20-000406-0060

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10407

FRANKLIN BAKER COMPANY OF THE PHILIPPINES,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

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

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. CLARISSA J. VIRTUDES-BABARAN
Bureau of Internal Revenue
Room 703, Litigation Division
BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. ROY N. RELATO
ATTY. AL C. BONGHANOY
RELATO LAW OFFICE
Unit 1112, Entrata Tower I, 2609 Civic Drive
Filinvest Corporate City, Alabang
Muntinlupa City

GREETINGS:

You are hereby notified by these presents that on **April 23, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 24, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

FRANKLIN BAKER COMPANY OF THE PHILIPPINES, *Petitioner,*	**CTA Case No. 10407** Members:
-versus-	**DEL ROSARIO,** *P.J., Chairperson,* **MANAHAN,** *and* **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 23 2024; 2:10PM

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DECISION

MANAHAN, *J.*:

In this *Petition for Review (With Motion for Commissioning of Independent Certified Public Accountant)* filed on November 20, 2020, petitioner Franklin Baker Company of the Philippines (Franklin Baker) seeks for a cash refund in the amount of ₱59,126,452.53, representing the balance of its administrative claim for input value-added tax (VAT) refund attributable to zero-rated sales for the taxable year (TY) 2018.[1]

FACTS

Petitioner Franklin Baker is a domestic corporation duly organized and existing under Philippine laws, with principal office address at 39 Plaza Drive, Rockwell Center, 4th Floor Phinma Plaza, Brgy. Poblacion, Makati City 1210.[2]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is vested by the 1997 National Internal Revenue Code (NIRC), as amended, with the authority to decide, approve, and grant tax refund. He may be served with

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[1] Prayer, *Petition for Review*, Docket, Vol. I, pp. 7 to 19.
[2] Par. 6, Parties, *Petition for Review*, Docket, Vol. I, p. 9; Exhibits "P-1" to "P-2", Docket, Vol. I, pp. 102, and 103 to 113.

summons, and other court processes at the Bureau of Internal Revenue (BIR), National Office Building, Agham Road, Diliman, Quezon City.[3]

On July 15, 2020, Franklin Baker filed an Application for Tax Credits/Refunds before the BIR in the amount of ₱87,865,477.31.[4]

On October 21, 2020,[5] Franklin Baker received a VAT Refund Notice dated October 2, 2020[6] from BIR VAT Credit and Audit Division (VCAD), approving a portion of its VAT refund claim in the amount of ₱28,739,024.78 and denying the rest of its VAT refund claim of its unutilized excess input tax for the 1st to 4th quarters of TY 2018 in the amount of ₱59,126,452.53.[7]

On November 20, 2020,[8] Franklin Baker filed the present *Petition for Review (With Motion for Commissioning of Independent Certified Public Accountant).*

On March 22, 2021, the CIR posted his *Answer,*[9] wherein he interposed the following special and affirmative defenses: (1) the petition must be dismissed for failure of Franklin Baker to substantiate its administrative claim for refund; and (2) Franklin Baker is not entitled to refund in the amount of ₱59,126,452.53.

On May 27, 2021, the CIR submitted[10] the *BIR Records* for the present case.

On June 1, 2021, the CIR filed his Pre-Trial Brief[11] through electronic mail. On the other hand, on July 22, 2021,[12] Franklin Baker filed its Pre-Trial Brief.

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[3] Par. 1b., Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, Vol. I, p. 368.
[4] Exhibit "P-8", Docket, Vol. I, p. 124.
[5] Par. 4, Nature and Timeliness of the Petition, *Petition for Review*, Docket, Vol. I, p. 8.
[6] Par. 1a., Stipulation of Facts, JSFI, Docket, Vol. I, pp. 367 to 368; Exhibits "P-10" and "R-4", Docket, Vol. I, pp. 157 to 181.
[7] Par. 1a., Stipulation of Facts, JSFI, Docket, Vol. I, pp. 367 to 368.
[8] Docket, Vol. I, pp. 7 to 19.
[9] Docket, Vol. I, pp. 243 to 249.
[10] Respondent's *Compliance* dated May 24, 2021, Docket, Vol. I, pp. 254 to 256.
[11] Docket, Vol. I, pp. 258 to 262.
[12] Docket, Vol. I, pp. 273 to 279.

The Pre-Trial Conference was set[13] and held[14] on July 29, 2021.

On October 21, 2021, the parties filed their *Joint Stipulation of Facts and Issues*,[15] which was approved in the Resolution dated November 15, 2021.[16] On February 11, 2022,[17] the Court issued the Pre-Trial Order.

During trial, Franklin Baker offered the testimonies of the following witnesses: (1) Ms. Beverly M. Sisante,[18] Franklin Baker's Treasurer and Finance; and (2) Mr. Lucky Francis P. Felipe,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

On December 6, 2021, Franklin Baker filed its *Formal Offer of Evidence.*[21] The CIR then submitted his *Comment (Re: Formal Offer of Evidence)* on December 9, 2021.[22] In the Resolution dated June 23, 2022,[23] the Court resolved and admitted several exhibits offered by Franklin Baker.

On the other hand, the CIR offered the testimony of witness Mr. Bryan Patrick A. Lafrades,[24] Revenue Officer II of Revenue District Office No. 47-East Makati.

On August 23, 2022,[25] the CIR filed his *Formal Offer of Evidence*, without comment by Franklin Baker.[26] In the Resolution dated October 20, 2022,[27] the Court resolved to

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[13] *Notice of Pre-Trial Conference* dated May 18, 2021, Docket, Vol. I, pp. 251 to 253.
[14] Minutes of the hearing held on, and Order dated, July 29, 2021, Docket, Vol. I, pp. 329-a to 329-d, and 331 to 333, respectively.
[15] Docket, Vol. I, pp. 367 to 371.
[16] Docket, Vol. I, pp. 418 to 419.
[17] Docket, Vol. II, pp. 784 to 795.
[18] Exhibit "P-11", Docket, Vol. I, pp. 90 to 101; Order dated, October 5, 2021, Docket, Vol. I, pp. 358 to 360.
[19] Exhibit "P-12", Docket, Vol. I, pp. 81 to 84; Order dated October 5, 2021, Docket, Vol. I, pp. 358 to 360; Exhibit "P-11766", Docket, Vol. I, pp. 401 to 415; Minutes of the hearing held on, and Order dated, November 16, 2021, Docket, Vol. II, pp. 420 to 422, and 423 to 424, respectively.
[20] *Oath of Commission* dated October 5, 2021, Docket, Vol. I, p. 365.
[21] Docket, Vol. II, pp. 427 to 776.
[22] Docket, Vol. II, pp.778 to 780.
[23] Docket, Vol. II, pp. 814 to 871.
[24] Exhibit "R-6", Docket, Vol. I, pp. 197 to 201; Minutes of the hearing held on, and Order dated, August 18, 2022, Docket, Vol. II, pp. 872 to 872-a, and 873 to 874, respectively.
[25] Docket, Vol. II, pp. 876 to 879.
[26] Records Verification dated September 19, 2022 issued by the Judicial Records Division of this Court, Docket, Vol. II, p. 884.
[27] Docket, Vol. II, pp. 909 to 910. *ám*

admit respondent's exhibits, except for Exhibit "R-3", for failure of the document marked to correspond with the description in the Formal Offer of Evidence.

On October 14, 2022, Franklin Baker filed its *Memorandum*,[28] while the CIR filed his *Memorandum* on October 21, 2022.[29]

Thereafter, Franklin Baker filed an *Omnibus Motion A) Motion for Reconsideration of the Resolution dated 20 October 2022; B) To Set Commissioner's Hearing to Mark the Memorandum Report dated 2 October 2020 Identified by Respondent's Witness in his Judicial Affidavit; and C) To Defer the Submission of the Parties' Memoranda).*[30] Meanwhile, Franklin Baker did not file its comment.[31]

In the Resolution dated April 5, 2023,[32] the Court partially granted the CIR's Omnibus Motion.

On May 23, 2023,[33] the Court issued a resolution submitting the case for decision, among others. Hence, this Decision.

ISSUES

The parties submitted the following issues for this Court's resolution:[34]

a. Whether or not Franklin Baker is entitled to its claim for input VAT refund in the amount of ₱59,126,452.53, representing the balance of its administrative claim for input VAT refund for TY 2018 attributable to its VAT zero-rated sale that was denied by respondent; and

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[28] Docket, Vol. II, pp. 888 to 904.
[29] Docket, Vol. II, pp. 911 to 917.
[30] Docket, Vol. II, pp. 920 to 923.
[31] Records Verification dated March 20, 2023 issued by the Judicial Records Division of this Court, Docket, Vol. II, p. 928.
[32] Docket, Vol. II, pp. 934 to 935.
[33] Resolution dated May 23, 2023, Docket, Vol. II, pp. 941 to 942.
[34] Stipulation of Issues, JSFI, Docket, Vol. I, p. 368.

b. Whether or not the Decision of the respondent is correct based on the documents submitted by Franklin Baker to respondent.

RULING

The Court shall first address the timeliness of the judicial appeal, considering that any claim filed less than or beyond the period provided by the 1997 NIRC, as amended, falls outside the jurisdiction of the Court.[35]

Records show that on July 15, 2020,[36] Franklin Baker filed its administrative claim for refund of its excess input VAT in the amount of ₱87,865,477.31 for the period covering January 1, 2018 to December 31, 2018.

Consequently, the CIR issued VAT Refund Notice dated October 2, 2020[37] where it partially granted Franklin Baker's request for refund in the amount of ₱28,739,024.78. Said Notice was allegedly received by petitioner on October 21, 2020,[38] which prompted it to file a *Petition for Review* with the Court on November 20, 2020[39] assailing the following disallowed portion in the amount of ₱59,126,452.53:

VAT Refund Claimed	₱87,865,477.31
Deductions From the Claim	
Input VAT Attributable on Invalid Zero-Rated Sales	18,320,757.76
Output VAT on VATable Sales Reported as Exempt Sales	10,777,999.27
Discrepancy Between Schedule and Claim on Input VAT	9,447,589.33
Output VAT on Disposal of Capital Goods	5,545,622.64
Big Ticket Disallowances	5,191,630.55
Non-Compliance With Invoicing Requirements	5,017,549.05
Input VAT Attributable to Exempt Sales	2,872,694.82
Output on Sales of Service	1,472,042.28
ITS Verification	309,491.90
Deferred Input VAT on Capital Goods	121,755.96

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35 *Silicon Philippines Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 182737, March 2, 2016.
36 Exhibit "P-8", Docket – Vol. 1, p. 124.
37 Exhibit "P-10"; Exhibit "R-4", Docket – Vol. I, pp. 157 to 181.
38 Petition for Review, par. 4, Docket – Vol. I, p.8; Judicial Affidavit of Beverly M. Sisante - VP for Finance, Docket – Vol. I, p. 98, par. 45: A, Petitioner's Memorandum, Docket – Vol. II, p. 901, par. 40; JSFI, Docket – Vol. I, pp. 367 to 368, par. 1.a (exact date of receipt was not specified).
39 Docket – Vol. I, p. 7. om

Output VAT per Reconciliation of Sales	24,318.97
Compromise Penalty	25,000.00
Total Deductions	59,126,452.53
Net Allowable VAT Refund	₱28,739,024.78

In this regard, Section 112 (A) and (C) of the 1997 NIRC, as amended, provide:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* -
>
> ***(A) Zero-rated or Effectively Zero-rated Sales.*** - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, xxx
>
> 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."

In the case of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing Inc.) v. Commissioner of Internal*

Revenue[40] *(Silicon Case)*, the Supreme Court emphasized the mandatory and jurisdictional nature of the 120 (now 90)[41] + 30 day period to elevate an appeal with the Court. It says:

> "The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day period, **whichever is sooner**.
>
> Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, **any claim filed in a period less than or beyond the 120 + 30 days provided by the NIRC is outside the jurisdiction of the CTA**." *(Emphasis supplied)*

The ruling in *Silicon* is in accord with the provisions of Section 7(a)(1) and (2) of Republic Act (RA) No. 1125, as amended by RA No. 9282, thus:

> "SEC. 7. Jurisdiction. – The Court 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,**

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[40] G.R. No. 182737, March 2, 2016.

[41] Under Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law.

> **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;"** (*Emphasis supplied*)

Meanwhile, in *Ceamsa Asia, Inc. vs. Commissioner of Internal Revenue*,[42] the Court had the occasion to rule on a similar issue, as follows:

> "In *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, the Supreme Court summarized the rules regarding the prescriptive periods for filing of the administrative and judicial claims for refund or tax credit of input VAT. The pertinent rules for the judicial claim are quoted below:
>
> **'B. 120(now 90) + 30-Day Period**
>
> 1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within 120-day (now 90-day) period, or (2) file the judicial claim within thirty days from the expiration of the 120-day (now 90-day) period if the Commissioner does not act within the 120-day (now 90-day) period.
>
> 2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.

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[42] CTA Case No. 10148 dated February 3, 2023. *cm*

3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. (*Aichi and San Roque*)

4. As an exemption to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. (*San Roque*)

5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. (*San Roque*)

In *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, the Supreme Court stated:

> 'A final note, the taxpayers are reminded that when the 120-day (now 90-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 (now 90-day) waiting period.'

The Supreme Court has also stated that 'any claim filed in a period less than or beyond the 120+30 (now 90+30) days provided by the NIRC is outside the jurisdiction of the CTA.'"

Applying the above-quoted provisions and jurisprudence to the case at hand, Franklin Baker filed its administrative claim on July 15, 2020. Counting 90 days therefrom, the CIR had until October 13, 2020 to decide on the refund claim. Consequently, counting 30 days from the expiration of the 90-day period within which to decide on the refund claim, or until October 13, 2020, Franklin Baker had until November 12, 2020 to file its judicial claim. Considering that the instant *Petition for Review* was only filed on November 20, 2020, the Court has no jurisdiction over the case.

Accordingly, the instant Petition for Review is **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(With due respect, see Dissenting Opinion)
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 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

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SPECIAL FIRST DIVISION

FRANKLIN BAKER COMPANY OF THE PHILIPPINES, *Petitioner,*	**CTA CASE NO. 10407**
	Members:
-versus-	**DEL ROSARIO,** *P.J. & Chairperson* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 23 2024; 2:10PM

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DISSENTING OPINION

DEL ROSARIO, P.J.:

The *ponencia* dismisses the Petition for Review for lack of jurisdiction. It finds that: (i) from petitioner's filing of administrative claim on July 15, 2020, respondent Commissioner of Internal Revenue (CIR) has ninety (90) days or until **October 13, 2020** to decide on the refund claim; and, (ii) from the expiration of the said 90-day period, petitioner has thirty (30) days, or until **November 12, 2020** to file its judicial claim. Accordingly, the Court has no jurisdiction over the case as the Petition for Review was only filed on **November 20, 2020**.

With utmost respect, I wish to share a different view.

The *ponencia* declares that the 90+30-day period to elevate an appeal with the Court is mandatory and jurisdictional. It echoes the pronouncement in ***Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing Inc.) vs. Commissioner of Internal Revenue***[1] *(Silicon),* that the thirty (30)-day period provided by law to file judicial claim should be reckoned after the receipt of respondent's decision/ruling or after the expiration of the ninety (90)-day period, **whichever is sooner**; and that any claim filed within a period less than or beyond the "90+30 day" period is outside the jurisdiction of the Court.

[1] G.R. No. 182737, March 2, 2016.

Prior to the enactment of Republic Act (RA) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law, Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, reads:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* – xxx
>
> (C) *Period Within Which Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within **one hundred twenty (120) days** from the date of submission of complete documents in support of the application filed in accordance with Subsection (A).
>
> **In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above**, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim **or** after the expiration of the one hundred twenty day-period, **appeal the decision or the unacted claim with the Court of Tax Appeals**." (*Boldfacing supplied*)

In construing the aforequoted provision, the Supreme Court opined that the thirty (30)-day period within which an appeal may be made commences **either** from receipt of the denial of the claim **OR** after the expiration of the 120-day period within which the CIR is mandated to act on the claim, **whichever comes first**. Said the Supreme Court in *Silicon*:

> "The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling[,] **or** after the expiration of the 120-day period, whichever is sooner." (*Boldfacing supplied*)

With the enactment of the TRAIN Law, Section 112(C) of the NIRC of 1997, as amended, now reads:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* – x x x
>
> (C) *Period within which Refund or Tax Credit 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**

on

> **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 ninety (90) days period shall be punishable under Section 269 of this Code." (*Boldfacing supplied*)

At once glaring is the fact that under the TRAIN Law, **the reckoning of the thirty (30)-day period within which an appeal to the Court of Tax Appeals (CTA) may be made specifies only <u>one</u> circumstance**, that is – from **receipt of the decision of the CIR** denying the claim for tax refund. The provision, as worded, does not give the taxpayer the privilege **to appeal the inaction** of the CIR to act on the administrative claim within the prescribed period.

In other words, it is only upon receipt by the taxpayer of the CIR's decision on the refund claim at anytime even beyond the ninety (90)-day period, as in the present case, that the taxpayer may appeal, that is - - within thirty (30) days from receipt thereof. Such is the plain textual reading of Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law, as discussed above.

Records show that petitioner received the VAT Refund Notice on October 21, 2020. Counting thirty (30) days therefrom, petitioner had until November 20, 2020, within which to file its Petition for Review before the CTA. The filing of the Petition for Review on November 20, 2020 is timely. Thus, this Court has jurisdiction over the case. The Petition for Review should be resolved on the merits.

Incidentally, by way of *obiter dictum*, notwithstanding the amendment brought about by the TRAIN law to Section 112(C) of the NIRC, this does not undermine the judicial power of the CTA to exercise exclusive appellate jurisdiction to review on appeal over cases of inaction by the CIR in refund cases.

I submit that a taxpayer may elevate the CIR's inaction, should he desire to do so, pursuant to Section 7(a)(2) of Republic Act (RA) No. 1125, as amended by RA No. 9282,[2] which provides that the CTA has jurisdiction over inactions of the CIR on refund claims where the law provides for a specific period of action, in which case the inaction shall be deemed a denial. But the option to elevate to the

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[2] "Sec. 7. Jurisdiction. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
x x x
2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations 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 of action, in which case the inaction shall be deemed a denial[.]"

CTA a judicial claim, within 30 days from the CIR's inaction or from receipt of the decision belongs to the taxpayer. I just wish to stress that a judicial claim filed within 30 days from receipt of a decision rendered beyond 90 days is jurisdictionally sanctioned.

All told, I vote to take cognizance of the Petition for Review and to determine the merits of the case.

ROMAN G. DEL ROSARIO
Presiding Justice