REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BRITISH AMERICAN TOBACCO (PHILIPPINES), LIMITED,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10322

Members:

RINGPIS-LIBAN, *P.J.,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

9:00 AM

x - x

RESOLUTION

FERRER-FLORES, J.:

Before the Court is petitioner's **Motion for Reconsideration (of the Decision dated July 30, 2025)** filed on August 29, 2025, with respondent's **Comment/Opposition (Re: Petitioner's Motion for Reconsideration dated 29 August 2025)** filed on October 14, 2025.

On July 30, 2025, the Court promulgated a Decision dismissing petitioner's claim for refund of unused input value-added tax (VAT) on the ground of lack of jurisdiction, the present *Petition for Review* having been prematurely filed. The dispositive portion of the assailed Decision reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED.**

In its *Motion*, petitioner prays that the above Decision be reversed by declaring petitioner entitled to refund in the aggregate amount of ₱474,654,897.35, or in the alternative, in the reduced amount of

₱221,955,835.04, as recommended by the court-commissioned Independent Certified Public Accountant (ICPA), representing its unutilized/excess input VAT on importation of goods and domestic purchases of goods and services as of December 31, 2017, based on the following grounds:

I. The appeal of the decision or inaction of the Commissioner of Internal Revenue (CIR) on claims for refund of input VAT falls squarely within the jurisdiction of this Court;

II. The amendments introduced by Republic Act (RA) No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN Law) should not be applied retroactively considering that the case involves input VAT on importation of goods and domestic purchases of goods and services as of December 31, 2017, prior to Train Law's effectivity;

III. Case laws on the period for resolving claims for input VAT refund under Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, do not apply to refunds under Section 112(C) of the same code due to cancellation of VAT registration;

IV. Petitioner has duly complied with all requisites for refund of unutilized input VAT under Section 112(B) of the NIRC of 1997, as amended, as confirmed by documentary evidence and the ICPA's findings.

As to the *first* ground, petitioner assails the lack of jurisdiction of the Court as basis for dismissing the present case. Petitioner argues that the issue involved in this case is one of cause of action and not jurisdiction, as distinguished by the Supreme Court in the case of *Zenaida D. Roa vs. Spouses Robinson K. and Mary Valerie S. Sy, et al.*[1] Petitioner explains that a dismissal for failure to state cause of action or lack thereof under the Rules of Court requires consideration of the questions of fact which, accordingly, in the present case should be whether petitioner has satisfied all requisites for the refund of unutilized input VAT due to the cancellation of its VAT registration. Petitioner continues that the lack of cause of action may only be raised after the question of fact have been resolved based on stipulations or evidence presented. Thus, relying on the ruling of the Supreme Court in *Apolinar R. Royales, et al. vs. Hon. Intermediate Appellate Court, et al.* (*Royales case*),[2] petitioner argues that the inaction or decision on the part of respondent is not a condition precedent that may divest this Court of its jurisdiction. As such, petitioner insists that the issue that should have been resolved by this Court is whether petitioner has a cause of action or a legal

[1] G.R. No. 221586, September 14, 2021.
[2] G.R. No. L-65072, January 31, 1984.

right to elevate the present case to this Court and whether it is entitled to its claim for refund.

With regard to the *second* ground, petitioner disagrees with the Court's application of TRAIN Law,[3] in resolving the present case. Petitioner cites several CTA *En Banc* cases,[4] wherein the prevailing rule prior to the TRAIN Law's effectivity should apply. Petitioner continues that all of these cited cases involve unutilized/excess input VAT on importation of goods and domestic purchases of goods and services for taxable year 2012 up to December 31, 2017, to which the TRAIN Law was not retroactively applied by the Court in deciding the said cases. Petitioner asserts that, notwithstanding the filing of the present *Petition for Review* on August 3, 2020, the subject of petitioner's claim for unutilized/excess input VAT on importation of goods and domestic purchases of goods and services is as of December 31, 2017; thus, the amendments introduced by the TRAIN Law, in relation to the refund of input VAT for cancellation of VAT registration under Section 112(B) and (C) of the NIRC of 1997, are irrelevant and inapplicable to the present case.

Moreover, petitioner argues that Revenue Regulations (RR) No. 16-2005,[5] which implements Section 112(B) and (C) of the NIRC of 1997, as amended, requires that both administrative and judicial claims for refund of input VAT due to cessation of business may be filed within two years from the date of cancellation of VAT registration. As such, petitioner insists that there was no "inaction" to speak of since petitioner's causes of action are anchored on whether: (i) its VAT registration has ceased; (ii) it has unutilized input VAT due to such cessation; and, (iii) it has filed both its administrative and judicial claims for refund within the two-year prescriptive period under Section 112 (B) of the NIRC of 1997. Petitioner continues that, since its application for registration information update was filed on July 30, 2018, and the cancellation of registration became effective only on August 1, 2018, petitioner had two years therefrom, or until August 1, 2020, within which to file both its administrative and judicial claims for refund. Consequently, petitioner maintains that it timely filed its administrative and judicial claims on July 30, 2020 and August 3, 2020,[6] respectively.

Anent the *third* ground, petitioner reiterates that the *Petition for Review* refers to a claim for refund of unutilized/excess VAT pursuant to cancellation of VAT registration under Section 112(B) of the NIRC of 1997, as amended. Petitioner continues that, under Section 112(C), the 120-day

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[3] Approved on December 19, 2017.

[4] *Lapanday Foods Corp. v. Commissioner of Internal Revenue* (EB Case No. 2188 [CTA Case No. 9976], July 21, 2020), *Lapanday Diversified Products Corp. v. Commissioner of Internal Revenue* (EB Case No. 2199 [CTA Case No. 9989], February 10, 2021), and *Lepanto Consolidated Mining Co. v. Commissioner of Internal Revenue* (EB Case No. 2462 [CTA Case No. 10105], May 24, 2023),

[5] SUBJECT: Consolidated Value-Added Tax Regulations of 2005", took effect on November 1, 2005.

[6] August 1, 2020 falls on a Saturday.

period for respondent to decide on the administrative claim for refund applies only to input VAT attributable to zero-rated sales under Section 112(A) of the Tax Code. Petitioner further avers that the legislature did not intend for the 120-day (now 90-day) period to apply for refund of input VAT for cancellation of VAT registration, as shown by the fact that the law drew a line distinguishing refund of input VAT for cancellation of VAT registration or cessation of business from those involving zero-rated sales.

Petitioner also argues that the only existing jurisprudence on input VAT refund due to cancellation of VAT registration before the TRAIN Law is the case of *Associated Swedish Steels Philippines, Inc. vs. Commissioner of Internal Revenue,*[7] which requires the cancellation of a taxpayer's registration before it can file an administrative claim for refund. Petitioner further submits that it satisfied the requirements stated in the said case when it filed its Application for Cancellation of Registration/TIN (BIR Form No. 1905) with the Bureau of Internal Revenue (BIR) ELTAD II on July 30, 2018. Petitioner highlights respondent's unreasonable delay in issuing the Certificate of Tax Clearance, which is the documentary requirement in the filing of an administrative claim for refund.

Lastly, as to the *fourth* ground, petitioner maintains that it was able comply with the following requisites: (i) it formally offered in evidence its BIR Certificate of Registration (*first* requisite); (ii) it formally offered in evidence its Application for Cancellation of Registration/TIN and its BIR Certificate of Tax Clearance dated July 29, 2020 to prove that its VAT registration has already been cancelled (*second* requisite); (iii) its compliance with the invoicing and substantiation requirements was duly validated by the ICPA in the latter's Partial and Final Reports, and petitioner likewise submitted its various importation documents to substantiate its input taxes (*third* requisite); and, (iv) it presented its Minutes of the Meeting of the Board of Directors on December 13, 2017 calling the cessation of its operations and the closure of its branch office in the Philippines effective December 31, 2017, as well as it Application for Cancellation of Registration/TIN (*fourth* requisite).

On the other hand, in his *Comment*, respondent argues that the *Royales* case[8] cited by petitioner actually reinforces the general rule that failure to comply with condition precedents will render the Court unable to assume jurisdiction over the case. Respondent likewise agrees with the ruling of the Court that the period to file administrative claim for refund should be reckoned from the time of the cancellation of its registration on July 30, 2018, when the TRAIN Law was already in effect. As to the other grounds raised by petitioner, respondent points out that the same were already addressed in the assailed Decision. Respondent, thus, submits that

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7 G.R. No. 206230 (Notice), March 18, 2015.
8 Supra Note 2.

the Court has properly dismissed the case for lack of jurisdiction due to the premature filing of the present *Petition for Review*.

After due consideration, the Court finds petitioner's *Motion for Reconsideration* bereft of merit.

To emphasize, jurisdiction is conferred not by the parties but only by the Constitution or law. As such, reference must be made to the law in determining which court has jurisdiction over a case in relation to the factual and procedural antecedents,[9] specifically, since jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy. As discussed in the assailed Decision, the exclusive appellate jurisdiction of this Court on matters involving the Commissioner of Internal Revenue (CIR) can be found under RA No. 1125,[10] as amended by RA No. 9282,[11] more particularly, Section 7(a) paragraphs (1) and (2) which provide as follows:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise:**
>
> **(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:**
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> **(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;
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> **(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 provides a specific period for action, in which case the inaction shall be deemed a denial; (*Emphasis supplied*)

In the case of *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*,[12] the Supreme Court held that RA No. 1125, as amended by RA No. 9282, clearly provides, among others, that this Court has exclusive appellate jurisdiction to review respondent's decisions, and

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[9] Refer to *Philippine Ports Authority v. The City of Davao, et al.*, G.R. No. 190324, June 6, 2018; *Civil Service Commission, National Capital Region v. Ranulfo P. Albao*, G.R. No. 155784, October 13, 2005.
[10] AN ACT CREATING THE COURT OF TAX APPEALS, approved on June 16, 1954.
[11] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES, approved on March 30, 2004.
[12] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

that without any "decision" or "inaction" of the CIR or his duly authorized representative, this Court, as a court of special jurisdiction, acquires no jurisdiction over a taxpayer-claimant's judicial claim for refund, *viz.*:

> **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 x x deemed a denial' of the Commissioner, the CTA has no jurisdiction over a petition for review.** *(Emphases and underscoring supplied)*

Verily, a taxpayer claimant has the option of seeking judicial redress for refund or tax credit of excess or unutilized input tax with this Court within 30 days, either from receipt of the denial of its claim or after the lapse of the 90-day period in the event of inaction by the CIR, provided that both administrative and judicial remedies must be undertaken within the two-year period.

Herein, since the Court is bereft of jurisdiction due to the premature filing of the present *Petition for Review*, it follows that it is also devoid of authority to act on petitioner's cause of action or to verify its alleged compliance with the requisites for entitlement to tax refund or credit. After all, if the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[13]

With regard to the CTA *En Banc* cases cited by petitioner, the Court stresses that the aforementioned rulings of the CTA, either acting through one of its divisions or sitting *en banc* are not binding precedents. The judicial decisions that form part of our legal system are only decisions of the Supreme Court.[14] For there is only one Supreme Court from whose decisions all other courts should take their bearings.[15]

Anent petitioner's *third* and *fourth* arguments, it equally bears stressing that the Supreme Court in the recent case of *Commissioner of Internal Revenue vs. Dohle Shipmanagement Philippines Corporation*,[16] has already put to rest the applicable implementing rules and regulations in the filing and processing of claims for VAT refund under Section 112 of the NIRC of 1997, as amended, *viz.*:

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[13] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.
[14] *Jennifer A. Agustin-Se, et al. v. Office of the President, et al.*, G.R. No. 207355, February 3, 2016.
[15] *Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July, 15, 2003.
[16] G.R. No. 246379, August 19, 2024.

In addition, the BIR issued RMC 47-2019 providing for uniform guidelines and revised mandatory documentary requirements in the processing and grant of VAT refund claims under Section 112 of the Tax Code of 1997, as amended. The Circular reminded taxpayers that the application for VAT refund must be accompanied by complete supporting documents because no additional documents will be requested from the taxpayer upon filing of the application. Applications for VAT refund without or with insufficient documentary requirements shall not be accepted or will be outrightly disallowed.

Pertinent portions of RMC 47-2019 reads:

I. GENERAL POLICIES

1. **Pursuant to Section 2 of Revenue Regulations (RR) No. 26-2018, which amended Sections 4.106-5, 4.108-5, 4.112-1 and 13 of RR No. 13-2018, <u>the time frame to process and grant claims for VAT refund is 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 Sections 112 (A) and (B) of the Tax Code of 1997</u>, as amended, up to the release of the payment for the approved amount of the refund.**

x x x

3. **Subject to the provisions of Sec. 4.112-1(b) of RR No. 13-2018, <u>the filing of the claim for VAT refund of a VAT-registered person whose registration has been cancelled due to retirement from or cessation of business</u>, or due to changes in or cessation of status under Section 106(C) of the Tax Code shall be at the Bureau of Internal Revenue (BIR) office which has jurisdiction over the taxpayer, <u>within two (2) years from the date of issuance of the tax clearance by the BIR</u>.**

x x x

To summarize, the 120-day processing period applies to administrative claims for VAT refund filed prior to January 1, 2018. For VAT refund claims filed beginning January 1, 2018, the 90-day processing period under the TRAIN Law applies.

In determining the reckoning of the processing periods, the following rules shall be observed:

A. For administrative claims for VAT refund/credit filed ***prior to June 11, 2014:***

1. The 120-day period is reckoned from the date of the filing of the administrative claim when (a) the taxpayer submits complete documents with the administrative claim or (b) the taxpayer manifests that the taxpayer will no longer submit additional supporting documents;

2. If the BIR, pursuant to RMC 49-2003, finds that the documents submitted are insufficient, it shall notify the taxpayer of such and the taxpayer has 30 days to submit the requested documents unless given further extension by the BIR. The 120-day period is reckoned from the submission of the requested documents or lapse of the period given;

3. If the BIR did not notify the taxpayer of insufficiency of the documents already submitted, and the taxpayer submits additional supporting documents, the 120-day period is reckoned from the submission of said supporting documents;

4. The filing of the administrative claim for refund and submission of supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112 (A) of the 1997 Tax Code.

B. For administrative claims for VAT refund/credit filed ***from June 11, 2014 until December 31, 2017:***

1. The filing of the administrative claim with supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112 (A) of the 1997 Tax Code.

2. The 120-day period is reckoned from the date of the filing of the administrative claim with complete supporting documents;

3. Pursuant to RMC 54-2014, the taxpayer is barred from submitting additional documents after the filing of the administrative claim for refund.

C. For administrative claims for VAT refund **filed *beginning January 1, 2018:***

1. **The filing of the administrative claim with supporting documents must be done within two years from** the close of the taxable quarter pursuant to Section 112 (A) of the 1997 Tax Code or **<u>issuance of tax clearance by the BIR in case of cancellation of registration or cessation of business</u>** under Section 106 (C) of the Tax Code.

2. **The 90-day processing period is reckoned from the submission of the official receipts or invoices and <u>other documents in support of the application for VAT refund</u>.**

3. Pursuant to RMC 47-2019, once an administrative claim for VAT refund is filed and duly received by the BIR, no additional document/s shall be subsequently requested/required from the taxpayer. Failure on the part of the taxpayer-claimant to submit the complete documents in support of the claim shall result in non-acceptance of the applications. Any unsupported claim shall be outrightly disallowed, resulting in full/partial denial of the claim. *(Emphases and underscoring supplied)*

Notably, the above case involves a claim for refund or issuance of tax credit certificate of unutilized input VAT covering the four quarters of calendar year (CY) 2012. In resolving the issue, the Supreme Court discussed the interpretation of Section 112 of the NIRC of 1997, in relation to the amendments introduced by the TRAIN Law, to which the 120-day processing period applies to administrative claims for VAT refund filed prior to January 1, 2018, while the 90-day processing period under the TRAIN Law applies for VAT refund claims filed beginning January 1, 2018. Furthermore, the said 120- and 90-day periods were also reckoned from the filing of the administrative claims regardless of the taxable period involved in said cases, and likewise includes the filing of claim for VAT refund of a VAT-registered person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status.

Here, petitioner filed its administrative claim for VAT refund on July 30, 2020, after receiving the Certificate of No Outstanding Tax Liability on July 29, 2020. *Apropos*, the Court properly applied the 90-day processing period for respondent to act on petitioner's claim. A table is provided below for easy reference:

Date	Action
July 30, 2018	Petitioner filed its Application for Cancellation of Registration/TIN with the BIR.[17]
July 23, 2020	The BIR issued Preliminary Assessment Notices (PAN) dated July 23, 2020 for the CYs 2016 and 2017.[18]
July 24, 2020	Petitioner settled the amounts reflected in the PANs.[19]
July 29, 2020	The BIR issued the Certificate of No Outstanding Tax Liability.[20]

Evidently, the Court reiterates its finding that petitioner prematurely filed the present *Petition for Review* on August 3, 2020, as respondent's period to act on its claim within the 90-day period from the filing of petitioner's administrative claim on July 30, 2020 (or until October 28, 2020), has not yet expired. Similarly, the 30-day period within which to appeal to this Court is reckoned from the lapse of respondent's period to act on the claim on October 28, 2020, or until November 27, 2020. Thus, at the time of the filing of the present *Petition for Review*, there could have been no "inaction" yet on the part of respondent, as understood under Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282. *Apropos*, there was nothing yet for this Court to review, as petitioner should have waited for

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[17] Exhibit "P-30", Docket – Vol. 6, pp. 2975 to 2978.
[18] Exhibits "P-31" and "P-32", Docket – Vol. 6, pp. 2979 to 2985 and 2987 to 2993.
[19] Exhibits "P-33" and "P-34", Docket – Vol. 6, pp. 2995 to 3030.
[20] Exhibit "P-35", Docket – Vol. 6, p. 3031.

respondent to issue a decision or ruling or the lapse of the full 90-day period to act before filing the *Petition for Review*.

Thus, for lack of jurisdiction over the present case, this Court is precluded from performing any action, including passing upon the issue of whether petitioner has duly complied with the requisites for the refund of unutilized input VAT.

Time and again the Court emphasizes that jurisdiction is a matter of substantive law. When a case is filed with a court which has no jurisdiction over the action, the court shall *motu proprio* dismiss the case.[21] The Court cannot decide the case on the merits.[22] Simply stated, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without binding legal effect. Correspondingly, the Court need not belabor on the other issues advanced by petitioner.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its *Motion for Reconsideration*, the Court finds no compelling reason to reverse or modify the Decision promulgated on July 30, 2025.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (of the Decision dated July 30, 2025)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[21] *Alfredo J. Non, et al. v. Office of the Ombudsman, et al.*, G.R. No. 251177, September 8, 2020.
[22] *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice