REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

DÖHLE SHIPMANAGEMENT PHILS. CORP.,
Petitioner,

CTA *EB* NO. 1715
(CTA Case No. 8702)

-versus-

Present:

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

MAR 14 2019
4:02 p.m.

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D E C I S I O N

MANAHAN, J.:

Before the Court of Tax Appeals *En Banc* is the instant Petition for Review[1] filed on October 18, 2017, seeking the reversal of the Decision dated April 4, 2017 and the Resolution dated September 7, 2017, promulgated by the Third Division of this Court (Court in Division) in CTA Case No. 8702 entitled, *"Döhle Shipmanagement Phils. Corp. vs. Commissioner of Internal Revenue and the One-Stop Shop Inter-Agency Tax Credit*

[1] EB Docket, pp. 44- 102.

Drawback Center of the Department of Finance, the dispositive portions of which read as follows:

Decision dated April 4, 2017

> "**WHEREFORE,** the Petition for Review dated August 29, 2013 filed by petitioner Döhle Shipmanagement Phils. Corp. (Döhle) is **DISMISSED** on jurisdictional ground.
>
> **SO ORDERED.**

Resolution dated September 7, 2017

> "**WHEREFORE**, petitioner's Motion for Reconsideration dated May 2, 2017 is **DENIED** for lack of merit. The assailed Decision dated April 4, 2017 is **AFFIRMED** in toto."

THE FACTS

The relevant facts, as found by the Division, are as follows:

> On August 12, 2011, petitioner filed with respondent OSS-DOF applications for refund/tax credits of its unapplied input VAT for the four quarters of the year 2010, as follows:
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> xxx xxx xxx
>
> On separate occasions, petitioner submitted documents to substantiate its administrative claim for refund/tax credit, the last being on April 12, 2013.
>
> On August 30, 2013, petitioner filed the instant Petition for Review citing inaction on the part of respondent CIR on its administrative claim for refund/tax credit.
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> On October 7, 2013, respondent CIR posted his Answer to the Petition for Review while respondent OSS-DOF posted its own on November 14, 2013.
>
> In his Answer, respondent cites his usual defense that the instant claim for refund is still subject to examination. In addition, he states that petitioner needs to prove the merits of its claim since claims for refund are strictly construed against the claimants.

The other respondent OSS-DOF takes a different direction by questioning the Court's jurisdiction over the case saying that petitioner failed to comply with the mandatory 120-day period under Section 112 of the National Internal Revenue Code (NIRC) as amended. The said 120-day period prescriptive period was yet to lapse when the present appeal was instituted rendering it premature per Revenue Memorandum Circular (RMC) No. 29-2009. Per respondent' OSS-DOF, the 120 day prescriptive period stopped running from the time petitioner was required to submit the Agreement Form indicating petitioner's concurrence with the result of the BIR audit on the administrative claim for refund/tax credit. Despite receipt of the letter dated March 13, 2013, petitioner failed to submit the required Agreement Form which effectively suspended the running of the 120-day period. It is therefore inaccurate to say that there was already inaction on the part of respondent CIR entitling petitioner to seek judicial intervention.

Even if the Court assumes jurisdiction over the case, the amount of the claim, must be reduced for not all are attributable to petitioner's zero-rated transactions for the year 2010. Respondent OSS-DOF questions the purchase of services relative to the construction of a building which was completed only after 2010. It suspects that the building might be used in a manner not exclusively attributable to zero-rated transactions, hence would not involve input VAT.

In its Reply, petitioner argues that an Agreement Form is not a requirement in a claim for refund/tax credit of unutilized input VAT under Section 112 of the NIRC and RMC No. 029-09. Thus, the non-submission of the Agreement Form would not suspend the running of the 120-day period under Section 112 of the NIRC. Further, there is nothing in Section 112 of the same Tax Code that lays the basis for the suspension of the 120 day period and respondent cannot validly add such requirement to the law which he is mandated to implement. To require such document is to deny petitioner of its right to due process. By virtue of such document, petitioner would not be able to dispute the BIR finding nor seek review by higher authority in violation of its right to be heard.

Petitioner points out that it submitted additional supporting documents on April 12, 2013, hence, the 120-day period expired on August 10, 2013 giving petitioner 30 days or until September 9, 2013, to file a petition for review with this Court. Hence, its Petition for Review was seasonably filed on August 30, 2013 vesting the Court jurisdiction to hear and determine the case.

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> To prove its case, petitioner presented Bethoven S. Saguid, Kerry Lamb, ICPA Myra Celeste O. Dabalos, and James Richard Stevenson as its witnesses.
>
> Petitioner's Senior Vice President and General Manager Bethoven S. Saguid testified that petitioner is in the business of managing ships, acts for and in behalf of any foreign shipping corporation for purposes of hiring seamen, and equipping the ship or vessel. Petitioner, formerly known as Midocean Shipmanagement Corporation was renamed Dohle Shipmanagement Phils. Corporation in August 2005.
>
> On January 1, 2009, petitioner executed a Service Agreement with Dohle (IOM) Limited (DIOML) under which it shall render crewing operations, crew accounting services, crew travel services, and crew training. Under the same Service Agreement, petitioner obliged to build a site in 2010 for all these services. For services rendered, petitioner would pay all the costs of such services plus a certain margin.
>
> The Service Agreement was amended in August of 2010 to include commercial and technical services. However, petitioner was unable to provide the technical and commercial services for the year 2010 since there was a stipulation in the amendment that it should first finish the construction of its building before rendering the additional services.
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> The instant Petition for Review was lodged as respondent failed to act on petitioner's administrative claim for refund/tax credit of its unapplied input VAT for the year 2010 within the period granted to him.

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On September 29, 2017, petitioner filed a *Petition for Extension of Time to File Petition for Review.*

On October 4, 2017, the Court En Banc granted the *Petition for Extension of Time to File Petition for Review* and granted a final and non-extendible period of fifteen (15) days from October 4, 2017 or until October 19, 2017 within which to file its Petition for Review.

On October 18, 2017, petitioner filed a Petition for Review with the Court *En Banc.*

On November 16, 2017, the Court issued a Resolution ordering respondent to file his Comment on the Petition for Review within ten (10) days from receipt thereof.

On December 11, 2017, respondent filed a *Motion for Extension of Time to File Comment* which the Court granted in a Minute Resolution dated December 14, 2017 giving respondent a non-extendible period of twenty (20) days from December 17, 2017 or until January 6, 2018 within which to file his Comment to the Petition for Review.

The Records Verification Report issued by the Judicial Records Division of the Court stated that respondent failed to file his Comment to the Petition for Review within the period prescribed by the Court.

On February 12, 2018, the Court issued a Resolution requiring both parties to submit their respective memoranda.

Petitioner filed its Memorandum on April 20, 2018 while respondent manifested that he is adopting the factual findings and legal conclusions of the Third Division in its Decision dated April 4, 2017 and Resolution dated September 7, 2017 in CTA Case No. 8702 as part of his Memorandum.

On May 15, 2018, the case was deemed submitted for decision.

Hence this Decision.

ISSUE

The issues raised by petitioner for the resolution of the Court *En Banc* are as follows:

1. Whether the Court of Tax Appeals erred in ruling that petitioner's judicial claim for refund was filed out of time;

2. Whether petitioner is entitled to a refund of excess input VAT for taxable year 2010.

Petitioner's Arguments:

Petitioner challenges the legal rationale for the dismissal of the Petition for Review and asserts its theory on the meaning and implications of Section 112 (A) and (C) of the 1997 National Internal Revenue Code (NIRC), as amended, relative to the counting of the prescriptive periods embodied therein.

Petitioner firmly maintains that the provisions of Section 112 (A) and (C) of the 1997 NIRC are clear and unambiguous and thus must be interpreted according to its plain and unequivocal language. It submits that the 120-day period for the respondent Commissioner of Internal Revenue to act on its applications for tax refund or tax credit certificate (TCC) for the four (4) quarters of 2010 should be counted from the submission of its last batch of documents in support of said claim. Applying the foregoing interpretation, petitioner declares that the last batch of documents was submitted on April 12 2013, hence the 120-day period expired on August 10, 2013 making the Petition for Review filed on August 30, 2013 compliant with the mandatory 120 + 30-day prescriptive period for claiming a refund of excess input taxes.

Petitioner objects to the conclusion of the Court in Division when it ruled, thus:

> "The record shows that petitioner submitted to respondent the last batch of its supporting documents on April 12, 2013, the date when the 120-day period for respondent to act on petitioner's claim for refund was supposed to commence. The 120-day period lapsed on August 10, 2013. Counting from August 10, 2013, the 30-day period to file an appeal fell on September 9, 2013. It would therefor appear that petitioner's Petition for Review was seasonably filed on August 30, 2013.
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> **However, April 12, 2013, the date when petitioner submitted complete supporting documents for its administrative claim could not be considered as the reckoning date for the 120-day period neither could it be considered in the computation of the 30-day period to appeal.**
>
> Note that under the cited jurisprudence, **"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"** or within the two-year period for the filing of the

> administrative claim reckoned from the close of the taxable quarter when the relevant sales were made." (emphasis supplied)

The Court in Division cited the Supreme Court case of *Pilipinas Total Gas, Inc. vs. CIR*[2] as its basis in ruling that the documents to be submitted in support of the claim for refund must be completed within the two (2)-year period from the filing of the administrative claim for refund. We quote relevant portions of the assailed Decision, thus:

> "Thus, even if petitioner filed its administrative claim on August 12, 2011, submission of complete documents in support of the application for refund/tax credit for the four quarters of 2010 should only be until March 31, 2012, June 30, 2012, September 30, 2012 and December 31, 2012, respectively, or the very deadlines for the filing of the administrative claim for the year 2010.
>
> Therefore, April 12, 2013- the date when petitioner completed its supporting documents – could not be the reckoning point for the 120-day period as the said date was already beyond the 2-year-period for the filing of the administrative claim provided under Section 112 (A) of the NIRC, as amended, and submission of complete documents."

Petitioner disagrees with the ruling of the Court that the submission of the "complete supporting documents" must be made within the two-year period. On the contrary, petitioner claims that only the applications for tax refund must be made within the two-year period based on the plain and unambiguous wordings of Section 112 (A) and (C) of the 1997 NIRC because the filing and submission of complete documents are two separate events governed by two different subsections of Section 112, i.e., Section 112 (A) for the filing of the application for refund and Section 112 (C) for the submission of complete documents. As to the ruling of the Supreme Court in the *Pilipinas Total* case, petitioner avers that the pronouncements therein regarding the filing and submission of the supporting documents is an *obiter dictum* which cannot be considered as a doctrinal declaration of said Court.

As to the substantive aspect of its claim for refund for unapplied and unutilized input VAT for taxable year 2010, petitioner reiterates his position during the trial at the Court in

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[2] G.R. No. 207112, December 8, 2015.

Division that it has complied with all the following requisites established by law and jurisprudence:

1. That it is a VAT-registered entity;
2. That it is engaged in VAT zero-rated sales and, in fact, had VAT zero-rated sales for the period January to December 2010.

Respondent's Counter-arguments

Respondent no longer filed his Comment to the Petition for Review and manifested that he is adopting all the factual findings and conclusions of the Third Division of the Court under the assailed Decision dated April 4, 2017 and Resolution dated September 7, 2017 in CTA Case No. 8702 which denied petitioner's claim for refund on jurisdictional grounds.[3]

RULING OF THE COURT EN BANC

Petitioner's arguments lack merit.

A fresh look at the facts as gathered from the evidence submitted by petitioner as well as the other records of this case read in the light of the relevant provisions of the 1997 NIRC, as amended, leads to the conclusion that the Petition for Review was filed out of time.

It has been established during trial that petitioner filed its administrative claims for refund for the four (4) quarters of 2010 on August 12, 2011.[4] A last submission of the supporting documents was allegedly made on April 12, 2013. When respondent failed to act on the applications for refund after the submission of this last batch of documents, petitioner considered the date (April 12, 2013) as the reckoning period for counting the 120 days and subsequently filed its Petition for Review on August 30, 2013 with the Court of Tax Appeals based on its interpretation of Section 112 (A) and (C) of the 1997 NIRC, as amended.

For purposes of clarity and orderly discussion, we set hereinbelow, the timeline of the significant filings and submissions made by respondent as regards its claim for refund

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[3] *En Banc* Docket, pp. 462-463.
[4] Exhibits P-10", "P-11", "P-12", "P-13", Court Docket pp. 825-828.

of unapplied input VAT for the four quarters of 2010, as found by the Court in Division, to wit:

> **August 12, 2011** - Date of filing of applications for refund/tax credits with the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (OSS-DOF) corresponding to the four quarters of 2010.
>
> **April 12, 2013** – Date of filing of the last batch of documents to (allegedly) support its applications for tax refund/credit.
>
> **August 30, 2013** – Date of filing of the Petition for Review with the Court of Tax Appeals.

Section 112(A) and (C) of the 1997 NIRC, as amended, governs the filing of administrative and judicial claims for refund or tax credit of excess and unutilized input VAT attributable to zero-rated or effectively zero-rated sales and we quote:

> "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, within two (2) years after the close of the taxable quarter when the sales were made, 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 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.
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> xxx xxx xxx
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> (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 from the date of submission of complete documents in support

of the application filed in accordance with Subsection (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, 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."

Pursuant to the aforequoted Section 112 (A), the administrative claim filed by a VAT-registered person for the issuance of a TCC or refund of unutilized input VAT must be filed within two (2) years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made. Applying this to petitioner's administrative claims for refund of unapplied input VAT filed with the OSS-DOF for taxable year 2010, we agree with the Court in Division that these were timely filed within the two-year period. We quote the ruling of the Court in Division on this issue, thus:

"Under Section 112 (A), a VAT-registered taxpayer whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the relevant sales were made, apply for refund or tax credit of its creditable input tax due or paid attributable to such sales. Jurisprudence however clarified that (1) only the administrative claim must be filed within the two-year prescriptive period; and (2) the two-year prescriptive period begins to run from the close of the taxable quarter when the relevant sales were made."

In this case, petitioner seeks to refund its unapplied input VAT paid on its domestic purchase of taxable goods and services attributable to its zero-rated sales for taxable year 2010.

Counting two years from the close of the each of the four (4) quarters of the year 2010, petitioner had until March 31, 2012, June 30, 2012, September 30, 2012, and December 31, 2012, respectively, to file (sic) administrative claim for refund/tax credit."

It appears from the foregoing dates that petitioner seasonably filed its administrative claim (sic) for the four (4) quarters of the year 2010 on August 12, 2011."

The controversy arose from the interpretation of the provisions of the aforequoted Section 112 (C) of the 1997 , as amended, relative to the submission of the complete documents to support the administrative claims for refund and the subsequent appeal to this Court within the 120+30 day period.

Petitioner opines that the reckoning period of the 120 + 30 day period is from the date of its submission of the complete supporting documents on April 12, 2013 because it considers this to be its last filing of documents to support its claim. Counting 120 days from April 12, 2013, petitioner asserts that the 120-day period expired on August 10, 2013 hence the filing of the Petition for Review with the Court on August 30, 2013 was made within the 30-day period prescribed by law for filing the judicial claim.

At first glance, petitioner's arguments seem to be in accord with the wordings of Section 112 (C) of the 1997 NIRC, as amended, especially in the counting of the 120+ 30 day period. However, viewed in relation to Section 112 (A) of the same Code, the arguments of petitioner do not hold water. To our collective minds, we find the reason or reasons behind the submission of the last batch of documents by petitioner on April 12, 2013 an important element in determining whether the Petition for Review was filed out of time.

In petitioner's *Reply* to the *Answer* filed on December 16, 2013[5], the submission of the documents on April 12, 2013 was in response to the OSS-DOF's letter dated March 13,2013 partially denying its applications for tax refund. This partial denial prompted petitioner to file a letter to the OSS-DOF requesting for reconsideration of the partial denial of its claim where it attached several documents in *support of the letter request for reconsideration.* We quote relevant portions of petitioner's *Reply* as follows:

> " 8. On March 14, 2013, Petitioner received the OSS-DOF's letter dated March 13, 2013 (the OSS-DOF Letter") and the attached Claimant's Agreement Form as well as various schedules, which indicated that based on their audit of the total claim of Php38,515,004.35, only the amount of Php2,130,630.72 was being recommended for immediate issuance of tax credit certificate. Among other findings, the OSS-DOF disallowed a portion of the petitioner's claim for lack of supporting documents.
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> 9. Consequently, in its letter dated April 12, 2013 (the "Response Letter"), the Petitioner requested the OSS-DOF to **reconsider its findings and submitted additional documents in support of its application for tax refund or credit.** In said letter, the petitioner noted that "(it had) now submitted complete documents that would enable the Honorable Office to act on our

[5] Court Docket, Volume I, pp. 174 to 184.

VAT Claim and to determine the correct amount to be refunded or credited to the Company." (emphasis supplied)

In said *Reply*, petitioner attached a photocopy of the actual letter response dated April 12, 2013 addressed to the OSS-DOF[6] and we quote relevant portions, thus :

"B. Submission of Additional Documents

"With this letter, the Company submits additional documents in response to the finding of the Honorable Office that certain items of VAT Claim had no supporting documents. A detailed schedule of these input VAT claims, together with the supporting documents, is attached as Annex D."

From the statements of petitioner in the aforequoted letter, the submission of the additional documents by petitioner was *not* in support of the original administrative claims for refund filed collectively on August 12, 2011 but was in response to the partial denial of its claim for refund after review and evaluation by the OSS-DOF embodied in a letter dated March 13, 2013.[7] From the date of filing of the applications for refund on August 12, 2011[8], petitioner submitted the additional documents only on March 13, 2013 which is outside the two year period for all the four taxable quarters of 2010 and only in response to the partial denial of the claim for refund which was incidentally contained in a letter signed by the Head of the Tax and Revenue Group, OSS-DOF, Ms. Nelia A. Castillo dated March 13, 2013.[9] Note that Section 112 (C) requires the submission of the documents in support of the original claim or applications for refund mentioned in Section 112 (A) and not as a response to subsequent events, e.g., a denial of the claim in the administrative level.

This Court finds the ruling of the Supreme Court in the *Pilipinas Total* case appropriate in this particular situation as regards the submission of documents within the two-year period. It would have been different if the submission of additional documents was a result of a series of requests made by the respondent or his representatives to which a taxpayer is made to comply *even outside* the two-year period. It is a reality that revenue examiners oftentimes take time to evaluate and examine the claims for refund pending in their office and that

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[6] Court Docket, Volume I, pp. 189-196.
[7] Exhibit "P-16", Court Docket, Volume I, page 450.
[8] Exhibits "P-10", "P-11", "P-12" and "P-13".
[9] Ibid.

in the course of such evaluation may require taxpayer to further support the claim for refund with additional documents. The constant requests for documents may even go beyond the two-year period from the filing of the administrative claim and this, to our minds, constitutes an exception to the submission of documents within the two year period.[10]

While it is well-settled that it is the taxpayer who should determine when the documents (in support of the claim) are already complete, there are instances where the respondent, in the course of studying the sufficiency of the claim, will continue to request for more documents from the taxpayer even after the two-year period mentioned in the *Pilipinas Total Gas* case. In such instances, the taxpayer should not be faulted for complying with these continuous requests from the respondent, whether verbal or written, in the hope of settling the claim in the administrative level, thereby avoiding a long protracted and expensive process if it appeals its claim to the courts. Having said this, we do want to note that the allowable extended period of submission of documents and the consequent extension of the 120-day period applies only if the respondent continues to make requests for documents (whether verbal or written) within the 120- day period.

The Supreme Court in the Pilipinas Total case seems to share this view, and we quote:

> "xxx *Then, except in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms of what additional documents must be presented in support of a claim for tax credit or refund-* it is the taxpayer who has the right and burden of providing any and all documents that would support his claim for tax credit or refund" (emphasis supplied).

Unfortunately, the aforesaid exception does not appear in the instant case as borne by the records of this case.

The records do not show that the OSS-DOF made constant and ongoing requests for additional documents extending beyond the two-year period. It is only the petitioner who on its own volition decided to submit additional documents to support its letter request for reconsideration. We cannot then subscribe to the contention of petitioner that the counting of the 120-day period shall be reckoned or counted from April 12, 2013, the

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[10] See Dissenting Opinion, Zuellig Pharma Asia Pacific Ltd., Phils. ROHQ vs. CIR, CTA Case No. 8899, March 9, 2017.

date when it filed a letter request for reconsideration with documents attached.

With no evidence showing that documents were submitted by petitioner subsequent to the filing of the applications for refund covered by the two year period, we hold that the 120-day period should be counted from the filing of the claims for refund or more specifically the Applications for Tax Credits/Refund (BIR Form No. 1914) on August 12, 2011 and from this date determine whether the Petition for Review was timely filed pursuant to the provisions of Section 112 (A) and (C) of the 1997 NIRC. Based on this conclusion, we further hold that the 120-day period expired on December 10, 2011 and the thirty-day period likewise lapsed on January 9, 2012, making the Petition for Review filed by petitioner with this Court on August 30, 2013, filed out of time.

In the *Pilipinas Total case*, the Supreme Court ruled that (ideally) the 120-day period should be counted from the date the administrative claim was filed because it is presumed that the taxpayer has completed all the necessary documents to support his claim upon filing. This is the general rule. It is also well-settled that the 120 + 30 day period provided under Section 112 (C) of the 1997 NIRC relative to claims for refund of excess or unutilized input VAT must be strictly observed and is considered mandatory and jurisdictional. [11] Non-compliance with the said period will prove fatal to a taxpayer's claims for refund of excess or unutilized input VAT.

We would like to emphasize that it is not upon the lapse of the two-year period from the end of the taxable quarter that the 120-day period commences to run but from the date of the submission of documents by petitioner in support of its claim for refund. As mentioned earlier, there are exceptional circumstances where the submission extends beyond the two-year period due to the constant and ongoing requests of the revenue examiners but without this exception, it is presumed that the taxpayer has completed the submission of documents at the time of the filing of the administrative claim similar to the instant case.

We may agree with the contention of the petitioner that Section 112 (A) and Section 112 (C) of the 1997 NIRC, as

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[11] CIR vs. Toledo Power Company, G.R. No. 196415, December 2, 2015; CIR vs. Aichi Forging Company of Asia, G.R. No. 183421, October 22, 2014.

amended, speak of two separate events, i.e. filing and submission of documents, but there may be occasions where the filing and submission are done singly or simultaneously where no other documents are subsequently submitted or required to be submitted. In this case, the reckoning of the 120-day period for acting on said claims begins from the date of filing of the administrative claims for refund. The claim is deemed unacted upon when the revenue examiners do not issue or render a decision upon the lapse of the 120-day period thereby allowing the taxpayer to elevate an appeal to the Court of Tax Appeals within thirty (30) days from the lapse of the 120-day period. In all instances however, the reckoning point is from the date of submission of complete documents.

As to petitioner's argument that the declarations of the Supreme Court in the *Pilipinas Total case* re the counting of the 120+30 day period is a mere *obiter dictum*, we find this irrelevant as the conclusions and pronouncements herein are based on this Court's interpretation of the relevant provisions of the 1997 NIRC, as amended, specifically Section 112 (A) and (C). The ruling in the *Pilipinas Total case* merely supplemented our conclusions.

WHEREFORE, in view of the foregoing, the instant Petition for Review filed by petitioner Döhle Shipmanagement Phils. Corp. on October 18, 2017 is hereby **DISMISSED** for lack of merit. Accordingly, the judicial claim for refund of excess input VAT for taxable year 2010 is **DENIED** on jurisdictional ground.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(Inhibited)
MA. BELEN M. RINGPIS -LIBAN
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