REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PHIL.GOLD PROCESSING AND REFINING CORP., *Petitioner,*	CTA EB No. 1645 (CTA CASE No. 8856)
	Present: DEL ROSARIO, P.J., CASTAÑEDA, JR., UY,
-versus-	FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, and MANAHAN, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 31 2019 4:12 p.m.

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R E S O L U T I O N

MINDARO-GRULLA, J.:

This resolves petitioner Phil. Gold Processing and Refining Corporation's (PGPRC) Motion for Reconsideration filed on September 20, 2018, with Opposition (Re: Motion for Reconsideration) filed by respondent Commissioner of Internal Revenue (CIR) on October 24, 2018.

The present Motion seeks reconsideration of the Decision promulgated on August 14, 2018 which dismissed the Petition for Review for being time barred and for lack of merit. The dispositive part of the assailed Decision reads:

Decision dated August 14, 2018:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **DISMISSED**. The Decision dated January 6, 2017, and the Resolution dated March 22, 2017 of the Third Division of this

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Court in CTA Case. No. 8856 are hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED."

To begin with, it is evident that the issues raised by PGPRC is a mere slashed adaptation of its arguments already considered and exhaustively discussed by the Court En Banc in the assailed Decision. Hence, the Motion for Reconsideration of petitioner must fail.

To emphasize and further elaborate on the running of the periods, let PGPRC be guided by the ruling of the Supreme Court in the recent case of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[1] which ruled that:

> "Upon the filing of an administrative claim, respondent is given a period of 120 days within which to (1) grant a refund or issue the tax credit certificate for creditable input taxes; or (2) make a full or partial denial of the claim for a tax refund or tax credit. Failure on the part of respondent to act on the application within the 120-day period shall be deemed a denial.
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> Note that the 120-day period begins to run from the date of submission of complete documents supporting the administrative claim. If there is no evidence showing that the taxpayer was required to submit or actually submitted additional documents after the filing of the administrative claim, it is presumed that the complete documents accompanied the claim when it was filed."

Corollary thereto, in the case of *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*[2], the Supreme Court reminded taxpayers that when the one hundred twenty (120)-day period lapses and there is inaction on the part of the CIR, they must no longer await for a decision thereafter. The CIR' s inaction is the decision itself. It is already a denial of the refund claim. Thus, the taxpayer must file an appeal within thirty (30) days from the

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[1] G.R. No. 182737, March 2, 2016.
[2] G.R. No. 168950, January 14, 2015.

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lapse of the one hundred twenty (120)-day waiting period, this period is mandatory and jurisdictional.

Time and again, the court has held that it is a very desirable and necessary judicial practice that when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same. *Stare decisis et non quieta movere. Stare decisis* simply means that for the sake of certainty, a conclusion reached in one case should be applied to those that follow if the facts are substantially the same, even though the parties may be different. It proceeds from the first principle of justice that, absent any powerful countervailing considerations, like cases ought to be decided alike. Thus, where the same questions relating to the same event have been put forward by the parties similarly situated as in a previous case litigated and decided by a competent court, the rule of *stare decisis* is a bar to any attempt to relitigate the same issue[3].

Based on the foregoing, We reiterate, PGPRC's failure to appeal the "inaction" or "deemed a denial decision" of the CIR with the Court En Banc within 30 days from the lapse of the 120-day period or until November 19, 2010, the CIR's "deemed a denial decision" became final and executory.

All told, the Court En Banc finds no compelling reason or substantial justification to modify its findings much less reverse the assailed Decision.

WHEREFORE, premises considered, PGPRC's Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

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[3] Chinese Young Men's Christian Association of the Philippine Islands, doing business under the name of Manila Downtown YMCA vs. Remington Steel Corporations, G.R. No. 159422, March 28, 2008.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen S-L
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice