CTA Form No. 8

19-000304-0043

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10106

BANGKO SENTRAL NG PILIPINAS,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF AMENDED DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village, Makati City

COMMISSIONER OF INTERNAL REVENUE
Thru: Litigation Division
Bureau of Internal Revenue
BIR National Office Building
BIR Road, Diliman, Quezon City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
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Bangko Sentral ng Pilipinas Complex
A. Mabini corner P. Ocampo Streets
Malate, Manila

GREETINGS:

You are hereby notified by these presents that on **March 24, 2025,** an Amended Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 25, 2025.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

BANGKO SENTRAL NG PILIPINAS, *Petitioner,*	**CTA Case No. 10106**
	Members:
-versus-	**DEL ROSARIO**, *Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: MAR 24 2025 1:30PM

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AMENDED DECISION

MANAHAN, *J.*:

This case was remanded by the Court of Tax Appeals (CTA) *En Banc* to resolve petitioner's claim for refund on the merits, pursuant to the *En Banc's* Decision dated April 2, 2024 in CTA *EB* No. 2680[1] and Entry of Judgment dated May 3, 2024.

FACTS

On July 5, 2019, petitioner filed its Petition for Review before this Court,[2] praying that judgment be rendered ordering respondent to refund to petitioner the total amount of ₱24,684.92, representing the documentary stamp tax (DST) paid for the property covered by Transfer Certificate of Title No. T-82886 located in Cabanatuan City legally acquired by petitioner.

Thereafter, on February 15, 2022, the Court in Division promulgated its Decision,[3] dismissing petitioner's Petition for Review, the dispositive portion of which reads:

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[1] Docket, pp. 709 to 719.
[2] Docket, pp. 10 to 29.
[3] Docket, pp. 462 to 474.

> "**WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

Petitioner then filed its Motion for Reconsideration (of the Decision dated 15 February 2022) on March 10, 2022,[4] while respondent's Opposition (Re: Motion for Reconsideration) was submitted on April 5, 2022.[5] In the Resolution dated August 15, 2022,[6] this Court in Division denied petitioner's Motion for lack of merit.

Consequently, on September 9, 2022, petitioner filed with the Court *En Banc* its Petition for Review, which was docketed as CTA EB No. 2680.[7] Respondent, however, failed to file his comment thereon.[8] Hence, in the Resolution dated January 12, 2023,[9] the Court *En Banc* gave due course to the Petition for Review, and submitted the case for decision.

On April 2, 2024, the Court *En Banc* rendered its Decision,[10] the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. The Decision dated February 15, 2022 and the Resolution dated August 15, 2022 issued by the Court in Division is **REVERSED** and **SET ASIDE**.
>
> Accordingly, let this case be remanded to the Court in Division for the determination of the refundable amount.
>
> **SO ORDERED**."

The Court *En Banc* then issued the Entry of Judgment[11] which states that the Decision rendered on April 2, 2024 has become final and executory, without any appeal being taken thereon, and was recorded in the Book of Entries of Judgments on May 3, 2024.

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[4] Docket, pp. 485 to 506.
[5] Docket, pp. 515 to 520.
[6] Docket, pp. 527 to 533.
[7] Docket, pp. 536 to 568.
[8] Refer to Court *En Banc* Resolution dated January 12, 2023, Docket, pp. 706 to 707.
[9] Docket, pp. 706 to 707.
[10] Docket, pp. 709 to 719.
[11] Docket, pp. 729 to 730.

THE ISSUE

Pursuant to the *En Banc* Decision dated April 2, 2024, this case was remanded to the Court in Division for the determination of the refundable amount. Let it be noted that the Decision of the Court in Division[12] dismissed the case on the ground that the CTA has no jurisdiction to take cognizance of a dispute between the Bureau of Internal Revenue (BIR) and the *Bangko Sentral ng Pilipinas* (BSP) applying the ruling of the Supreme Court in the case of *Power Sector Assets and Liabilities Management Corporation vs. Commissioner of Internal Revenue*[13] (*PSALM* case). We quote relevant portions of the *PSALM* case for clarity, to wit:

> "This case involves a dispute between PSALM and NPC [National Power Corporation], **which are both wholly government-owned corporations, and the BIR, a government office, over the imposition of VAT on the sale of the two power plants.** There is no question that **original** jurisdiction is with the CIR, who issues the preliminary and the final tax assessments. However, if the government entity disputes the tax assessment, the dispute is already between the BIR (represented by the CIR) and another government entity, in this case, the petitioner PSALM. **Under Presidential Decree No. 242 (PD 242), all disputes and claims *solely* between government agencies and offices, including government-owned or controlled corporations, shall be administratively settled or adjudicated by the Secretary of Justice, the Solicitor General, or the Government Corporate Counsel, depending on the issues and government agencies involved.** As regards cases involving only questions of law, it is the Secretary of Justice who has jurisdiction. xxx xxx xxx
>
> xxx xxx xxx
>
> The law is clear and covers ***"all disputes, claims and controversies solely* between or among the departments, bureaus, offices, agencies and instrumentalities of the National Government, including constitutional offices or agencies arising from the interpretation and application of statutes, contracts or agreements."** When the law says "all disputes, claims and controversies solely" among government agencies, the law means ***all, without exception***. Only those cases already pending in court at the time of the effectivity of PD 242 are not covered by the law." *(Emphases supplied)*

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[12] Promulgated on February 15, 2022.
[13] G.R. No. 198146 dated August 8, 2017.

Notwithstanding the above disquisitions, this Court, in compliance with the *En Banc* Decision reversing the Court in Division's Decision, shall then proceed with the resolution of the issue raised by the parties on the merits, to wit:

> "Whether the BSP is entitled to the refund of DST in the amount of Twenty-Four Thousand Six Hundred Eighty-Four Pesos and Ninety-Two Centavos (₱24,684.92)."[14]

Petitioner's arguments:

Petitioner argues that it is exempt from payment of DST on all contracts, deeds, documents, and transactions related to the conduct of its business by express provision of Section 199 of the 1997 National Internal Revenue Code (NIRC), as amended. Petitioner further alleges that its acquisition of the subject property is related to the conduct of its business or in connection with the exercise of its mandate under Republic Act (RA) No. 7653 and is, therefore, exempt from the payment of DST, hence, it is entitled to the refund of DST erroneously or illegally collected by the BIR.

Respondent's counter-arguments:

Respondent contends that the Court has no jurisdiction to act on the present Petition for Review as petitioner failed to present any proof of receipt indicating that Revenue District Office (RDO) No. 23-B, Cabanatuan received the letter claim for refund of its alleged payment of DST. Respondent thus concludes that petitioner did not file any prior administrative claim for refund pursuant to the requirements provided under Section 229 of the 1997 NIRC, as amended, thus depriving this Court of jurisdiction to take cognizance of the case.

THE RULING OF THE COURT

The present Petition for Review must be dismissed due to lack of jurisdiction.

Sections 204(C) and 229 of the 1997 NIRC, as amended, read as follows:

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[14] Issue, Joint Stipulation of Facts and Issues, Docket, p. 313.

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* That a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Emphasis added)*
>
> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* – **No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphases supplied)*

The afore-quoted provisions are clear: within two (2) years from the date of payment of the tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within the two (2)-year reglementary period. Timeliness of the filing of the claim is mandatory and jurisdictional, and thus, the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that as for the judicial claim, the law explicitly provides that it be filed within two (2) years from payment of the tax "regardless of any supervening cause that may arise after payment."[15]

Furthermore, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[16]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it has timely filed its refund claim, it must likewise prove that the subject DST paid is an "erroneous or illegal tax".

In this case, the amount of ₱24,684.92 being claimed for refund came from the DST payment made by petitioner when it processed the transfer of title of the property it acquired *via* extrajudicial foreclosure sale. Pertinent portions of the facts cited in the February 15, 2022 Decision of this Court in Division are herein quoted for ready reference:[17]

> "Sometime in 1998, the Rural Bank of San Miguel (RBSM) obtained an emergency loan from petitioner and executed several 'Promissory Notes with Trust Receipt and Deed of Assignment' covering several parcels of land. RSBM failed to pay its obligations under the emergency loan and as a result, the mortgaged properties were foreclosed and sold. Petitioner acquired one of the foreclosed properties located in Cabanatuan City as the highest bidder in the aforesaid extrajudicial foreclosure sale.
>
> Petitioner allegedly paid capital gains tax (CGT) on the aforesaid transaction but the BIR assessed petitioner of documentary stamp tax (DST) as an additional tax on the foreclosure sale of the subject property.
>
> Petitioner paid the deficiency DST through Credit Advice Ticket Number 13560 in the amount of Php24,684.92, with a notation 'Payment Under Protest,' on the contention that it is exempt from the payment of DST under the 1997 National Internal Revenue Code (NIRC), as amended.

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[15] *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

[16] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

[17] Docket, pp. 463 to 464.

> Petitioner allegedly filed administrative claim for refund with the BIR's Revenue District Office (RDO) No. 23-B in Cabanatuan City embodied in letters dated June 18, 2018 and April 10, 2019.
>
> Due to the alleged inaction of respondent on its claim for refund of DST, petitioner filed a Petition for Review with this Court on July 5, 2019."

Applying the provisions of Sections 204(C) and 229 of the 1997 NIRC, as amended, petitioner had two (2) years from payment of the DST on July 7, 2017,[18] or until July 7, 2019, to file both its administrative and judicial claims for refund.

Petitioner allegedly filed its administrative claim for refund dated June 18, 2018 on June 22, 2018 *via* LBC courier, and a follow-up letter dated April 10, 2019 through registered mail.[19]

To prove the filing of the aforementioned letters, petitioner offered the following documents:[20]

Exhibit No.	**Description**	**Purpose**
"P-9"[21]	Letter dated 18 June 2018 of the BSP	1. To prove that BSP filed a written claim for refund of the DST paid under protest within two (2) years from the date of payment of said DST; 2. To prove that BSP categorically demanded for reimbursement or refund of DST; 3. To prove that the BSP exhausted all available administrative remedies before resorting to the claim for refund before the Honorable Court; and 4. To prove the other allegations of the Petition.
"P-10"[22]	LBC Proof of Receipt	
"P-11"[23]	Letter dated 10 April 2019	
"P-12"[24]	Registry Return Card	

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[18] Exhibits "P-7" and "P-8", Docket, pp. 402 to 403.
[19] Pars. 11 to 12, Timeliness of the Petition and Jurisdiction, *Petition for Review*, Docket, p. 14.
[20] As per petitioner's *Formal Offer of Evidence*, Docket, p. 381.
[21] Docket, pp. 404 to 405.
[22] Docket, pp. 406 to 407.
[23] Docket, pp. 408 to 410.
[24] Docket, p. 411.

Relative to the foregoing documents, Mr. Christoffer Seann M. Pamatmat, Bank Officer II of the Asset Management Department of petitioner, testified in his Judicial Affidavit that petitioner has "the LBC proof of receipt indicating that RDO No. 23-B of the BIR received the letter dated 18 June 2018 on 22 June 2018."[25]

Respondent, however, contends that although Mr. Pamatmat had testified that petitioner has proof of receipt indicating that RDO No. 23-B, Cabanatuan, received its letter regarding its claim for refund of alleged payment of DST, a close examination of the said letter shows that there was nothing in it which would indicate that the same was actually received by the said office.

We agree with respondent.

An examination of the copy of the LBC proof of receipt,[26] allegedly proving the filing of petitioner's written claim for refund dated June 18, 2018,[27] shows that while the same was addressed to BIR RDO No. 23-B, Liwag Blvd., Burgos Ave., 3100 Cabanatuan City, and bears the signed stamped name of "MARYANN G. SALAZAR OIC-Chief Administrative Section", with a date written: "6/22/18", there was, indeed, no indication that RDO No. 23-B, Cabanatuan actually received the same, as it lacks any stamp receipt bearing the name of the said office. This was even confirmed by Mr. Pamatmat himself during his cross-examination, to wit:

> "ATTY. BABARAN:
>
> Q: Now, now I refer you to Question No. 21, you said that you have proof of receipt indicating that RDO 23-B received your letter. What letter is this, Mr. Witness?
>
> MR. PAMATMAT:
>
> A: This is the letter dated June 18, 2018 addressed to Mr. Muslimen L. Maca-agir.
>
> ATTY. BABARAN:
>
> Q: Now, what letter is that?

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[25] Q&A No. 21, Exhibit "P-15", Docket, p. 356.
[26] Exhibit "P-10", Docket, p. 406.
[27] Exhibit "P-9", Docket, pp. 404 to 405.

MR. PAMATMAT:

A: Regarding protest and refund of payment of documentary stamp tax.

ATTY. BABARAN:

Q: And then you said that you have proof of receipt by the BIR.

MR. PAMATMAT:

A: Yes, Ma'am.

ATTY. BABARAN:

Q: Now what is that proof, is that stamped by the BIR?

MR. PAMATMAT:

A: LBC received by Mary Ann Salazar.

ATTY. BABARAN:

Q: Do you have a clear copy because I can't see any proof of receipt? So, this is merely a receipt from LBC that you sent to them a document, am I correct?

MR. PAMATMAT:

A: Yes.

ATTY. BABARAN:

Q: **There is no indication there that the said letter was received by the BIR, there being no stamped by the BIR, am I correct?**

MR. PAMATMAT:

A: **I can only see this Mary Ann Salazar.**

ATTY. BABARAN:

Q: No actual stamped, no stamped by the BIR?

MR. PAMATMAT:

A: No stamped."[28] *(Emphasis supplied)*

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[28] Transcript of Stenographic Notes during the hearing held on October 6, 2020, pp. 27 to 28.

Moreover, the Court notes that the said LBC proof of receipt does not specifically indicate what is being sent to respondent, as only the word "DOCUMENT" was indicated therein. The said mail may pertain to any document, other than the subject refund letter dated June 18, 2018.

Furthermore, it did not escape to the attention of the Court that petitioner failed to present any other evidence or witness that could prove how, to whom, and when, such delivery of the June 18, 2018 refund letter has been made, apart from the said supposed LBC proof of receipt.

In view thereof, this Court cannot give probative value to the said supposed LBC proof of receipt as it does not by itself conclusively prove that the addressee, particularly, BIR RDO No. 23-B, received the mail containing the subject refund letter dated June 18, 2018.

Moreover, even if this Court were to consider the purportedly follow-up letter dated April 10, 2019[29] as petitioner's administrative claim for refund, the same was likewise proven not to have been received by respondent, as testified to by Mr. Odillo Neil N. Garcia, Administrative Services Officer III of the Office of the General Counsel and Legal Services of petitioner, to wit:[30]

> "Q3: Can you recall some of the letters that you filed?
> A3: Yes, Sir. I recall the filing of a letter dated 10 April 2019 addressed to Mr. Muslimen L. Maca-Agir, Revenue District Officer, BIR Revenue District Office No. 23B, on 11 April 2019.
>
> Q4: How did you file the said letter?
> A4: I filed it through registered mail by depositing the mail with the PhilPost Manila.
>
> Q4: What can you tell us about the letter dated 10 April 2019?
> A4: Based on the registry return card, the letter pertains to 'Protest and Refund of Payment of Doc Stamp Tax.'
>
> Q5: Was the letter delivered to the addressee?
> A5: No, Sir. The letter of refund was returned to BSP for the reason 'RTS-MOVED OUT' as written in the mailing envelope. Also, no one signed in the recipient in the registry return card."

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[29] Exhibits "P-11" and "P-12", Docket, pp. 408 to 411.
[30] Q&A Nos. 3 to 5, Exhibit "P-13", Docket, p. 120.

Thus, petitioner, having failed to prove that it filed an administrative claim for refund prior to the filing of its Petition for Review before the Court as prescribed by Sections 204(C) and 229 of the 1997 NIRC, as amended, the present Petition should be dismissed, as this Court cannot take cognizance of a judicial claim for refund filed prematurely, that is, without the prior administrative claim having been made.

In *Commissioner of Internal Revenue vs. Acosta,*[31] the Supreme Court emphasized that a written claim for refund must first be filed with respondent before resorting to court action, to wit:

> "In our view, the law is clear. **A claimant must first file a written claim for refund, categorically demanding recovery of overpaid taxes with the CIR, before resorting to an action in court.** This obviously is intended, first, to afford the CIR an opportunity to correct the action of subordinate officers; and second, to notify the government that such taxes have been questioned, and the notice should then be borne in mind in estimating the revenue available for expenditure." *(Emphasis supplied)*

Apropos, before a party is allowed to seek the intervention of the courts, it is a pre-condition that the claimant avail of all administrative processes available, such that if a remedy within the administrative machinery can be resorted to by giving the administrative officer every opportunity to decide on a matter that comes within his/her jurisdiction, then such remedy must first be exhausted before the court's power of judicial review can be sought, otherwise, the premature resort to the court is fatal to one's cause of action.[32]

As already noted, petitioner failed to prove that it filed an administrative claim for refund prior to the filing of its judicial claim. Since this is a mandatory and jurisdictional requirement, this Court has no other recourse but to dismiss the present Petition for lack of jurisdiction.

It bears emphasis that this Court, being a court of special jurisdiction, can take cognizance only of matters that are clearly

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[31] G.R. No. 154068, August 3, 2007.

[32] *Commissioner of Internal Revenue vs. Court of Tax Appeals (Second Division), et al.*, G.R. No. 207843, July 15, 2015.

within its jurisdiction.[33] Relative thereto, when it appears from the pleadings or the evidence on record that the Court has no jurisdiction over the subject matter, the Court shall dismiss the claim. The Court could not decide the case on the merits.[34]

WHEREFORE, premises considered, the present Petition for Review is **DISMISSED** for this Court's lack of jurisdiction due to the non-filing of a prior administrative claim for refund.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

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[33] *Commissioner of Internal Revenue vs. V.Y. Domingo Jewellers, Inc.*, G.R. No. 221780, March 25, 2019.

[34] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.