REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BASES CONVERSION AND DEVELOPMENT AUTHORITY, Petitioner,	**CTA EB No. 1102** (CTA Case No. 8487)
	Present:
- versus -	Del Rosario, *PJ.*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 08 2015 9:50 a.m.

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RESOLUTION

CASTAÑEDA, JR., *J.*:

Before Us is petitioner's **Motion for Reconsideration (of the 8 January 2015 Resolution)** filed on February 12, 2015, with respondent's **Comment (To Petitioner's Motion for Reconsideration dated 05 February 2015)**, filed through registered mail on April 13, 2015 and received by this Court on April 22, 2015.

For easy reference, the dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, on the basis of the foregoing considerations, the petition is **DISMISSED**. The March 14, 2013 Resolution of CTA First Division and the November 25, 2013 Resolution of the CTA Special First Division in CTA No. 8487 are hereby **AFFIRMED**.
>
> **SO ORDERED**."[1]

In the aforesaid motion, petitioner asserts that this Court erred in denying due course to the Petition for Review based on pure technicality rather than on the merits. Furthermore, petitioner avers that the recognized rule on strict interpretation of statutes granting tax exemptions does not apply to exemptions in favor of a government political subdivision or instrumentality, such as petitioner in this case.

On the other hand, respondent contends that petitioner received the denial of its administrative claim for refund on April 3, 2012. Thus, the Court *En Banc* correctly affirmed the Decision and Resolution of the Court's Special First Division, which denied petitioner's judicial claim for refund for being filed beyond the prescriptive period.

The issues to be resolved in this case are: (1) Whether or not the Court *En Banc* erred in dismissing the Petition for Review for lack of jurisdiction; and (2) Whether or not the liberal interpretation of statutes granting tax exemptions to government instrumentalities is applicable in this case.

We deny the present motion.

The thirty (30) day period to file judicial claim for refund is mandatory and jurisdictional

Petitioner impresses upon this Court that the novelty of the issues it presented should override the fact that it belatedly filed its judicial claim for refund.

However, this issue has been exhaustively discussed in the Court *En Banc*'s Decision dated January 7, 2015. As aptly held by the Court:

> "The Supreme Court was emphatic on strict compliance with the jurisdictional conditions on tax refunds. The Court cautioned itself not to establish a precedent whereby non-

[1] Decision dated January 7, 2015, penned by Senior Associate Justice Juanito C. Castañeda, Jr., pp. 9-10; Docket, pp. 237-238.

compliance with mandatory and jurisdictional conditions prescribed by law can be trampled with if the claim is otherwise meritorious. In the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, Philex Mining Corporation v. Commissioner of Internal Revenue*, it was held:

> xxx **This Court should not establish the precedent that non-compliance with mandatory and jurisdictional conditions can be excused if the claim is otherwise meritorious, particularly in claims for tax refunds or credit. Such precedent will render meaningless compliance with mandatory and jurisdictional requirements, for then every tax refund case will have to be decided on the numerical correctness of the amounts claimed, regardless of non-compliance with mandatory and jurisdictional conditions.**

Moreover, in *Miramar* case, the Supreme Court ruled that courts cannot decide the case on the merits when it does not acquire jurisdiction over the subject matter or nature of an action.

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In the case of *Philippine National Bank v. Commissioner of Internal Revenue*, the Supreme Court affirmed the Resolutions of the CTA *En Banc* which dismissed outright the Petition for Review filed by PNB for failure to strictly observe three procedural rules, one of which was the late filing of the petition (four days beyond the additional 15 days granted to file the petition). PNB's failure to observe the basic procedural rules when it filed its petition with the CTA *En Banc* warranted a dismissal of its case. The Supreme Court held:

> xxx the timely perfection of an appeal is a mandatory requirement. One cannot escape the rigid observance of this rule by claiming oversight, or in this case, lack of foresight. Neither can it be trifled with as a "mere technicality" to suit the interest of a party. xxx"[2]

Thus, it was correctly held that the Court has no jurisdiction to entertain the Petition for failure of petitioner to comply with the mandatory and jurisdictional conditions prescribed by law, albeit the alleged novelty of

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[2] Id., pp. 7-8, citing G.R. Nos. 187485, 196113 & 197156, February 12, 2013, 690 SCRA 336, 383-384; *Miramar Fish Company, Inc. v. Commissioner of Internal Revenue*, G.R. No. 185432, June 4, 2014; *Commissioner of Internal Revenue v. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 169778, March 12, 2014; and G.R. No. 172458, December 14, 2011, 662 SCRA 424.

the issues presented. Furthermore, it is settled that the "30-day period within which to file an appeal is jurisdictional and failure to comply therewith would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the correctness of the assessments."[3]

Considering that petitioner filed its judicial claim beyond the 30-day prescriptive period, We see no cogent reason to disturb the Decision dated January 7, 2015.

The liberal interpretation of statutes granting tax exemptions to government instrumentalities is inapplicable in this case

Petitioner argues that if a tax law which grants exemption in favor of the government is given liberal interpretation, there is greater reason to accord liberal interpretation to procedural law in favor of petitioner's claim for tax refund.

In support thereof, petitioner cites the case of *Ernesto M. Maceda v. Hon. Catalino Macaraig, Jr., et al.*,[4] where the Supreme Court held that:

> "Moreover, it is a recognized principle that the rule on strict interpretation does not apply in the case of exemptions in favor of a government political subdivision or instrumentality.
>
> The basis for applying the rule of strict construction to statutory provisions granting tax exemptions or deductions, even more obvious than with reference to the affirmative or levying provisions of tax statutes, is to minimize differential treatment and foster impartiality, fairness, and equality of treatment among tax payers.
>
> *The reason for the rule does not apply in the case of exemptions running to the benefit of the government itself or its agencies. In such case the practical effect of an exemption is merely to reduce the amount of money that has to be handled by government in the course of its operations.* For these reasons, provisions granting exemptions to government agencies may be construed liberally, in favor of non tax liability of such agencies." ju

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[3] Id., pp. 6-7, citing *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007, 522 SCRA 144.
[4] G.R. No. 88291, May 31, 1991, 197 SCRA 771.

The issue involved in the *Maceda* case is the interpretation of statutes granting tax exemptions to National Power Corporation (NPC), with the enactment of P.D. No. 938 on May 27, 1976, amending P.D. No. 380, issued on January 11, 1974.

The doctrine laid down in the *Maceda* case, however, is inapplicable in the present case. In that case, it is clear that there arose doubt as to the language of the law or to the tax exempt status of NPC, when P.D. No. 380 was amended P.D. No. 938. In the present case, *Section 11 of Republic Act No. 1125, as amended*, is clear, unambiguous and categorical with respect to the 30-day period to file an appeal. It provides:

> "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA **within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law** for action as referred to in Section 7(a)(2) herein. xxx"*(Emphasis supplied)*

Considering the clear and unequivocal language of the law with respect to the 30-day period to file an appeal before the CTA, this Court is not empowered to construe or interpret said provision. "It is well settled that the court may not construe a statute that is clear and free from doubt. Time and again, it has been repeatedly declared by this court that where the law speaks in clear and categorical language, there is no room for interpretation. There is only room for application."[5]

In sum, We see no compelling reason to reconsider Our Decision dated January 7, 2015 based on petitioner's arguments.

WHEREFORE, in view thereof, petitioner's Motion for Reconsideration (of the 8 January 2015 Resolution) is hereby **DENIED** for lack of merit.

SO ORDERED.

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

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[5] Ruben E. Agpalo, *Statutory Construction*, Fifth Ed., 2003, p. 62, citing *Cebu Portland Cement Co. v. Municipality of Naga*, G.R. No. 24116, August 22, 1968, 24 SCRA 708, 712.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR. A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

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

(On Official Business)
AMELIA R. COTANGCO-MANALASTAS
Associate Justice

Ma. Belen SL
MA. BELEN M. RINGPIS-LIBAN
Associate Justice