REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

LAPANDAY FOODS CORPORATION (formerly merged with MALALAG VENTURES PLANTATION, INC.), Petitioner,	**CTA CASE NO. 9976**
	Members:
- versus -	**DEL ROSARIO**, *P.J., Chairperson,* **FABON-VICTORINO**, *and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: OCT 23 2019 10:45 am

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RESOLUTION

For resolution is petitioner's "**Motion for Reconsideration (Of the Resolution dated 25 July 2019)**" filed on August 16, 2019 with respondent's "**Opposition Re: Petitioner's Motion for Reconsideration**" filed on September 19, 2019.

Petitioner prays that the Court reverse and set aside the Resolution dated July 25, 2019 dismissing its Petition for Review for lack of jurisdiction.

In support thereof, petitioner maintains that Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended imposes an alternative qualification as to when a taxpayer may appeal to the Court of Tax Appeals (CTA).

Petitioner reiterates that there are four (4) scenarios contemplated by Section 112(C) of the NIRC of the 1997, as amended where appeal can be made to the CTA within thirty (30) days from receipt of decision or after the expiration of the 120-day period: (i) The Commissioner of Internal Revenue (CIR) issues a decision before the lapse of 120 days; (ii) CIR issues a decision on the 120th day; (iii) CIR does not issue a decision within 120 days; and, (iv) CIR issues a decision after the 120th day. Petitioner avers that the scenario in this case is the fourth one where it timely filed, within thirty (30) days from receipt of the CIR's Decision denying its claim for refund/tax credit (Letter Denial) on October 22, 2018, its Petition for Review on November 20, 2018.

Petitioner maintains its theory that the 120+30 day period under Section 112 (C) is a claim-processing rule which does not restrict the subject-matter jurisdiction of the CTA. Petitioner claims that there are two distinct causes of action over which the CTA exercises jurisdiction: (i) cases involving the denial by the CIR on refunds of internal revenue taxes; and, (ii) cases involving the inaction by the CIR on refunds of internal revenue taxes "where the NIRC provides a specific period of action, in which case the inaction shall be deemed a denial."

Petitioner elaborates that the two causes of action expressly provided for by law further supports the finding that the judicial remedies presented are alternatives and that the application of one does not limit the other. Petitioner further posits that there is a distinction between "claim processing rules" and rules governing "subject-matter" jurisdiction. According to petitioner, the 120+30 days period under Section 112(C) is a claim-processing rule which neither restrict the subject-matter jurisdiction of the Court nor delineate what cases the CTA is competent to adjudicate.

Petitioner concludes that the taxpayer's failure to comply with the 120+30 day period does not deprive the CTA of its jurisdiction to adjudicate on the assailed Letter Denial issued by the BIR denying its claim for VAT refund/tax credit. Petitioner, in sum, argues that the 120+30 day provision in Section 112 of the 1997 NIRC, as amended by Republic Act No. 8424, is merely directory, and non-jurisdictional.

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

Respondent, on the other hand, opposes said Motion and counters that the Court is correct in ruling that it has no jurisdiction over the case.

The Court finds that petitioner's arguments raised in its Motion are mere rehash of its arguments in its "**Comment/Opposition**" filed on April 15, 2019,[1] all of which were duly considered, weighed and resolved in the assailed Resolution. Thus, the Court finds no justifiable reason to disturb the conclusions in the assailed Resolution.

WHEREFORE, premises considered, petitioner's "**Motion for Reconsideration (Of the Resolution dated 25 July 2019)**" filed on August 16, 2019 is hereby **DENIED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[1] CTA Docket, *unpaginated*.