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**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

**HEDCOR, INC.,**
Petitioner,

-versus-

**COMMISSIONER OF INTERNAL REVENUE,**
Respondent.

**CTA EB No. 1745**
**(CTA Case No. 9218)**

**Present:**

Del Rosario, *P.J.*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Mindaro-Grulla,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:
DEC 05 2019
3:50 p.m.

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## RESOLUTION

**CASTAÑEDA, JR., *J.*:**

This resolves petitioner's Motion for Reconsideration (Re: Decision dated June 10, 2019) filed on July 2, 2019. Respondent, however, failed to file his Comment on petitioner's motion.[1] This motion was submitted for resolution on October 8, 2019.

The dispositive portion of the June 10, 2019 Decision states:

> **WHEREFORE,** premises considered, the Petition for Review is **DENIED**. Accordingly, the assailed Resolutions promulgated on December 22, 2016 and on November 3, 2017, respectively, by the then CTA First Division are **AFFIRMED**.
>
> **SO ORDERED.**

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[1] Records Verification by the Judicial Records Division dated October 2, 2019.

In its motion, petitioner argues that: (1) the Honorable Court has jurisdiction to rule on the Petition for Review; (2) respondent wrongfully applied Revenue Memorandum Circular (RMC) No. 54-2014 in denying petitioner's claim; and (3) the alleged prescription of the period to appeal is a question of fact that requires a full-blown trial.

Petitioner submits that this Court erred in treating the claim as an inaction because the respondent did act on petitioner's claim within and even beyond the 120+30-day period. Petitioner alleges that its claim was acted upon and expressly denied precluding the application of the "deemed denied" doctrine. Petitioner states that the respondent issued an express written denial on October 10, 2015, and received by petitioner on November 10, 2015. Petitioner avers that it had the right to appeal from its receipt of the alleged Denial Letter.

Petitioner alleges that the retroactive application of RMC No. 54-2014 resulted in the deprivation of petitioner's due process when the procedure for processing of its administrative claims was changed during the pendency of the claims. Petitioner states that the respondent continued to have jurisdiction to act on petitioner's administrative claim for tax refund/credit after the lapse of the 120+30-day period as confirmed by Revenue Regulations (RR) No. 1-2017. Petitioner also states that the interpretation of the purpose of the 120+30-day period should be consistent with the legislative intent behind the amendment to Section 112 (C) of the Tax Code.

The motion is denied.

Section 112(C) of the NIRC of 1997, as amended, is clear that "[T]he CIR is given 120 days within which to grant or deny a claim for refund. Upon receipt of CIR's decision or ruling denying the said claim, or upon the expiration of the 120-day period without action from the CIR, the taxpayer has thirty (30) days within which to file a petition for review with the CTA."[2]

In this case, petitioner's administrative claim for the issuance of a tax credit certificate or refund was filed on August 20, 2008.[3] At that time, RMC No. 49-2003 was applicable. In the case of *Pilipinas Total Gas v. Commissioner of Internal Revenue,*[4] *("Pilipinas Total Gas" case, for brevity),* the Supreme Court summarized the rules with respect to the RMC No. 49-2003, as follows:

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[2] *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) v. Commissioner of Internal Revenue,* G.R. No. 201326, February 8, 2017.

[3] Decision dated June 10, 2019 ("Assailed Decision"), *Rollo,* p.239, citing Joint Stipulation of Facts and Issues (JSFI), Summary of Admitted Facts, Division Docket, p. 370.

[4] G.R. No. 207112, December 8, 2015.

"Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. **Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office.** Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.

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**To summarize,** for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition[al] documents to complete his administrative claim, the 120-day period allowed to the CIR begins to run from the date of filing.

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 NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

It bears mentioning at this point that the **foregoing summation of the rules should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014,** such as the claim at bench. As it now stands, RMC 54-2014 dated June 11, 2014 mandates that:

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Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to

> complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim." *(Emphases Supplied)*

We reiterate that this Court applied the rules enumerated in the *Pilipinas Total Gas* case with respect to the reckoning point on when the counting of the 120-day period starts, as well as the 30-day period within which to file the petition for review with the CTA, as follows:

> "Applying the *Pilipinas Total Gas case* in the instant case, Hedcor should have submitted the documentary requirements sufficient to support its claim within 30 days from the date its administrative claim was filed on August 20, 2008, unless given further extension by the CIR. '[N]otice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.' 30 days from August 20, 2008 is September 19, 2008. However, considering that there was an alleged First Request for Presentation of Records dated October 29, 2008, and that Hedcor transmitted the requested documents on November 12, 2008, this Court will reckon the 120-day period from the submission of the documents on November 12, 2008. CIR has 120 days from the submission of the documents to act on the claim, or until March 12, 2009. On March 12, 2009, there is no decision made by the CIR on the claim of Hedcor. Counting 30 days from the expiration of the 120-day period, Hedcor had until April 11, 2009 within which to appeal the inaction of the CIR to the CTA. However, Hedcor filed the Petition for Review to the CTA Division on December 10, 2015. The petition is, therefore, filed out of time. In fine, Hedcor's judicial claim cannot prosper for its failure to comply with the 30-day mandatory and jurisdictional period set forth by law."[5]

We emphasize that the 120+30 day periods are mandatory and jurisdictional, thus, petitioner's failure to comply is fatal to its claim.

Based on the foregoing discussions, this Court finds no valid or cogent reason to deviate from our findings and conclusions reached in our Decision dated June 10, 2019.

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[5] Assailed Decision, *Rollo*, pp. 244-245.

**WHEREFORE,** premises considered, petitioner's Motion for Reconsideration (Re: Decision dated June 10, 2019) is **DENIED.**

**SO ORDERED.**

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

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

**ESPERANZA R. FABON-VICTORINO**
Associate Justice

Cielito N. Mindaro-Grulla
**CIELITO N. MINDARO-GRULLA**
Associate Justice

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

Catherine T. Manahan
**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice