REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
****

LAPANDAY FOODS CORPORATION, Petitioner,	**CTA EB No. 2360** (CTA Case No. 9966)
	Present:
- versus -	**DEL ROSARIO,** P.J., **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO,** *and* **CUI-DAVID,** JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** FEB 2 1 2022 10:35am

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DECISION

UY, J.:

Before the Court *En Banc* is a *Petition for Review (Re: Resolution dated 30 June 2020 and Resolution dated 12 October 2020)*[1] filed on October 28, 2020 by petitioner Lapanday Foods Corporation against respondent Commissioner of Internal Revenue, praying for the reversal and setting aside of the Resolutions dated June 30, 2020 and October 12, 2020, promulgated by the Second Division of this Court (Court in Division), in CTA Case No. 9966, entitled, *"Lapanday Foods Corporation, Petitioner vs. Commissioner of Internal Revenue, Respondent,"* the dispositive portions of which respectively read as follows:

[1] EB Docket, pp. 1 to 39.

Resolution dated June 30, 2020:

"**WHEREFORE,** premises considered, respondent's **Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court** is **GRANTED.** Accordingly, the Petition for Review under CTA Case No. 9966 is **DISMISSED** for lack of jurisdiction by reason of prescription.

SO ORDERED."

Resolution dated October 12, 2020:

"**WHEREFORE,** petitioner's **Motion for Reconsideration (of the Resolution dated 30 June 2020)** is **DENIED** for lack of merit.

SO ORDERED."

THE FACTS

Petitioner is a domestic corporation duly organized and registered under the laws of the Philippines with principal address at Maryknoll Road, Barangay Pampanga, Lanang, Davao City. It is represented by its Chief Financial Officer, Manolito B. Dagatan, and may be served with summons, notices, and other court processes at its counsel's office address at Zambrano Gruba Caganda & Advincula Law Offices, 27th Floor, 88 Corporate Center, Sedeño Street, Salcedo Village, Makati City, Metro Manila 1227.[2]

Petitioner is duly registered with the Securities and Exchange Commission (SEC) with Company Registration No. A1996-05912[3] and a registered taxpayer with tax identification number (TIN) 005-178-645-00000 under the Certificate of Registration No. OCN xRC0000961426E issued on April 21, 2017.[4]

In its Amended Articles of Incorporation, petitioner is engaged in the business of growing, harvesting, cold storage, ripening, quality

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[2] *Petition for Review,* EB Docket, p. 2; *Joint Stipulation of Facts and Issues,* Division Docket – Vol. II, p. 467.
[3] Exhibit "P-19," Division Docket – Vol. II, pp. 654 to 663.
[4] Exhibit "P-6", Division Docket – Vol. II, pp. 532 to 534.

control, packaging, transporting, buying, importing, selling, exporting, distributing and marketing, on wholesale or retail, of fruits and other agricultural products and related materials and products and conducting studies, experiments and any and all other activities related thereto or necessary or appropriate therefor.[5]

On the other hand, respondent Commissioner of Internal Revenue (CIR) is sued in his official capacity, having been duly appointed and empowered to perform the duties of his office, including, among others, the duty to act on and approve claims for refund or tax credit certificate, as provided by law. He may be served with summons, notices, and court processes at its office address at BIR National Office Building, Diliman, Quezon City, Metro Manila.[6]

Petitioner filed with the Bureau of Internal Revenue (BIR), its Quarterly VAT Returns (BIR Form No. 2550Q), for the four (4) quarters of the taxable year 2011, on the following dates:

Period Covered	**Return Filed On**
1st Quarter (Exhibit P-9)	March 7, 2013
2nd Quarter (Exhibit P-10)	March 7, 2013
3rd Quarter (Exhibit P-11)	March 7, 2013
4th Quarter (Exhibit P-12)	March 7, 2013

Thereafter, petitioner filed before the Department of Finance One-Stop Shop Inter-Agency Tax Credit and Drawback Center its administrative claim for tax credit/refund of its excess/unutilized input VAT from zero-rated sales (Claimant Information Sheets)[7] in the aggregate amount of ₱69,002,166.31, representing unutilized input VAT credits attributable to zero-rated sales and local purchases for the four (4) quarters of the taxable year 2011.

On November 11, 2013, respondent issued a *First Notice*[8], requiring petitioner to submit additional documents for the processing of petitioner's claim and stating that the one hundred (120)-day period in processing the application is suspended pending submission of the documents listed therein.

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[5] Exhibit "P-19-a", Division Docket – Vol. II, p. 544.
[6] *Id.*
[7] Exhibits "P-15" to "P-18," Division Docket – Vol. II, pp. 650 to 653.
[8] Exhibit "P-7," Division Docket – Vol. II, pp. 648 to 649.

Subsequently, respondent issued a *Letter of Denial*[9] on August 23, 2018, denying petitioner's applications for tax credit on the ground of non-presentation of export declaration and bill of lading or airway bill as proof of petitioner's actual shipment of goods from the Philippines to a foreign country.

Aggrieved, petitioner filed on October 30, 2018 a *Petition for Review*[10] before the Court in Division docketed as CTA Case No. 9966, praying that: a) the *Letter of Denial* dated August 23, 2018, which denied with finality petitioner's claim for VAT credit on the input taxes attributable to zero-rated export sales for the four quarters of taxable year 2011 be declared void; and, b) direct the respondent to issue tax credit certificate/s in the aggregate amount of ₱69,002,166.31 in favor of petitioner. In its *Petition for Review,* petitioner argued that it has complied with the substantiation requirements to prove entitlement to its refund/tax credit of input VAT in the amount of ₱69,002,166.31.

On January 21, 2019, respondent filed his *Answer (to the Petition for Review dated 30 October 2018)*[11] interposing the following Special and Affirmative Defenses:

1) the Petition for Review is filed out of time and as such, the Court in Division has no jurisdiction over it;

2) even assuming, but without admitting that the Petition for Review is filed within the reglementary period, the judicial claim should be denied for petitioner's failure to substantiate the claim for refund at the administrative level;

3) it is an established fact that a decision has already been rendered and in such a case, the Supreme Court has held that the duty of the Court is now limited in determining whether the decision is proper; and

4) the CIR is correct in denying petitioner's claim for refund.

Thereafter, the Court in Division issued a *Notice of Pre-Trial Conference*[12] on January 24, 2019 setting the case for pre-trial

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[9] Exhibit "P-1," Division Docket – Vol. I, p. 180.
[10] Division Docket – Vol. I, pp. 11 to 26.
[11] Division Docket – Vol. I, pp. 125 to 140.
[12] Division Docket – Vol. I, pp. 141 to 142.

conference on March 14, 2019.

On March 8, 2019, respondent filed a *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court*[13] praying that the Petition for Review in CTA Case No. 9966 be dismissed for being time-barred and/or for lack of jurisdiction.

On the same date, respondent's *Pre-Trial Brief,*[14] the *Pre-Trial Brief For Petitioner,*[15] and petitioner's *Motion to Commission an Independent Certified Public Accountant*[16] were filed.

After the pre-trial conference, the parties filed their *Joint Stipulation of Facts and Issues*[17] on March 29, 2019. Subsequently, the Court issued a *Pre-Trial Order*[18] on April 10, 2019, adopting the parties' joint stipulations and terminating the pre-trial.

During trial, petitioner presented the following witnesses: 1) Terencio R. Tangaran, petitioner's Assistant Manager of the Tax Management Department; 2) Luzviminda T. Aguilar, petitioner's Accounting Manager of the Accounting/Treasury Department; and 3) Court-commissioned Independent Certified Public Accountant (ICPA) Eduardo C. Avila.

On July 15, 2019, petitioner filed its *Formal Offer of Evidence*[19], without respondent's Comment despite notice.[20] In the Resolution dated January 6, 2020, the Court in Division admitted most of petitioner's evidence, subject to the Court in Division's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in the case.[21]

On January 23, 2020, petitioner made a *Proffer of Excluded Evidence*[22] on petitioner's denied exhibits and filed a *Motion for Reconsideration (of the Court's Resolution dated 06 January 2020)*

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[13] Division Docket – Vol. I, pp. 150 to 157.
[14] Division Docket – Vol. I, pp. 158 to 163.
[15] Division Docket – Vol. I, pp. 168 to 179.
[16] Division Docket – Vol. I, pp. 254 to 257.
[17] Division Docket –Vol. II, pp. 467 to 472.
[18] Division Docket –Vol. II, pp. 474 to 477.
[19] Division Docket – Vol. II, pp. 567 to 647.
[20] Records Verification Report dated August 5, 2019; Division Docket –Vol. II, p. 664
[21] Division Docket –Vol. II, pp. 675 to 702.
[22] Division Docket –Vol. II, pp. 705 to 743.

seeking the admission of excluded evidence.[23]

On February 12, 2020, respondent filed the following : 1) *Manifestation with Motion to Defer Respondent's Presentation of Evidence,*[24] praying for the deferment of his presentation of evidence until the resolution of the Motion for Early Resolution on the issue of jurisdiction of the Court dated March 6, 2019, and 2) *Comment with Motion to Defer Submission of Memorandum.*[25]

Thereafter, petitioner filed its *Comment/Opposition (To Respondent's Manifestation with Motion to Defer Respondent's Presentation (sic) Evidence dated 07 February 2020)* on February 26, 2020.[26]

In the first assailed Resolution[27] dated June 30, 2020, the Court in Division granted respondent's *Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court,* and dismissed the Petition for Review in CTA Case No. 9966 for lack of jurisdiction on the ground of prescription.

Petitioner filed its *Motion for Reconsideration (Of the Resolution dated 30 June 2020)*[28] on July 23, 2020, with respondent's *Comment*[29] filed on August 18, 2020.

In the second assailed Resolution[30] dated October 12, 2020, the Court in Division denied petitioner's *Motion for Reconsideration* for lack of merit.

Undaunted, petitioner filed the instant *Petition for Review (Re: Resolution dated 30 June 2020 and Resolution dated 12 October 2020)*[31] on October 28, 2020.

In the Resolution[32] dated November 11, 2020, respondent was

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[23] Division Docket –Vol. II, pp. 744 to 754.
[24] Division Docket –Vol. II, pp. 783 to 786.
[25] Division Docket –Vol. II, pp. 787 to 790.
[26] Division Docket –Vol. II, pp. 793 to 817.
[27] EB Docket, pp. 44 to 51; Division Docket –Vol. II, pp. 819 to 826.
[28] Division Docket –Vol. II, pp. 827 to 852.
[29] Division Docket –Vol. II, pp. 855 to 860.
[30] EB Docket, pp. 53 to 59; Division Docket –Vol. III, pp. 863 to 869.
[31] EB Docket, pp. 1 to 39.
[32] EB Docket, pp. 103 to 104.

directed to file his Comment to the Petition for Review, within ten (10) days from notice.

On December 9, 2020, respondent filed a *Motion to Admit Attached Comment*[33] with his *Comment.*[34]

In the Resolution[35] dated January 19, 2021, respondent's *Motion to Admit Attached Comment* and his *Comment* were denied admission, for being a prohibited pleading under A.M. No. 19-10-20-SC, otherwise known as the 2019 Amendments to the 1997 Rules of Civil Procedure. Thus, the subject *Petition for Review* was submitted for decision *sans* the *Comment* of the respondent.

Hence, this *Decision.*

THE ISSUES

Petitioner raises the following grounds for the allowance of the Petition, to wit:

> "(A) THE HONORABLE COURT OF TAX APPEALS – SECOND DIVISION ERRED IN DECIDING THAT IT HAS NO JURISDICTION TO RULE ON THE BIR'S LETTER OF DENIAL APPEALED BY THE PETITIONER WITHIN THIRTY (30) DAYS FROM RECEIPT THEREOF.
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> (B) IN RULING THAT IT HAS NO JURISDICTION OVER THE CASE, THE COURT OF TAX APPEALS – SECOND DIVISION ERRONEOUSLY DENIED PETITIONER'S ENTITLEMENT TO ITS CLAIM FOR TAX CREDIT, WHEN SUCH CLAIM CAN BE FULLY SUPPORTED."[36]

Petitioner's arguments:

Petitioner argues that the Court in Division has jurisdiction to rule on the BIR's Letter of Denial, appealed by the petitioner within thirty (30) days from receipt thereof.

[33] EB Docket, pp. 105 to 110.
[34] EB Docket, pp. 111 to 115.
[35] EB Docket, pp. 117 to 119.
[36] EB Docket, p. 7.

According to petitioner, the National Internal Revenue Code (NIRC) clearly provided two alternative remedies: a) filing a judicial claim within the 30-day filing period from the denial or partial denial of the administrative claim; or b) filing a judicial claim within a 30-day filing period from the end of the 120-day waiting period, after which the inaction of the CIR may be deemed a denial. In this case, petitioner availed of the first remedy, which is to await the decision of the CIR and validly filed its judicial claim.

Petitioner likewise contends that the mandatory and jurisdictional nature of the 120+30 day period upheld in various Supreme Court decisions does not apply in cases where the CIR issues a decision on the VAT refund after the 120-day period.

In addition, petitioner avers that the 120+30 day period under Section 112 (C) of the NIRC of 1997, as amended, is a claim-processing rule which does not restrict the subject-matter jurisdiction of the Court in Division.

Petitioner also stresses that respondent is deemed estopped from claiming prescription considering that the BIR still acted on petitioner's claim despite the lapse of the 120-day period.

Finally, petitioner maintains it is entitled to its claim for Tax Credit Certificate amounting to ₱24,267,869.07 pertaining to unutilized input VAT for the taxable year 2011, attributable to its zero-rated export sales.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* lacks merit.

A taxpayer who seeks to claim a refund or issuance of a tax credit certificate for input taxes, is mandated to prove its compliance with the conditions set forth under Section 112 (A) and (C) of the NIRC of 1997, as amended, to wit:

> **"SEC. 112. *Refunds or Tax Credits of Input Tax.***
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> –
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> *(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, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sales and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and nonzero-rated sales.

xxx xxx 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) hereof.

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."

In order to successfully obtain a credit/refund of input VAT, a taxpayer must thus establish its compliance with the following requisites, to wit:

<u>As to the timeliness of the filing of the administrative and judicial claims:</u>

1. the claim is filed with the BIR within two years after the close of the taxable quarter when the sales were made;[37]

2. that in case of full or partial denial of the refund claim, or the failure on the part of the CIR to act on the said claim within a period of 120 days, the judicial claim must be filed with this Court, within 30 days from receipt of the decision or after the expiration of the said 120-day period;[38]

<u>With reference to the taxpayer's registration with the BIR:</u>

3. the taxpayer is VAT registered;[39]

<u>With regard to the taxpayer's output VAT:</u>

4. the taxpayer is engaged in zero-rated or effectively zero-rated sales;[40]

5. for zero-rated sales under Section 106(A)(2)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with BSP rules and regulations;[41]

<u>With regard to the taxpayer's refund claim for input VAT:</u>

6. that input taxes are not transitional input taxes;[42]

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[37] *Commissioner of Internal Revenue vs. Chevron Holdings, Inc.*, G.R. No. 233301, February 17, 2020; *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 166732, April 27, 2007; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 180345, November 25, 2009; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 182364, August 3, 2010.

[38] *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

[39] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, supra; San Roque Power Corporation vs. Commissioner of Internal Revenue, supra;* and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, supra.*

[40] *Id.*

[41] *Id.*

[42] *Id.*

7. the input taxes are due or paid;[43]

8. the input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[44] and

9. the input taxes have not been applied against output taxes during and in the succeeding quarters.[45]

Petitioner's judicial claim was filed out of time.

In this case, there is no dispute raised with regard to the filing of petitioner's *administrative claim* before the respondent. The crux of the controversy, however, lies on whether or not petitioner's judicial claim was timely filed.

As earlier mentioned, Section 112 (C) of the NIRC of 1997, as amended, provides that the CIR has one hundred twenty (120) days from the date of submission of the complete documents in support of the application for refund or tax credit certificate, within which to grant or deny the claim.

Thereafter, upon receipt of the adverse decision, *or* from the lapse of the 120-day period for the CIR to act on the claim, the taxpayer has 30 days within which to file its judicial claim, through a Petition for Review before the Court in Division.

To be clear, the word "may" in in Section 112 (C) refers to the choice of remedy and not to the period for seeking such remedy, *i.e.*, the taxpayer may or may not appeal the claim, but if it elects to do so, the appeal must be filed within the 30-day period.[46]

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[43] *Id.*
[44] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, supra;* and *San Roque Power Corporation vs. Commissioner of Internal Revenue, supra.*
[45] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue, supra; San Roque Power Corporation vs. Commissioner of Internal Revenue, supra; and AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue, supra.*
[46] *Commissioner of Internal Revenue vs. Mindanao I Geothermal Partnership,* G.R. No. 192006, November 14, 2018.

Thus, contrary to petitioner's contentions, one of the conditions for a successful judicial claim or refund or credit under the VAT system is compliance with the 120+30 day ***mandatory and jurisdictional periods***. Thus, strict compliance with the 120+30 day periods is necessary for such a claim to prosper.[47]

In the case of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,*[48] it was emphasized that the 30-day period commences after the receipt of respondent's decision or ruling **or** after the expiration of the 120-day period, **whichever is sooner**, to wit:

> "Whether respondent rules in favor of or against the taxpayer - or does not act at all on the administrative claim - within the period of 120 days from the submission of complete documents, the taxpayer may resort to a judicial claim before the CTA.
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> x x x x
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> 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 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**." *(Emphases and underscoring supplied)*

Stated otherwise, the 30-day period provided by law is reckoned from the receipt of respondent's decision/ruling, **or** after the expiration of the 120-day period, **whichever is sooner**. In other words, a judicial claim filed in a period *less than* or *beyond* the said 120+30-day period, is outside the jurisdiction of the CTA.

[47] *Commissioner of Internal Revenue vs. San Roque Power Corporation, etseq.*, G.R. No. 187485, 196113, 197156, February 12, 2013; *Commissioner of Internal Revenue vs. Mindanao I Geothermal Partnership,* G.R. No. 192006, November 14, 2018.
[48] G.R. No. 182737, March 2, 2016.

In fact, the case of *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,*[49] was categorical in stating that when the 120-day period lapses and there is no decision/ruling from the CIR within the said period, the taxpayer must no longer wait for the CIR to come up with a decision, to wit:

> "A final note, the taxpayers are reminded that when the 120-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 waiting period." *(Emphasis supplied)*

Accordingly, the inaction, *i.e.,* failure of the CIR to render a decision/ruling on the taxpayer's administrative claim for refund, ***within*** the 120-day period, is deemed a denial of its claim and should aptly be treated by the taxpayer as such.

Hence, a taxpayer should *no longer wait* for respondent to come up with a decision before it files a judicial claim before the Court in Division. In other words, a taxpayer must timely file its Petition for Review within thirty (30) days from the lapse of the 120-day waiting period. Otherwise, any claim filed beyond the 120+30 day period is outside the jurisdiction of this Court.

For purposes of determining when the 120-day period would begin, reference is made to the pronouncements of the Supreme Court in the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue,*[50] to wit:

> "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

[49] G.R. No. 168950, January 14, 2015.
[50] G.R. No. 207112, December 8, 2015.

the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing."

In this case, petitioner filed its administrative claim[51] on March 14, 2013. Following the pronouncement in the *Pilipinas Total Gas, Inc.* case, petitioner had thirty (30) days, or until April 13, 2013, within which to submit its documentary requirements, if any.

Accordingly, respondent had one hundred twenty (120) days from April 13, 2013, or until **August 11, 2013,** within which to render a decision on the said claim. However, in this case, there was no full or partial denial of the claim ***within*** the 120-day period. Rather, the 120-day period lapsed *without* a decision or ruling from the CIR.

For his part, respondent issued a *First Notice*[52] requiring petitioner to submit the requirements listed therein, only on November 11, 2013, ***after*** the lapse of the 120-day period within which to decide the claim.

Considering that respondent failed to act on petitioner's claim **on *or* before** August 11, 2013, petitioner had thirty (30) days, or until **September 10, 2013,** within which to file its *judicial claim* before the CTA.

For easy reference, the relevant dates in this case are summarized as follows:

Date of Administrative Claim	30-day period to submit documentary requirements	End of the 120-day period for the CIR to decide on the claim	End of the 30-day period to file judicial claim	Date of Filing of Judicial Claim
March 14, 2013	April 13, 2013	August 11, 2013	September 10, 2013	October 30, 2018

In the instant case, the *Petition for Review*[53] was filed before the Court in Division only on **October 30, 2018**, or way beyond the thirty (30) day period to appeal. Hence, petitioner's judicial claim was

[51] Exhibits "P-15" to "P-18," Division Docket (Vol. II), pp. 650 to 653.
[52] Exhibit "P-7," Division Docket (Vol. II), pp. 648 to 649.
[53] Division Docket (Vol. I), pp. 11 to 26.

filed out of time, and the Court in Division could not validly exercise jurisdiction over the subject Petition for Review.

Unfortunately for petitioner, it cannot find solace in the ruling of the Supreme Court in the case of *Lascona Land Co., Inc. vs. Commissioner of Internal Revenue,*[54] as the cited case involves an assessment and interpretation of Section 228 of the NIRC of 1997, as amended, and not a claim for refund of input VAT under Section 112 of the NIRC of 1997, as amended.

Anent petitioner's reliance on the amended provision of Section 112(C) of the NIRC of 1997, as amended by R.A. No. 10963, otherwise known as the Tax Reform Acceleration and Inclusion Act or TRAIN Law, the same is misplaced.

It is stressed that the TRAIN Law took effect on January 1, 2018, which is way beyond the lapse of the 120+30 day period subject of this case. As a rule, tax laws are prospective in operation, unless the language of the statute clearly provides otherwise.[55]

Finally, it is emphasized that a tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund by showing that he has strictly complied with the conditions for the grant of the tax refund or credit. Strict compliance with the mandatory and jurisdictional conditions prescribed by law to claim such tax refund or credit is essential and necessary for such claim to prosper. Noncompliance with the mandatory periods, nonobservance of the prescriptive periods, and nonadherence to exhaustion of administrative remedies, bar a taxpayer's claim for tax refund or credit.[56]

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Resolutions dated June 30, 2020 and October 12, 2020, rendered by the Second Division of this Court in CTA Case No. 9966 are hereby **AFFIRMED**.

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[54] G.R. No. 171251, March 5, 2012.
[55] *Commissioner of Internal Revenue vs. Rosemarie Acosta,* G.R. No. 154068, August 3, 2007.
[56] *Silicon Philippines, Inc. vs. Commissioner of Internal Revenue,* G.R. Nos. 184360, 184361, & 184384, February 19, 2014.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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

LANEE S. CUI-DAVID
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.

ROMAN G. DEL ROSARIO
Presiding Justice