REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

AEON CREDIT SERVICE (PHILIPPINES), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9770

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, ***JJ.***

Promulgated:
JAN 04 2021 4:00 pm

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**CIR's**) "Motion for Reconsideration (Decision dated 15 July 2020" filed on 24 August 2020.

On 15 July 2020, the Court reached Its Decision in the above-captioned case. The dispositive portion of the Decision reads:

> ...
>
> WHEREFORE, in view of the foregoing petitioner Aeon Credit Service (Philippines), Inc.'s Petition for Review filed on 19 February 2018 is PARTIALLY GRANTED. Accordingly, respondent Commissioner of Internal Revenue is ORDERED TO REFUND to petitioner the total amount of Three Million Four Hundred Fifty-Five Thousand Five Hundred Seventy Pesos and Twenty-Four Centavos (₱3,455,570.24), representing its overpayment of gross receipts tax (GRT) for the calendar year ending on 31 December 2016.

SO ORDERED.

...

In his 3-page motion, respondent maintains that this Court has no jurisdiction over the present petition. The CIR contends that petitioner Aeon Credit Service (Philippines), Inc. (**petitioner**) should have exhausted all administrative remedies by giving the former a chance to resolve the latter's claim before resorting to judicial action. This Court, however, has already exhaustively discussed this issue in the assailed decision. Upon review of the facts and laws applicable to case at bar, We find no cogent reason to deviate from Our previous ruling.

The Court reiterates the ruling in *CBK Power Company Limited v. Commissioner of Internal Revenue*[1] where the Supreme Court held that both administrative and judicial claims for a tax refund must be filed within two (2) years from its erroneous payment or illegal collection, *to wit:*

> ...
>
> Sections 204 and 229 of the NIRC pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner.
>
> ...
>
> **With respect to the remittance filed on March 10, 2003, the Court agrees with the ratiocination of the CTA *En Banc in* debunking the alleged failure to exhaust administrative remedies. Had CBK Power awaited the action of the Commissioner on its claim for refund prior to taking court action knowing fully well that the prescriptive period was about to end, it would have lost not only its right to seek judicial recourse but its right to recover the final withholding taxes it erroneously paid to the government thereby suffering irreparable damage.**
>
> Also, while it may be argued that, for the remittance filed on June 10, 2003 that was to prescribe on June 10, 2005, CBK Power could have waited for, at the most, three (3) months from the filing

[1] G.R. Nos. 193383-84, 14 January 2015.

> of the administrative claim on March 4, 2005 until the last day of the two-year prescriptive period ending June 10, 2005, that is, if only to give the BIR at the administrative level an opportunity to act on said claim, the Court cannot, **on that basis alone, deny a legitimate claim that was, for all intents and purposes, timely filed in accordance with Section 229 of the NIRC. There was no violation of Section 229 since the law, as worded, only requires that an administrative claim be priorly filed.**
>
> ...

Clearly, there is no requirement that a taxpayer await the CIR's decision before elevating its case to this Court. It is should only essential that an administrative claim be filed as a condition precedent in order for a judicial claim for refund to prosper.

WHEREFORE, in view of the foregoing, respondent's "Motion for Reconsideration (Decision dated 15 July 2020" filed on 24 August 2020 is **DENIED** for lack of merit. Accordingly, the Decision dated 15 July 2020 is **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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