REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PHILIPPINE AIRPORT GROUND SUPPORT SOLUTIONS, INC. (FORMERLY PHILIPPINE AIRPORT AND GROUND SERVICES GLOBEGROUND, INC.),
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9861

Members:

UY, *Chairperson, and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

JUN 26 2019
2:45 p.m.

x- x

RESOLUTION

UY, *J.*:

For resolution petitioner's **Motion for Reconsideration [Re: Resolution dated 27 March 2019]**, filed on April 11, 2019, without respondent's comment despite notice as per Records Verification Report dated May 14, 2019.

Petitioner seeks reconsideration of the Court's Resolution promulgated on March 27, 2019 dismissing this Petition for Review for lack of jurisdiction. The dispositive portion thereof reads:

> "**WHEREFORE**, premises considered, respondent's **Motion to Dismiss** is **GRANTED**. Accordingly, the instant **Petition for Review** is hereby **DISMISSED** due to lack of jurisdiction."

According to petitioner, the dismissal of the instant Petition for Review constitutes violation of its right to due process and causes undue injury to the same. Allegedly, a taxpayer may appeal with the Court of Tax Appeals (CTA) respondent's full or partial denial of the claim for refund, or respondent's inaction on the application for refund within thirty (30) days from receipt of such denial or from the lapse of the one hundred twenty (120) days pursuant to Section 112 (C) of the *National Internal Revenue Code* (NIRC) of 1997, as amended. Petitioner contends that it opted to wait for the decision of respondent before filing a judicial claim before this Court, and as such, petitioner had 30 days from receipt of such decision within which to file a Petition for Review.

Petitioner asserts that Revenue Regulations (RR) No. 1-2017 provides that in all cases, whatever documents a taxpayer intends to file to support his claim, it must be completed within the two-year period under Section 112 (A) of the NIRC of 1997, as amended, and the Commissioner or his duly authorized representative should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents. Hence, the alleged pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period and the result shall be communicated in writing by the concerned revenue official.

Also, petitioner points out that it did not receive any letter notice requiring it to submit additional documents which was contrary to what was indicated in respondent's Denial Letter dated May 2, 2018. Petitioner has allegedly hoped that respondent considered the documents the former already submitted pursuant to RR No. 1-2017; however, petitioner's claim for refund was denied due to failure to submit additional documents.

Petitioner further posits that the ruling in *Rohm Apollo Semiconductor Philippines* and *Silicon Philippines, Inc.* would encourage gross neglect of duties on the part of the officers of the Bureau of Internal Revenue (BIR). There is allegedly an imminent risk that the BIR would not put attention and set aside application for tax refund due to the fact that their inaction would constitute an action of denial of the said application.

THE COURT'S RULING

After a careful and thorough evaluation of petitioner's arguments, the Court finds the same to be a mere rehash of the same facts and issues which have already been passed upon extensively in the assailed Resolution.

It is worthy to reiterate the ruling of this Court in the assailed Resolution, to wit:

> "In this case, since the administrative claim for refund was filed on March 30, 2010, the CIR had 120 days or until July 28, 2010, to resolve the claim. There being no action taken by respondent within the said period, petitioner had 30 days or until August 27, 2010, to file judicial claim via a Petition for Review with this Court.
>
> Clearly, the filing of the instant Petition on June 25, 2018, or eight years after the prescribed period, was filed out of time.
>
> Moreover, even if the Court would reckon the period of the 120 days from the date of submission of additional supporting documents on November 4, 2010 and April 20, 2012, the 30-day period within which to appeal the inaction of the CIR to this Court had already lapsed, to wit:

Date of the submission of supporting documents	***Expiration of the 120 days***	***Last day to file a judicial claim***
November 4, 2010	March 4, 2011	April 3, 2011
April 20, 2012	August 18, 2012	September 17, 2012

> Therefore, even if this Court considers the date of submission of additional supporting documents, still petitioner's judicial claim was filed late.

The inaction of the CIR within the prescribed period is deemed denial of the claim for refund.

> As regards petitioner's allegation that the taxpayer may await the decision of the CIR before filing a judicial claim with this Court, the same deserves scant consideration.
>
> In *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,*[1] the Supreme Court reminded the taxpayers

[1] G.R. No. 168950, January 14, 2015.

that when the one hundred and twenty (120)-day period lapses and there is inaction on the part of the CIR within the said period, the taxpayer must no longer wait for the CIR to come up with a decision. The Supreme Court ruled:

> 'A final note, the taxpayers are reminded that that when the 120-day period lapses and there is inaction on the part of the CIR, they must no longer wait for it to come up with 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 30 days from the lapse of the 120-day waiting period.' (Emphasis supplied)

xxx xxx xxx

The Court stresses that the 120/30-day prescriptive periods are mandatory and jurisdictional, and are not mere technical requirements. The Court should not establish the precedent that noncompliance with mandatory and jurisdictional conditions can be excused if the claim is otherwise meritorious, particularly in claims for tax refunds or credit. Such precedent will render meaningless compliance with mandatory and jurisdictional requirements. To reiterate, the right to appeal is a mere statutory privilege that requires strict compliance with the conditions attached by the statute for its exercise."

Considering the foregoing, the Court finds no cogent reason to disturb the assailed Resolution.

WHEREFORE, in light of the foregoing considerations, petitioner's **Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

I CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice