REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

NEW YORK BAY PHILIPPINES, INC.,
Respondent.

CTA EB No. 2274
(CTA Case No. 9450)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo, and
Cui-David, *JJ.*

Promulgated:
MAY 24 2022 3:40pm

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RESOLUTION

CASTAÑEDA, JR., *J.*:

This resolves petitioner's Motion for Reconsideration (En Banc Decision dated 24 November 2021) which was filed *via* registered mail on December 17, 2021. On April 4, 2022, respondent, by counsel, filed its Comment (Re: Motion for Reconsideration dated December 16, 2021). On April 6, 2022, petitioner's motion was submitted for resolution.

The dispositive portion of the November 24, 2021 Decision states:

> **WHEREFORE,** premises considered, the Petition for Review is **DENIED**. Accordingly, the assailed Decision and the Resolution promulgated on July 31, 2019 and on February 26,

2020, respectively, by the CTA Special Third Division are **AFFIRMED.**

SO ORDERED.

Petitioner reiterates, among others, that respondent failed to submit the complete supporting documents upon submission of the administrative claim for value-added tax (VAT) refund, *i.e.,* verification of delinquent accounts from the concerned Revenue District Office, certified true copy of approved application for zero-rating issued by the appropriate Bureau of Internal Revenue (BIR) office for effectively zero-rated transactions, reconciliation of export sales and dollar remittances, and compliance on big ticket items per Revenue Memorandum Order (RMO) No. 16-2007[1] and Revenue Memorandum Circular (RMC) No. 29-2009[2].

On the other hand, respondent alleges, among others, that the motion is "a mere verbatim reiteration of petitioner's previous pleadings, particularly:

(a) Petitioner's Motion for Reconsideration of the CTA-Division Decision x x x; and

(b) Petitioner's Petition for Review in this case x x x."[3]

After a careful perusal of the issue and discussions in petitioner's motion, We find no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated November 24, 2021, thus, the motion is denied.

In this case, it was established that then petitioner (now respondent) filed its administrative claim for refund of unutilized input VAT for the four (4) quarters of calendar year 2014 on March 31, 2016, with attached supporting documents, and with a Sworn Certification stating that it submitted complete documents for purposes of processing its claim for refund.[4] Thus, the taxpayer in this case has complied with the requirements under RMC 54-2014, *i.e.,*"[1] compliance with the mandate to submit the 'supporting documents' enumerated under RMC 54-2014 under its 'Annex

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[1] *SUBJECT : Prescribing Additional Procedures in the Audit of Input Taxes Claimed in the VAT Returns by Revenue Officers and Amending "Annex B" of Revenue Memorandum Order (RMO) No. 53-98 with Respect to the Checklist of Documents to be Submitted by a Taxpayer upon Audit of his/its VAT Liabilities as well as the Mandatory Reporting Requirements to be Prepared by the Assigned Revenue Officer/s Relative thereto, All of which shall Form an Integral Part of the Tax Docket*; July 20, 2007.
[2] *SUBJECT : Clarifying Certain Issues Relative to the Processing of Claims for Tax Credit/Refund*; April 16, 2009.
[3] *Rollo*, p. 109.
[4] *Rollo*, p. 44.

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."[5]

We emphasize that in this case, the Commissioner of Internal Revenue failed to act within the 120-day period from March 31, 2016, thus, the taxpayer is correct in filing its judicial claim within thirty (30) days from the expiration of the 120-day period. This is consistent with Section 112(C) of the National Internal Revenue Code of 1997, as amended, and with jurisprudence that "The 120+30 day periods are mandatory and jurisdictional."[6]

This Court maintains that the CTA Division did not err in giving due course to the petition of then petitioner (now respondent). Moreover, then petitioner (now respondent) has sufficiently proven its judicial claim for VAT refund in the reduced amount.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (En Banc Decision dated 24 November 2021) is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[5] *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue,* G.R. No. 207112, December 8, 2015.
[6] *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*, G.R. No. 184823, October 6, 2010.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice