REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

THERMAPRIME DRILLING CORPORATION (formerly known as THERMAPRIME WELL SERVICES, INC.),
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2155
(CTA Case No. 8896)

Present:

Del Rosario, *PJ,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro, and
Reyes-Fajardo, *JJ.*

Promulgated:
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RESOLUTION

CASTAÑEDA, JR., *J.:*

This resolves petitioner's *Motion for Reconsideration (Re: Decision dated March 2, 2021)* filed on May 17, 2021. Per Records Verification dated July 16, 2021, respondent failed to file a Comment on petitioner's Motion for Reconsideration.

The dispositive portion of the March 2, 2021 Decision states:

> **WHEREFORE,** premises considered, the Petition for Review is **DENIED**. Accordingly, the assailed Decision and the Resolution promulgated on March 26, 2019 and on September

16, 2019, respectively, by the CTA Special Third Division are **AFFIRMED.**

SO ORDERED.

In its motion, petitioner reiterates that the reckoning point of the 120-day period in Sec. 112 (C) of the National Internal Revenue Code (NIRC) is the complete submission of the documents of the taxpayer. It alleges that it did not belatedly file its judicial claim for refund and that this Court has jurisdiction over the petition.

Upon scrutiny of the petitioner's Motion, we find that except for the case *Zuellig-Pharma Asia Pacific Ltd. Phils. RHQ v. Commissioner of Internal Revenue, (Zuellig case, for brevity)*[1], the arguments raised by petitioner were mere reiterations and already considered in the assailed Decision dated March 2, 2021.

The Court finds that the *Zuellig* case is not squarely applicable in this case. In the *Zuellig* case, the Supreme Court found that the taxpayer "duly complied with the BIR's written and verbal requests for additional documents." Moreover, there was a letter from the taxpayer which categorically states that it "already submitted the complete documents in support of [its] application (or refund of excess and unutilized input VAT)." In the *Zuellig case*, the taxpayer also received an LOA from the BIR on March 3, 2011 which was within 30 days from filing of the administrative claim (February 17, 2011), thus, further extension to submit documents was apparent.

On the other hand, in the instant case, instead of complying with BIR's First Notice which request for presentation of accounting documents pursuant to Letter of Authority (LOA), taxpayer wrote back to BIR asking for a List of the documents required, and complied with it in a piecemeal manner. BIR even wrote a Second and Final Request for Presentation of Records. In this case, there was no letter stating that it already completed the submission of documents. LOA was also received by the taxpayer only on February 28, 2014 which was 157 days from filing of the administrative claim (September 24, 2013). Moreover, "petitioner after filing its administrative application for VAT refund on September 24, 2013, already attached therewith the VAT returns for the 3rd and 4th quarters of taxable year 2011. Thereafter, petitioner no longer submitted additional documents to support its claim within the 120-day period from the submission of its administrative claim. Notably, neither did respondent require petitioner to submit the same."[2]

[1] G.R. No. 244154, July 15, 2020.
[2] *Rollo*, p.54.

We emphasize that "when respondents issued the LOA and First Notice, both dated February 24, 2014, requesting petitioner to present or produce accounting books/records, the 120-day period within which respondent could act on petitioner's claim for refund had already expired. By that time, petitioner should have deemed respondents' inaction as a denial of its administrative claim and elevated the matter to this Court."[3]

This Court reiterates that, "The *Pilipinas Total Gas case* is clear that for claims for tax credit or refund filed prior to June 11, 2014, such as this case which was filed on September 24, 2013, the taxpayer should have submitted the documentary requirements sufficient to support its claim within 30 days from the date its administrative claim was filed, unless given further extension by the CIR. Upon filing by the taxpayer of the complete documents to support its claim, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. **In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended.**"[4]

This Court finds no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated March 2, 2021, thus, the motion is denied.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration of the Decision dated March 2, 2021 is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[3] *Rollo*, p. 54.
[4] *Rollo*, p. 132.

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(With due respect, I reiterate my Dissenting Opinion dated March 2, 2021.)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice