REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

LEPANTO CONSOLIDATED MINING COMPANY, Petitioner,	**CTA CASE NO. 10787**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 10 2024 11:22 a.m.

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RESOLUTION

REYES-FAJARDO, *J.*:

For the Court's resolution is Lepanto Consolidated Mining Company (LCMC)'s *Motion for Reconsideration*[1] filed on February 12, 2024, taking into consideration the Commissioner of Internal Revenue (CIR)'s *Comment/Opposition (On Petitioner's Motion for Reconsideration dated 12 February 2024)*[2] filed on March 4, 2024.

On January 26, 2024, the Court promulgated a Resolution[3] (the "assailed Resolution") dismissing LCMC's Petition for Review ("Petition") for lack of jurisdiction owing to LCMC's belated filing of the same on February 24, 2022. The dispositive portion reads:[4]

> "**WHEREFORE,** CTA Case No. 10787 is **DISMISSED** for lack of jurisdiction. In view of this finding, we **RESOLVE** to:

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1 Motion for Reconsideration, Docket, Vol. II, pp. 771 - 782.
2 Comment/Opposition, Docket, Vol. II, pp. 786 - 793.
3 Resolution, Docket, Vol. II, pp. 1343 - 1369.
4 *Id.* at p. 770.

a. **NOTE WITHOUT ACTION** petitioner's Motion to Substitute a Witness and Admit Attached Judicial Affidavit of the Substitute (from Ms. Cherry H. Tan to Mr. Claude Mark A. Imbat), filed through accredited service provider on October 31, 2023; and

b. **CANCEL** all the scheduled hearings in this case.

SO ORDERED."

LCMC argues that the Court erred when it reckoned the ninety (90)-day period from June 30, 2021 without evidence showing that the submission of complete documents was made on that date.[5]

On the other hand, the CIR maintains that the ninety (90)-day period to process claims for refund is counted from the date of submission of invoices and other documents in support of the application.[6]

We resolve in favor of the CIR.

A judicial admission, verbal or written, made by the party in the course of the proceedings in the same case, does not require proof.[7] A judicial admission, therefore, removes an admitted fact from the field of controversy. Consequently, allegations, statements, or admissions made in the pleadings are conclusive as against the pleader. A party cannot subsequently take a position contrary to or inconsistent with what was pleaded.[8]

As correctly pointed out by the CIR, LCMC judicially admitted in its Petition, that it submitted the complete required documents in support of its application, as shown by the accomplished Checklist of Mandatory Requirements for Value-added Tax (VAT) Credit Claims on the same day it filed its Application for Tax Credit/ Refund before the Bureau of Internal Revenue VAT Credit Audit Division (BIR-VCAD), or on June 30, 2021.[9]

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[5] Motion for Reconsideration, Docket, Vol. II, p. 775.

[6] Comment/Opposition, Docket, Vol. II, p. 787.

[7] Section 4, Rule 129, Revised Rules of Court.

[8] *Villafuerte v. Disc Contractors, Builders and General Services, Inc.*, G.R. Nos. 240202-03 & 240462-63, June 27, 2022, citing *Gonzales-Saldana v. Spouses Niamatali*, G.R. No. 226587, November 21, 2018.

[9] Comment/Opposition, Docket, Vol. II, pp. 787 - 788.

Thus, counting ninety (90) days from June 30, 2021, the BIR-VCAD had until September 28, 2021 to decide on said administrative claim. There being no adverse decision received by LCMC from the BIR-VCAD as of September 28, 2021, the law considers its administrative claim as denied. Counting another thirty (30) days therefrom, LCMC had until October 28, 2021 to seek judicial redress. Therefore, the filing of the Petition on February 24, 2022 was belated. The Court had no jurisdiction over the case.

WHEREFORE, premises considered, LCMC's Motion for Reconsideration is **DENIED** for lack of merit. The Resolution promulgated on January 26, 2024 is **AFFIRMED.**

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice