REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

SANKYU-ATS CONSORTIUM-B, *Petitioner,*	**CTA CASE NO. 10495**
	Members:
-versus-	**RINGPIS-LIBAN**, *Chairperson,* **MODESTO-SAN PEDRO**, *and* **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondents.*	Promulgated: AUG 06 2024 4:30 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

The *Petition for Review* filed on May 17, 2021 prays for the refund and/or issuance of tax credit certificate in the amount of ₱2,803,027.91, allegedly representing petitioner's excess and/or unutilized input value-added tax (VAT) credits for the 2nd quarter of taxable year 2018.[1]

THE PARTIES

Petitioner Sankyu-ATS Consortium-B (SAC-B) is a consortium duly created by virtue of a Consortium Agreement between ATS Construction International, Inc. and Sankyu, Inc. on October 4, 2017. It is a VAT-registered taxpayer with Tax Identification Number (TIN) 710-338-514-000, engaged in supplying services and construction materials.[2]

[1] Summary of the Case, *Pre-Trial Order* dated November 22, 2021, Docket – Vol. II, p. 840.
[2] Par. 1, Facts Admitted, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, pp. 828 to 829.

On the other hand, respondent is the Commissioner of the Bureau Internal Revenue (BIR), vested by law to enforce and implement the provisions of the National Internal Revenue Code (NIRC), as amended, as well as related statutes and their implementing rules and regulations. He holds office at BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

For the 2nd quarter of taxable year 2018, petitioner's operating income was sourced entirely from supplying services and construction materials to Philippine Sinter Corporation (PSC), a PEZA-registered Ecozone Export Enterprise at the Phividec Industrial Estate – Economic Zone.[4] Petitioner reported zero-rated sales amounting to ₱2,803,027.91 for the said period.[5]

Petitioner then filed on July 22, 2019 its amended Quarterly VAT Return for the 2nd quarter of taxable year 2018.[6]

On June 29, 2020, or within two (2) years from the close of the 2nd quarter, petitioner, through its counsel, the LMA Law Office, filed its letter claim for refund of its excess and/or unutilized creditable input VAT in the amount of ₱2,803,027.91 for the 2nd quarter of taxable year 2018, with the BIR Revenue District Office (RDO) No. 98 – Cagayan de Oro City, together with the attached *Revised Checklist of Mandatory Requirements and Application for Tax Credits/Refund* (BIR Form No. 1914).[7] On the same date, petitioner submitted supporting documents for the said claim.[8]

On February 26, 2021, the LMA Law Office received a letter from BIR Revenue District Officer Gledonio B. Teope, Jr., stating that the application for refund for the 2nd quarter of taxable year 2018 (of petitioner) was not accepted due to lack of documentary requirements.[9] The said letter reads, in part, as follows:

> "Please be informed that the application was not accepted by this District due to lack of documentary requirements pursuant to Revenue Memorandum Circular No. 47-2019. Attached herewith is the memorandum report of Revenue Officer Maricel

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[3] Par. 2, Facts Admitted, JSFI, Docket – Vol. II, p. 829.
[4] Par. 3, Facts Admitted, JSFI, Docket - Vol. II, p. 829.
[5] Par. 4, Facts Admitted, JSFI, Docket - Vol. II, p. 829.
[6] Par. 5, Facts Admitted, JSFI, Docket - Vol. II, p. 829.
[7] Par. 6, Facts Admitted, JSFI, Docket – Vol. II, p. 829; Exhibits "P-10", "P-11", and "P-12", Docket – Vol. I, pp. 666 to 681.
[8] Par. 7, Facts Admitted, JSFI, Docket – Vol. II, p. 829.
[9] Par. 8, JSFI, Docket – Vol. II, p. 830.

O. Develos, then also the assigned officer on your claim for VAT refund for 1st Quarter of 2018, explaining therein the non-acceptance of the application."[10]

PROCEEDINGS BEFORE THIS COURT

Petitioner filed the present *Petition for Review* on May 17, 2021.[11]

On July 28, 2021, respondent posted his *Answer Ad Cautelam (Re: Petition for Review dated 29 March 2021)*,[12] interposing the following special and affirmative defenses, to wit: (1) this Court has no jurisdiction, considering that petitioner failed to submit the complete documentary requirements for application for refund, and hence, tantamount to non-filing; (2) without submitting to this Court's jurisdiction, assuming this Court's jurisdiction over the instant petition, petitioner has no cause of action; (3) without admitting this Court's jurisdiction, it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of the claim; and (4) without again admitting to this Court's jurisdiction, tax refunds are strictly construed against the taxpayer and in favor of the government.

The Pre-Trial Conference was set and held on October 4, 2021.[13] Prior thereto, *Respondent's Pre-Trial Brief* was posted on September 29, 2021,[14] while petitioner's *Pre-Trial Brief* was posted on October 1, 2021.[15]

On November 03, 2021, the parties filed their *Joint Stipulation of Facts and Issues*,[16] which was approved and adopted in the Pre-Trial Order dated November 22, 2021,[17] thereby deeming the termination of the Pre-Trial.

Trial then ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following, namely: (1) Ms. Yvonne Karla M. Telan,[18] petitioner's accounting clerk; and (2) Mr. Ericson D.

[10] Exhibit "P-21", Docket – Vol. II, pp. 735 to 738.
[11] Docket – Vol. I, pp. 6 to 32.
[12] Docket – Vol. I, pp. 130 to 142.
[13] *Notice of Pre-Trial Conference* dated July 30, 2021, Docket – Vol. I, pp. 144 to 145; Order dated October 4, 2021, Docket – Vol. I, p. 146.
[14] Docket – Vol. I, pp. 161 to 164.
[15] Docket – Vol. I, pp. 147 to 156.
[16] Docket – Vol. II, pp. 828 to 837.
[17] Docket – Vol. II, pp. 840 to 845.
[18] Exhibit "P-26", Docket – Vol. I, pp. 191 to 220; Minutes of the hearing held on, and Order dated, November 22, 2021, Docket – Vol. II, p. 827.

Tadeja,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

The *Report* of the ICPA was posted on January 6, 2022.[21]

Respondent submitted the *BIR Records* for the present case on February 15, 2022.[22]

On March 29, 2022, petitioner's *Motion for Leave to Admit Attached Evidence,*[23] and *Petitioner's Formal Offer of Evidence,*[24] were filed. Respondent then posted his *Comment (Re: Formal Offer of Evidence dated 29 March 2022)* on April 27, 2022.[25] In the Resolution dated June 7, 2022,[26] the Court admitted petitioner's exhibits, *except* for the following:

1. Exhibits "P-5", "P-7", "P-13", "P-14", and "P-17", for failure to submit the duly marked exhibits; and

2. Exhibit "P-20", for failure to present the original for comparison.

In the same *Resolution*, petitioner's *Motion for Leave to Admit Attached Evidence* was denied for lack of merit.

The present case was transferred on June 30, 2022 from this Court's Second Division to its Third Division.[27]

On the same date, petitioner filed a *Motion for Partial Reconsideration of the Resolution dated 7 June 2022.*[28] Respondent filed his *Comment (Re: Petitioner's Motion for Partial Reconsideration of the Resolution dated 07 June 2022)* on August 18, 2022.[29] In the Resolution dated November 23, 2022,[30] the Court partially granted petitioner's *Motion for Partial Reconsideration of the Resolution dated 7 June 2022*, thereby admitting Exhibits "P-5", "P-7", "P-13", "P-14", and "P-17", but still denying admission to Exhibit "P-20".

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[19] Exhibit "P-29", Docket – Vol. II, pp. 785 to 796; Order dated February 16, 2022, Docket – Vol. II, p. 846.
[20] Order dated November 22, 2021, Docket – Vol. II, p. 827.
[21] Exhibit "P-28", Docket – Vol. II, pp. 744 to 772.
[22] Respondent's *Compliance* dated February 14, 2022, Docket – Vol. II, pp. 740 to 741.
[23] Docket – Vol. II, pp. 867 to 871.
[24] Docket – Vol. II, pp. 873 to 884.
[25] Docket – Vol. II, pp. 886 to 889.
[26] Docket – Vol. II, pp. 900 to 906.
[27] Order dated June 30, 2022, Docket – Vol. II, p. 907.
[28] Docket – Vol. II, pp. 909 to 916.
[29] Docket – Vol. II, pp. 959 to 963.
[30] Docket – Vol. II, pp. 969 to 972.

For his part, respondent offered the testimony of Revenue Officer Maricel O. Develos.[31]

On March 3, 2023, respondent filed his *Formal Offer of Evidence*,[32] to which petitioner submitted its *Comment (to Respondent's Formal Offer of Evidence dated 03 March 2023)* on March 15, 2023.[33] In the Resolution dated May 25, 2023,[34] the Court resolved to admit respondent's exhibits.

On June 30, 2023, respondent filed a *Manifestation*,[35] stating that he is adopting the arguments he raised in his *Answer* as his *Memorandum*.

Thereafter, on July 7, 2023, petitioner submitted its *Memorandum with Motion for Reconsideration for Refund and/or Issuance of a Tax Credit Certificate (for Petitioner)*.[36] Respondent then filed on August 22, 2023 his *Comment and Opposition (Re: Memorandum with Motion for Reconsideration dated 07 July 2023)*.[37]

In the Resolution dated October 12, 2023,[38] the Court denied petitioner's *Motion for Reconsideration* of the Resolution dated November 23, 2022 for having been filed beyond the reglementary fifteen (15)-day period, and for being a prohibited pleading. In the same Resolution, the present case was submitted for decision.

ISSUE

The parties stipulated the following issue for this Court's resolution, to wit:

> "a. Whether Petitioner is entitled to a tax refund or the issuance of a tax credit certificate ('TCC') in the amount of Php 2,803,027.91 representing excess and/or unutilized input VAT for the Q2 TY2018."[39]

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[31] Exhibit "R-4", Docket – Vol. II, pp. 778 to 784; Minutes of the hearing held on, and Order dated, February 22, 2023, Docket – Vol. II, pp. 973 and 975, respectively.
[32] Docket – Vol. II, pp. 978 to 981.
[33] Docket – Vol. II, pp. 985 to 988.
[34] Docket – Vol. II, pp. 991 to 992.
[35] Docket – Vol. II, pp. 993 to 995.
[36] Docket – Vol. II, pp. 997 to 1032.
[37] Docket – Vol. II, pp. 1036 to 1040.
[38] Docket – Vol. II, pp. 1042 to 1045.
[39] Par. 10, Issues, JSFI, Docket – Vol. II, p. 832.

Petitioner's arguments:

Petitioner argues that it is entitled to a VAT refund and/or issuance of tax credit certificate of ₱2,803,027.91, which is attributable to its zero-rated sales in the 2nd quarter of taxable year 2018; that respondent's non-acceptance of petitioner's administrative claim for VAT refund is deemed a full denial within the meaning of Section 112(C) of the NIRC for all intents and purposes; that respondent's non-acceptance of petitioner's administrative claim for VAT refund, together with the complete supporting documents, is bereft of legal basis; that the additional requirements for VAT refund claims imposed under Revenue Memorandum Circular (RMC) No. 47-2019 is violative of Section 4 of the NIRC, as amended; and that denying the buyer-taxpayer the right of input VAT refund due to erroneous invoices issued by the seller-taxpayer is unjust.

Respondent's counter-arguments:

Respondent contends that this Court has no jurisdiction, considering that petitioner failed to submit the complete documentary requirements for application for refund, and hence, tantamount to non-filing; that without submitting to this Court's jurisdiction, assuming this Court's jurisdiction over the instant petition, petitioner has no cause of action; that without admitting this Court's jurisdiction, it is incumbent upon petitioner to prove that it is entitled to the refund sought because a claim for refund is not *ipso facto* granted upon filing of the claim; and that without again admitting to this Court's jurisdiction, tax refunds are strictly construed against the taxpayer and in favor of the government.

THE COURT'S RULING

The present Petition for Review must be dismissed.

Respondent argues that this Court has *no jurisdiction* on the ground that he did *not* accept petitioner's application for refund him due to petitioner's failure to submit complete documents in support of its claim for refund, which is tantamount to non-submission. Given said fact, there is no decision coming from him to appeal before this Court.

On the other hand, petitioner insists that respondent's *nonacceptance* of its administrative claim for VAT refund is *deemed a full denial* within the meaning of Section 112(C) of the NIRC for all intents and purposes.

The Court agrees with respondent. This Court has *no* jurisdiction over the case.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, *when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.*[40]

Sections 7(a)(1) and (2), and 11 of Republic Act (RA) No. 1125,[41] as amended by RA No. 9282,[42] confers jurisdiction upon this Court relative to *decisions and inactions* of respondent, and states the manner of appealing the same:

> "SEC. 7. *Jurisdiction.* – **The CTA shall exercise:**
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided:**
>
> (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;
>
> (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;**" *(Emphases added)*
>
> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue...may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**
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> xxx xxx xxx." *(Emphasis added)*

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[40] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

[41] AN ACT CREATING THE COURT OF TAX APPEALS.

[42] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

Based on the foregoing provisions, this Court has appellate jurisdiction over decisions, rulings or inactions of respondent; and the appeal must be filed within thirty (30) days from receipt of such decision or ruling, or after the expiration of the period fixed by law for action.

As a corollary, Section 112(C) of the NIRC of 1997, as amended by RA No. 10963,[43] provides as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
>
> xxx xxx xxx
>
> (C) *Period within which Refund of Input Taxes shall be Made.* – **In proper cases, the Commissioner shall grant a refund for creditable input taxes within 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 Subsections (A) and (B) hereof**: *Provided*, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.
>
> **In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals**: *Provided, however*, That failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code." *(Emphasis added)*

It is plain that the law vests the power to decide the applications of refund for creditable input taxes to respondent, and that the latter has ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application. In case of respondent's full or partial denial of the claim, the taxpayer affected may, within thirty (30) days from receipt of the decision denying the same, appeal the said decision with this Court.

Notably, it is respondent's decision, ruling, or inaction, which is appealable to this Court.

As a general rule, these powers granted under the NIRC of 1997, as amended, may be delegated under Section 7 with four (4) enumerated exceptions:

[43] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

"SEC. 7. *Authority of the Commissioner to Delegate Power.* – **The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner**: *Provided, however,* That the following powers of the Commissioner shall not be delegated:

(a) The powers to recommend the promulgation of rules and regulations by the Secretary of Finance;

(b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau;

(c) The power to compromise or abate, under Sec. 204(A) and (B) of this Code, any tax liability: Provided, however, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and

(d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept."

The power to decide claims for refund under Section 112 of the 1997 NIRC power has, in fact, been delegated to certain BIR officials, pursuant to Revenue Memorandum Circular No. (RMC) 17-2018,[44] to wit:

"I. Claims for value-added tax (VAT) refund

A. General Policies

xxx xxx xxx

5. Any findings in the course of the verification/review of the VAT claims that may lead to a deficiency in internal revenue taxes, other than VAT, shall be communicated by the processing/reviewing office of the concerned investigating office having jurisdiction over the taxpayer-claimant. However, if the findings involve VAT, these may result to disallowance or denial of the claim, or if the case warrants, for possible assessment of VAT liability.

[44] Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

Should the claim be for denial, such fact should be communicated in writing to the taxpayer within the 90-day period. **The denial letter shall be signed by the** Commissioner (CIR)/Deputy Commissioner – Operations Group (DCIR – OG)/Assistant Commissioner (ACIR)/**Regional Director**, as the case may be.

xxx xxx xxx

C. Claims for VAT refund by other zero-rated taxpayers, indirect exporters and claims filed in accordance with Sec. 112 (B) of Tax Code, as amended by R.A. No. 10963

1. **All claims for VAT refund by other zero-rated taxpayers,** indirect exporters and claims filed in accordance with Sec. 112 (B) of the Tax Code, as amended, **shall be filed with and processed by the concerned Revenue District Office** and LT Audit Division having jurisdiction over the taxpayer-claimant.

2. **The docket with report on said claims shall be reviewed by the Assessment Division**/Office of the Head Revenue Executive Assistant (HREA), **and shall be subject to the approval/disapproval by the Regional Director**/ACIR – LTS, as the case may be, irrespective of amount.

xxx xxx xxx

III. **Time frame to process claims for VAT claims under Sections 112 (A) and (B) of the Tax Code, as amended further by R.A. No. 10963**

1. The 90-day period prescribed under 112(C) of the Tax Code, as amended, shall start from the actual date of filing of the application with complete documents duly received by the processing office.

2. The 90-day period shall be applied prospectively, i.e., for claims filed upon the effectivity of R.A. No. 10963.

3. **The following time frame shall be strictly adhered to by the** processing, reviewing and **approving offices**:

Time Frame to Verify/Process, Review and **Approve/Disapprove the Claim**

xxx xxx xxx

Regional Cases	No. of Days from Receipt of Application
Verification/processing (RDOs)	60
Review (Assessment Division))	20
Approval by Regional Director	**10**
Total No. of Days	90

4. **The concerned revenue officers/officials shall act on the recommended claims in accordance with the abovementioned**

> **time frame, including VAT claims on importations.**" *(Emphases and underscoring added)*

Specifically, for *regional* cases, the power to decide applications or claims for refund of creditable input taxes was delegated to the Regional Director, within the 90-day time frame set forth by Section 112(C) of the NIRC of 1997, as amended. It must be noted that the participation of an RDO after the filing of the claim is limited only to *"verification/processing"*. Thus, for applications or claims for refund of creditable input taxes filed with the concerned RDO, the appealable decision to this Court is *not* one issued by the corresponding RDO, but by the *Regional Director*.

In the present *Petition for Review*, petitioner invokes this Court's jurisdiction and the timely filing of the *Petition* as follows:[45]

> "3.2. Under the CTA Rules, Section 112(C) of the NIRC, relevant BIR issuances, and prevailing jurisprudence, **SAC-B has thirty (30) days from the receipt of the Notice of Non-Acceptance, <u>or until 29 March 2021, within which to appeal to this Honorable Court.</u>**
>
> 3.3 Hence, this Petition is timely filed.
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> xxx xxx xxx
>
> 4.6. **On 26 February 2021, LMA Law Office received a letter from <u>BIR Revenue District Officer Gledonio B. Teope, Jr.</u>** stating that the application for refund for the 2nd quarter of 2018 was not accepted due to lack of documentary requirements.
>
> 4.7. Hence, this Petition for Review." *(Emphases added)*

Moreover, petitioner reiterated the foregoing allegations in its *Memorandum*:[46]

> "8. On 26 February 2021, LMA Law Office received a letter from the BIR Revenue District Officer Gledonio B. Teope, Jr. stating that the application for refund for the 2nd quarter of 2018 was not accepted due to lack of documentary requirements.
>
> xxx xxx xxx
>
> 52. Thus, the Notice of Non-Acceptance should be deemed as the formal full denial of Petitioner's claim. As such, **the counting of the 30-day period within which to file this Petition should be counted from receipt of the Notice of Non-Acceptance.**" *(Emphases added)*

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[45] Refer to pars. 3.2, 3.3, 4.6, and 4.7, *Petition for Review,* Docket – Vol. I, pp. 8 to 9.

[46] Refer to pars. 8 and 52, petitioner's *Memorandum*, Docket – Vol. II, p. 999 and 1013, respectively.

From the foregoing, the subject of the appeal is the letter dated February 21, 2021 issued by RDO Gledonio B. Teope, Jr.,[47] informing petitioner that the application was *not* accepted due to lack of documentary requirements pursuant to RMC No. 47-2019. However, as already intimated, it is only the decision of the Regional Director on the refund claim of input VAT which is appealable to this Court, *not* the one rendered by an RDO.

This case does not present a novel issue for the Court as it has recently decided a similar claim for input VAT refund filed by the petitioner in *Sankyu-ATS Consortium-B vs. Commissioner of Internal Revenue.*[48] In said case, the Court also dismissed the case for lack of jurisdiction where the letter appealed to the Court was issued by the Assistant RDO and *not* by the respondent's *Regional Director.*

In fine, considering that the subject of the present appeal is *not* appealable to this Court, the present *Petition for Review* must be dismissed.

To reiterate, when a court has *no* jurisdiction over the subject matter, the only power it has is to *dismiss* the action.[49]

WHEREFORE, premises considered, the present *Petition for Review* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[47] Exhibits "P-21", Docket – Vol. I, pp. 735 to 738; "R-2", BIR Records, p. 8. Refer also to pars. 3.2, 4.6, and 4.7, *Petition for Review*, Docket – Vol. I, pp. 16 to 17.
[48] CTA Case No. 10313, April 18, 2024.
[49] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

(On Leave)
CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Division Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's attestation, 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