Law.

Furthermore, **the availability of an appeal from the CIR's inaction under the CTA Law cannot be interpreted in such a way as to fully deny the taxpayer of its right to appeal the CIR's decision under the TRAIN Law. There is no legal basis for such interpretation.** While I agree that the appeal from the CIR's decision denying the claim, and appeal from his inaction, are mutually exclusive remedies, such that resort to one bars the application of the other, I am not convinced that the lapse of the ninety plus thirty (90+30)-day period under the CTA Law bars the taxpayer from appealing the decision of the CIR issued thereafter, where no appeal was filed during the ninety plus thirty (90+30)-day period.

It cannot be concluded that the availability of an appeal from the CIR's inaction under the CTA Law, was intended to limit the taxpayer's recourse to the Court under other relevant laws. Hence, the appeal within thirty (30) days from the CIR's inaction under the CTA Law, **should be treated as a permissive remedy, not a restrictive one.**

Here, it bears emphasis that petitioner elected to pursue its judicial remedy by invoking Section 112(C) of the Tax Code, as amended by the TRAIN Law,[9] by filing a *Petition for Review* assailing the CIR's decision on its refund claim, which was received on

[9] Division Docket - Vol. I, p. 8, par. 9; pp. 10-11, par. 17.

November 24, 2020. Guided by the foregoing discussion, petitioner had until **December 24, 2020**—or thirty (30) days from receipt of said decision—to elevate the matter to this Court. As the *Petition* was filed on **December 23, 2020**, it was well within the prescribed period.

Clearly, the fact that petitioner did not appeal the inaction of the CIR within thirty (30) days from the lapse of the ninety (90)-day period on October 13, 2020, or until November 12, 2020, did not bar its right to appeal the CIR's decision subsequently received on November 24, 2020.

Therefore, I vote to uphold this Court's jurisdiction over the present case.

HENRY S. ANGELES
Associate Justice