REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

HP PPS (PHILIPPINES), INC.,
Petitioner,

CTA EB NO. 3044
(CTA Case No. 10090)

-versus-

Present:

RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

APR 22 2026 4:20

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DECISION

RINGPIS-LIBAN, ***P.J.*:**

The Case

Before the Court *En Banc* is a *Petition for Review* filed by the taxpayer HP PPS (Philippines), Inc. (HPPI), pursuant to Section 3(b) of Rule 8 and Section 2(a)(1) of Rule 4 of the Revised Rules of the Court of Tax Appeals, as amended (RRCTA).

The petition seeks to annul, reverse and set aside the Court of Tax Appeals First Division's (court *a quo*) *Decision* dated July 2, 2024 and *Resolution* dated November 15, 2024, which denied the taxpayer's:

- Judicial claim for tax refund/tax credit certificate amounting to PhP165,249,865.62, representing the its excess and unutilized input value-added tax (VAT) incurred and paid on purchases of services, goods other than capital goods, capital goods, and importations which are attributable to its zero-rated sales of goods and services for the Fiscal Year (FY) covering November 1, 2016 to October 31, 2017; and,

- *Motion for New Trial* (MNT) filed on July 22, 2024.

The Parties

The taxpayer HPPI is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office at 37th Floor Robinson's Summit Center, 6783, Ayala Avenue, Makati City. It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer in accordance with Section 236 of the National Internal Revenue Code (NIRC) of 1997, as amended, with Taxpayer Identification Number (TIN) 008-927-505-000.[1]

HPPI was formed to "manufacture, assemble, import, export, sell, distribute, source, qualify and otherwise deal in and with computer and electronic components and parts, computer systems and equipment, test and measurement equipment and other related and ancillary electronic products; to incorporate value-hardware products and software in areas including but not limited to software development, system integration, design and implementation, multi-vendor network management, training and development; to provide bench and on-site repairs, system support services, consulting services and response center support in respect of the electronic products; to provide related services in technical products and support marketing areas."[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) the head of the government agency tasked with the enforcement of revenue laws and the collection of taxes and duties.[3]

The Facts

The court *a quo* summarized the facts in the following manner:

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[1] Decision, *Rollo*, p. 31.
[2] *Certificate of Incorporation and Articles of Incorporation*, Exhibit P-1, Docket, Vol. II, p. 589. Admitted in the May 10, 2022 *Resolution*, Docket, Vol. II, p. 841.
[3] Decision, *Rollo*, p. 31.

Administrative Proceedings

On January 31, 2019, the taxpayer filed with the Revenue District Office No. 50-South Makati City (RDO No. 50) a *Letter Claim for Refund* dated January 18, 2019 (administrative claim), requesting for tax credit or refund of valid input VAT for FY 2017, amounting to PhP165,249,865.62, pursuant to Section 112 (A)[4] of the NIRC of 1997, as amended.[5]

Subsequently, on May 10, 2019, the taxpayer allegedly received a Letter dated April 30, 2019 (Denial Letter), signed by then Regional Director Glen A. Geraldino (RD Geraldino) of Revenue Region (RR) No. 8-Makati, denying its administrative claim, for lack of factual basis.[6]

Proceedings before the Court a Quo

Aggrieved, on June 4, 2019, the taxpayer filed a *Petition for Review*. The case was raffled to the Second Division and docketed as CTA Case No. 10090.[7]

On June 10, 2019, the Second Division issued *Summons* ordering the CIR to file an *Answer* within fifteen (15) days from service. Respondent received the *Summons* on June 17, 2019.[8]

On August 7, 2019, the CIR forwarded the entire BIR Records of the case consisting of ninety-six (96) pages in one (1) folder to the Second Division. The Second Division noted the same in the *Minute Resolution* dated August 8, 2019.[9]

After the Second Division granted an extension of time to the CIR, an *Answer* was filed on August 1, 2019, which cited the following special and affirmative defenses: (1) Taxpayer's refund claim is still subject to administrative investigation and/or examination; (2) The petition states no cause of action; (3) The taxes paid and collected are presumed to have been paid in accordance with law and regulations and thus, *not* refundable; (4) The taxpayer failed to comply with the requisites to successfully claim for a refund; and, (5) Tax refunds are in the nature of tax exemptions and, therefore, strictly construed against the taxpayer-claimant and in favor of the government.[10]

On August 14, 2019, the Second Division issued a *Notice of Pre-Trial Conference* and set the case for pre-trial on September 12, 2019. In compliance with the Court's order, respondent filed his or her *Pre-Trial Brief* on September 6, 2019, while petitioner filed its *Pre-Trial Brief* on September 10, 2019.[11]

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[4] Refunds or tax credits of Input Tax attributable to zero-rated or effectively zero-rated sales.
[5] Assailed decision, *Rollo*, p. 31.
[6] *Id., Rollo*, p. 31.
[7] *Id., Rollo*, p. 32.
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] *Id., Rollo*, p. 33.

During the September 12, 2019 Pre-Trial Conference, the Second Division granted the parties a period of twenty (20) days, or until October 2, 2019, within which to file their *Joint Stipulation of Facts and Issues* (JSFI). At the same hearing, the Second Division set the initial presentation of petitioner's evidence and the commissioning of an Independent Certified Public Accountant (ICPA) on October 9, 2019, and the continuation of petitioner's presentation of evidence on November 20, 2019.[12]

On October 2, 2019, the parties submitted their JSFI.[13]

On October 7, 2019, petitioner filed an *Omnibus Motion A. To Commission [ICPA] B. To Reset Commissioning of [ICPA]* (Omnibus Motion), requesting the appointment of Ma. Fedna B. Parallag (Parallag) as the ICPA and to reschedule the October 9, 2019 hearing for her commissioning to a later date or to November 20, 2019, whichever is earlier.[14]

On October 8, 2019, the Second Division issued a *Pre-Trial Order*, which approved the parties' JSFI and terminated the pre-trial.[15]

During the October 9, 2019 hearing, the Second Division granted petitioner's *Omnibus Motion* and reset the commissioning of the ICPA to October 24, 2019. However, at the October 24, 2019 hearing, the CIR objected to the appointment of Parallag due to a conflict of interest. Consequently, the Second Division denied the requested commissioning and directed petitioner to propose another ICPA within 20 days, by November 13, 2019.[16]

In compliance with the Court's directive, on November 13, 2019, petitioner filed a *Motion to Commission an [ICPA]* (Motion for Commissioning), requesting the appointment of Krista V. Bambao (Bambao) as the ICPA.[17]

During the November 20, 2019 hearing, the Second Division granted petitioner's *Motion for Commissioning*, approving the appointment of Bambao. She was given forty-five (45) days to submit her ICPA report and was directed to testify thereon on January 20, 2020. On January 6, 2020, ICPA Bambao submitted her report, with annexes and the pre-marked exhibits.[18]

In the trial that ensued, petitioner presented its testimonial and documentary evidence. It offered the testimonies of the following witnesses: (1) Paul Alcantara (Alcantara), petitioner's Commercial Channel Sales Manager; (2) Pradeep Vissamsetty (Vissamsetty), petitioner's Finance Controller; (3) ICPA Bambao; and, (4) Kristofferson Seville (Seville), petitioner's Enterprise Sales Manager.

[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*, pp. 33-34.
[17] *Id.*, p. 34
[18] *Id.*

In the October 9, 2019 hearing, Alcantara identified his *Judicial Affidavit* dated October 4, 2019 where he declared that: (1) as Commercial Channel Sales Manager, his duties include managing petitioner's commercial resellers; (2) petitioner is engaged in the manufacture, assembly, import, export, sale and distribution of computer and electric components and parts, computer systems and equipment, test and measurement equipment and other related and ancillary electronic products; and, (3) petitioner is registered with the Securities and Exchange Commission (SEC) and the BIR.[19]

Respondent did not conduct any cross-examination.[20]

At the November 20, 2019 hearing, Vissamsetty identified his *Judicial Affidavit* dated November 18, 2019 where he declared essentially that: (1) as Finance Controller, his duties include, among others, the review and approval of petitioner's tax returns before these are filed via the BIR's Electronic Filing and Payment System (eFPS); (2) petitioner is engaged in the sale, distribution and leasing of computers and electronic components and parts, and other related electronic products being sourced from various affiliated companies worldwide; (3) petitioner's administrative claim was filed within two (2) years after the close of the taxable quarters of FY 2017 when the sales were made; (4) petitioner incurred input VAT attributable to its zero-rated sales, in the amount of PhP165,249,865.62, during the period from November 1, 2016 to October 31, 2017; *and*, (5) petitioner rendered services and sold goods to nonresident foreign corporations (NRFCs) and entities registered Investment Promotion Agencies (IPAs) during FY 2017, totaling PhP1,524,004,717.78.[21]

On cross-examination, Vissamsetty stated that the sales invoices prove petitioner rendered services and/or sold goods to its NRFC affiliates and that these transactions were paid for in acceptable foreign currency, as evidenced by the foreign inward remittances.[22]

Petitioner did *not* conduct any redirect examination.[23]

Next to testify in the January 20, 2020 hearing was ICPA Bambao, who identified her *Report* as well as her *Judicial Affidavit* dated January 14, 2020. In her affidavit, she declared that: (1) she checked the documents supporting petitioner's refund claim to ascertain the circumstances that gave rise to it; (2) the judicial claim for refund was also timely filed on June 4, 2019 reckoned from petitioner's alleged receipt of the *Denial Letter* on May 10, 2019; (3) petitioner has excess and unutilized input VAT for FY 2017 in the amount of P165,249,865.62 attributable to zero-rated sales; (4) petitioner had rendered zero-rated sales to which the aforesaid excess input VAT was attributable; (5) the consideration for the zero-rated sales by petitioner was paid for in acceptable foreign currency in

[19] *Id.*
[20] *Id.*, p. 35.
[21] *Id.*
[22] *Id.*
[23] *Id.*

accordance with the rules of the Bangko Sentral ng Pilipinas (BSP); (6) petitioner's excess and unutilized input VAT is substantiated by VAT invoices and official receipts (ORs); (7) petitioner filed its claim for refund of excess and unutilized input VAT for FY 2017 within two (2) years from the close of the taxable quarter when the zero-rated sales were made; and, (8) petitioner did not carry-over or apply its excess and a unutilized input VAT subject of the administrative claim to succeeding taxable quarters and years.[24]

On cross-examination, ICPA Bambao confirmed that, in the *Denial Letter*, the BIR disallowed certain amounts of petitioner's zero-rated sales. When asked if she was aware of the reason for such disallowance, she answered in the negative, stating it was not mentioned in the Denial Letter. Specifically, the *Denial Letter* did not specify which zero-rated sales lacked the required documentation. She also clarified that the difference mentioned in Table 9 of her *ICPA Report*, amounting to PhP478,597.72, pertains to the discrepancy between the amount per sales document and the amount reported in the *Summary List of Sales* (SLS). She then affirmed that petitioner's six (6) NRFC affiliates are all conducting business outside the Philippines, as evidenced by their respective Articles of Incorporation (AOI) and SEC *Certificate of Non-Registration* (except for HP, Inc.). Lastly, she confirmed that, as indicated in Table 8 of her *ICPA Report*, she was able to verify that petitioner's VATable sales and zero-rated sales matched those reflected in petitioner's *Quarterly VAT Returns* for FY 2017.[25]

Petitioner did not conduct any redirect examination.[26]

After three (3) resettings for Seville's testimony, due to the increase in COVID-19 cases among petitioner's employees and the precautionary measures it adopted, the hearing finally took place on January 18, 2021. At the hearing, Seville identified his *Judicial Affidavit* dated March 11, 2020 where he declared essentially that: (1) as Enterprise Sales Manager, his duties include managing a team of Account Managers who represent petitioner in Enterprise Accounts, handling their requirements, and managing any escalations regarding petitioner's products; (2) petitioner's customers are registered with the Philippine Economic Zone Authority (PEZA), Clark Development Corporation (CDC), and Subic Bay Metropolitan Authority (SBMA); and, (3) petitioner's sales to these customers were zero-rated.[27]

During cross-examination, Seville confirmed that PEZA, CDC, and SBMA customers provided petitioner with copies of their *Certificates of Registration and Tax Exemption*. He also attested that once the validity and accuracy of these certificates are confirmed, the sales to these customers are immediately subjected to VAT zero-rating. Lastly, he affirmed that they consider the effectivity period of these customers' respective *Certificates of Registration and Tax Exemption* before subjecting the corresponding sales to VAT zero-rating.[28]

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[24] *Id.*, pp. 35-36.
[25] *Id.*, p. 36.
[26] *Id.*
[27] *Id.*, pp. 36-37.
[28] *Id.*, p. 37.

Petitioner did not conduct any redirect examination.[29]

On March 4, 2021, after completing the presentation of its testimonial evidence and after the Second Division granted two (2) extensions of time to respondent, petitioner filed its *Formal Offer of Evidence (with Motion to Set Commissioner's Hearing)* (FOE with Motion) consisting of Exhibits "P-1" to "P-37411", inclusive of sub-markings. Petitioner therein requested that a Commissioner's Hearing be set for comparison of documentary exhibits in the case docket that have not been marked "Faithful Reproduction of the Original." Respondent filed a *Comment/Opposition* thereto on March 26, 2021.[30]

On June 7, 2021, petitioner filed a *Motion for Additional Time to File Reply to Comment.* Pending the resolution of its motion, petitioner filed its *Reply to Comment/Opposition* on June 11, 2021.[31]

In a *Resolution* dated June 17, 2021, the Second Division granted petitioner's *Motion to Set Commissioner's Hearing* and thereby, set the case for a Commissioner's Hearing on July 5, 2021 for the presentation and comparison of petitioner's exhibits. In the same *Resolution*, the Second Division also granted petitioner's *Motion for Additional Time to File Reply to Comment* and allowed petitioner to file the Reply until June 11, 2021 and held in abeyance the resolution of its FOE.[32]

On July 5, 2021, petitioner filed a *Motion to Reset Commissioner's Hearing.* On even date, the Second Division granted it and reset the Commissioner's Hearing to July 21, 2021. However, on February 9, 2022, petitioner filed another motion for resetting as the July 21, 2021 hearing was cancelled due to inclement weather. The Second Division likewise granted it and reset the Commissioner's Hearing anew to March 28, 2022.[33]

After the Commissioner's Hearing on March 28, 2022, the Second Division, in a *Resolution* dated May 10, 2022 (FOE Resolution), admitted petitioner's exhibits, except for the following (Denied Exhibits):

(1) Exhibits "P-3", "P-38", "P-39", "P-47-1", "P-47-2", "P-20485", "P-21082 to P-21094", "P-21095 to P-21097", "P-21098 to P-21103", "P-21104 to P-21110", "P-21112 to P-21136", "P-21138 to P-21161", "P-21163", "P-21165 to P-21197", "P-21199 to P-21224", "P-21226 to P-21263", "P-21265 to P-21269", "P-21271 to P-21308", "P-21310 to P-21311", "P-21314 to P-21354", "P-21356 to P-21394", "P-21396 to P-21400", "P-21402 to P-21445", "P-21447", "P-21449 to P-21454", "P-21456 to P-21462", "P-21464 to P-21504", "P-21507 to P-21579", "P-21581 to P-21586", "P-21587 to P-21593", "P-21594 to P-21603", "P-

[29] *Id.*
[30] *Id.*
[31] *Id.*, p. 38.
[32] *Id.*
[33] *Id.*

21605 to P-21610", "P-21613 to P-21626", "P-21628 to P-21635", "P-21637 to P-21652", "P-21654 to P-21681", "P-21682 to P-21683", "P-21685 to P-21703", "P-21719 to P-21728", "P-21729 to P-21740", "P-21742 to P-21869", "P-32353 to P-32402", "P-37293 to P-37308" and "P-37396 and P-37396-1", for failure to present the originals for comparison;

(2) Exhibit "P-33-a", "P-34-a" and "P-37-a", for petitioner's failure to have the exhibits identified;

(3) Exhibits "P-34" and "P-37", for petitioner's failure to provide a translation of the documents that were written in an unofficial language;

(4) Exhibits "P-295", "P-3571", "P-3603 to P-3607", "P-3643 to P-3646", "P-3938", "P-3978", "P-3991", "P-4023 to P-4024", "P-4056", "P-4158", "P-4177", "P-4201", "P-4224 to P-4248", "P-4252", "P-4276 to P-4277", "P-4281", "P-4284", "P-4297", "P-4301", "P-4305 to P-4307", "P-4309", "P-4312 to P-4318", "P-7218", "P-8168", "P-8502", "P-8989", "P-9795", "P-10971 to P-10979", "P-10983", "P-11884 to P-11885", "P-14007", "P-14065 to P-14069", "P-14462", "P-15833", "P-16231", "P-16293 to P-16294", "P-16524", "P-16937", "P-17063", "P-17065", "P-17224", "P-17378", "P-17487", "P-18046", "P-18183", "P-18186", "P-18257", "P-18317", "P-18427", "P-18650 to P-18651", "P-18707", "P-18788", "P-18973", "P-18980", "P-18987", "P-19008", "P-19197", "P-19202", "P-19288 to P-19290", "P-19417", "P-19479", "P-19511", "P-19513", "P-19782 to P-19784", "P-19799", "P-19844 to P-19850", "P-19870", "P-19952", "P-19971", "P-20471", "P-20472", "P-20481 to P-20482", "P-21111", "P-21137", "P-21162", "P-21164", "P-21198", "P-21225", "P-21264", "P-21270", "P-21309", "P-21312 to P-21313", "P-21355", "P-21395", "P-21401", "P-21446", "P-21448", "P-21455", "P-21463", "P-21505 to P-21506", "P-21580", "P-21604", "P-21611 to P-21612", "P-21627", "P-21636", "P-21653", "P-21684", "P-21741", "P-21870", "P-24044", "P-24650", "P-25749 to P-25750", "P-27845 to P-27846", "P-28050 to P-28054", "P-29023", "P-29043 to P-29942", "P-30222", "P-30229", "P-31390 to P-31396", "P-31890", "P-31895 to P-31896", "P-31906", "P-32040", "P-32086", "P-32126", "P-32167", "P-32178", "P-32190", "P-32200", "P-32256", "P-32309 to P-32310", "P-34744" and "P-35490", for not being found in the records of the case; *and*,

(5) Exhibits "P-998", "P-1002 to P-1005", "P-1116", "P-1249 to P-1250", "P-1567", "P-1591", "P-1665", "P-2826 to P-2827", "P-2830", "P-2834 to P-2835", "P-2861", "P-2926", "P-3028", "P 3511", "P-3513", "P-3542 to P-3549", "P-3551 to P-3554", "P-3558 to P-3564", "P-4253", "P-4262", "P-4267 to P-4269", "P-4292", "P-4300", "P-4310 to P-4311", "P-4439", "P-4457", "P-4467", "P-4561", "P-4601", "P-4602", "P-4642", "P-4643", "P-4644", "P-4648", "P-4652", "P-4653", "P-4654", "P-4655", "P-4659", "P-4721", "P-4730", "P-4739", "P-4740", "P-4743", "P-4744", "P-4746", "P-4751", "P-4756", "P-4759", "P-

> 4762", "P-4764", "P-4766", "P-4803", "P-4817", "P-4824", "P-4835", "P-4878", "P-4879", "P-4885", "P-5025", "P-5027", "P-5030", "P-5031", "P-5038", "P-5059", "P-5065", "P-5071", "P-5089", "P-5090", "P-5103", "P-5105", "P-5113", "P-5125", "P-5126", "P-9982 to P-9983", "P-18978", "P-18981", "P-18986", "P-19001", "P-19002", "P-19021", "P-19038", "P-19049", "P-19052", "P-19054", "P-19060", "P-19065", "P-19066", "P-19075", "P-19076", "P-19078", "P-19081", "P-19082", "P-19083", "P-19084", "P-19086", "P-19088", "P-19089", "P-19092", "P-19093", "P-19094", "P-19095", "P-19099", "P-19104", "P-19106", P-19108", "P-19110", "P-19113", "P-19123", "P-19135", "P-19136", "P-19137", "P-19138", "P-19140", "P-19141", "P-19144", "P-19147", "P-19148", "P-19151", "P-19152", "P-19153", "P-19154", "P-19155", "P-19157", "P-19158", "P-19160", "P-19167", "P-19168", "P-19293", "P-20533 to P-20534", "P-20536 to P-20537", "P-20543", "P-20650", "P-20655", P-20658", "P-20682", "P-20812", "P-20832" and "P-21000", for being unreadable.[34]

Notwithstanding the foregoing FOE Resolution, on May 20, 2022, petitioner filed another *Motion to Set Commissioner's Hearing* asking the court to set a *Commissioner's Hearing* for the presentation of the original Exhibit "P-37396". The Second Division granted the same and set the hearing on June 13, 2022.[35]

Meanwhile, after two (2) resettings, the initial presentation of respondent's evidence finally proceeded on November 24, 2022. Respondent offered the testimony of the only witness, Revenue Officer Mo-Amar A. Acmad (RO Acmad).[36]

In the November 24, 2022 hearing, RO Acmad identified his *Judicial Affidavit* dated September 6, 2019, where he declared that: (1) after the splitting of BIR RR No. 8 in June 2019, he was assigned at the Assessment Division of RR No. 8B-South NCR; (2) as an RO, his duties and responsibilities include, among others, the review and evaluation of all audit/verification reports, including claims for tax credit/refund of internal revenue taxes, and the preparation of written reports on his findings; (3) he was tasked with reviewing and evaluating petitioner's claim for a refund of alleged excess and unutilized input VAT for FY 2017 in the aggregate amount of PhP165,249,865.62; (4) he recommended the denial of petitioner's refund claim after finding that it was *not* entirely substantiated as required under Section 113 of the NIRC of 1997, as amended; (5) he also noted various disallowances; (6) he prepared the Denial Letter addressed to petitioner, informing it of the details of the disallowances and allocation of input VAT as well as the computation of the refundable amount; and, (7) he submitted a *Memorandum Report* dated June 6, 2019, detailing the results of his investigation of the refund claim.[37]

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[34] *Id.*, pp. 38-42.
[35] *Id.*, p. 43.
[36] *Id.*, p. 44.
[37] *Id.*

The petitioner did not conduct any cross-examination.[38]

On December 5, 2022, respondent filed an FOE consisting of Exhibits "R-1" to "R-3-A", inclusive of sub-markings. Petitioner filed its *Comment* on December 16, 2022.[39]

On December 9, 2022, petitioner filed a *Motion to Admit Exhibits* (Motion to Admit), asking the Second Division to admit, in the interest of justice, Exhibits "P-24044", "P-24650", "P-25749 to P-25750", "P-27845 to P-27846", "P-28050 to P-28054", "P-29023", "P-29043 to P-29123", "P-29125 to P-29231", "P-29233 to P-29350", "P-29352 to P-29942", "P-30222", "P-30229", "P-31390 to P-31396", "P-31890", "P-31895", "P-31906", "P-31986", "P-32040", "P-32086", "P-32126", "P-32167", "P-32178", "P-32190", "P-32200", "P-32256", "P-32309 to P-32310" and "P-35490", which were among the Denied Exhibits that were not found in the case records. These exhibits contained in the Universal Serial Bus (USB) attached to the *Motion to Admit* were allegedly examined and marked by ICPA Bambao but inadvertently excluded from the scanned copies in the earlier submission. Petitioner also reiterated its request for the setting of another Commissioner's Hearing for the presentation of the original Exhibit "P-37396".[40]

In a *Resolution* dated January 10, 2023, the Second Division admitted all of respondent's documentary exhibits and directed respondent to file a comment on petitioner's *Motion to Admit* within five (5) days from notice. Additionally, petitioner was instructed to provide the password for the USB or replace it with one that is not password-protected within ten (10) days from notice.[41]

On January 30, 2023, respondent filed a *Comment and Opposition* to petitioner's *Motion to Admit*, in compliance with the Court's directive. Respondent pointed out that petitioner's *Motion to Admit* is essentially a *Motion for Reconsideration* (MR) of the Second Division's FOE Resolution and was filed out of time on December 9, 2022, since petitioner only had until June 7, 2022 (reckoned from receipt of the FOE Resolution on May 23, 2022).[42]

In a *Resolution* dated February 20, 2023 (assailed Resolution), the Second Division denied petitioner's *Motion to Admit* (treated as an MR of the Second Division's FOE Resolution) for being filed out of time. Consequently, it rescinded its earlier directive for petitioner to provide the password for the USB attached to the *Motion to Admit* or replace it with one that is not password-protected. The Second Division also gave the parties thirty (30) days from notice to file their respective memoranda and submitted the case for decision.[43]

On March 14, 2023, petitioner filed an MR on the assailed *Resolution*, arguing that since the submission of documents examined by the ICPA is the

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[38] *Id.*
[39] *Id.*, p. 45.
[40] *Id.*
[41] *Id.*
[42] *Id.*, pp. 45-46.
[43] *Id.*, p. 46.

sole responsibility of the ICPA and petitioner had *no* control over the preparation and marking of the exhibits, the Second Division should relax procedural rules to advance substantial justice. Respondent filed his or her *Comment/Opposition* thereto on April 18, 2023.[44]

Pending the resolution of its MR on the assailed *Resolution*, on March 29, 2023, petitioner filed a *Motion for Extension*, requesting a period of 15 days from receipt of the resolution on the said MR within which to file its memorandum.[45]

In the Resolution dated May 18, 2023, the Second Division denied petitioner's MR for lack of merit and granted it 15 days to file its memorandum.[46]

Earlier, on March 20, 2023, respondent filed a *Memorandum*. Petitioner, on the other hand, filed a *Motion for Additional Time to File a Memorandum*, which the First Division expunged from the records of the case for being a prohibited motion, as stated in the *Resolution* dated July 14, 2023. In the same *Resolution*, the First Division likewise considered the case submitted for decision.[47]

Notwithstanding the foregoing, petitioner filed a *Motion to Admit Memorandum* Ex Abundanti Cautela with attached *Memorandum*, on July 19, 2023. The First Division noted the same without action in the *Resolution* dated July 27, 2023.[48]

On July 2, 2024, the court *a quo* issued the assailed *Decision*, which *dismissed* the taxpayer's petition for lack of jurisdiction.[49]

On November 15, 2024, the court *a quo* issued the assailed *Resolution*, which denied the taxpayer's MNT.[50]

Proceedings before the Court En Banc

Aggrieved, the taxpayer filed a *Petition for Review* with the Court on December 18, 2024.[51]

On March 4, 2025, the Court issued a *Minute Resolution*, which directed the CIR to file a comment within ten (10) days from notice.[52]

[44] *Id.*
[45] *Id.*
[46] *Id.*
[47] *Id.*, pp. 46-47.
[48] *Id.*
[49] *Rollo*, p. 55.
[50] *Rollo*, pp. 58-70.
[51] *Rollo*, pp. 1-24.
[52] *Rollo*.

On March 12, 2025, respondent CIR filed a *Comment/Opposition (Re: Petition for Review dated 18 December 2024)* by registered mail.[53]

In a Minute Resolution dated April 23, 2025, the Court noted the *Comment/Opposition (Re: Petition for Review dated 18 December 2024)* and submitted the case for decision.[54]

Assignment of Error

The petitioner raised a single issue for the Court to resolve:

> "WHETHER OR NOT THE COURT *A QUO* ERRED IN DENYING THE JUDICIAL CLAIM AND THE SUBSEQUENT MOTION FOR NEW TRIAL"[55]

The Arguments of the Parties

Petitioner Taxpayer's Arguments

The taxpayer assails the *Decision* and states that the court *a quo* erred in the denying the Motion for New Trial and in ruling that the taxpayer should have formally offered the clarificatory documents before judgment. It further states that the court *a quo* rendered nugatory the purpose of the motion as a post judgement remedy to introduce evidence that had been omitted during the proceedings. Taxpayer further contends that its due diligence coupled with the magnitude of the claim is sufficient to establish the paramount interest of justice that would suspend the procedural rules and effectively reopen the case. In addition, the taxpayer states that the court *a quo* erred in ruling that clarificatory documents are merely *forgotten evidence*. Furthermore, the taxpayer insists that there is nothing in Section 112(C) of the Tax Code which provides that the thirty- (30)-day period to elevate the matter to the court a quo is reckoned from the earlier period between the denial of the CIR or upon the lapse of the CIR's ninety- (90)-day period to act. Finally, the taxpayer closes its petition stating that the Court is permitted to liberally construe the rules of procedure to promote its objective to administer justice.[56]

Respondent CIR's Arguments

In the *Comment/Opposition (Re: Petition for Review dated 18 December 2024)*, the CIR counters that the taxpayer failed to state any factual and legal grounds to support its *Motion for New Trial*, hence, it should be denied for utter lack of

[53] *Rollo,* pp. 118-122.
[54] *Rollo*, p. 125.
[55] *Petition for Review, Rollo*, p. 8.
[56] *Id., Rollo*, pp. 8-9.

merit. Further, respondent states that the judicial claim is dismissible because it was filed beyond the 90+30-day mandatory and jurisdictional period.[57]

The Ruling of the Court *En Banc*

The Petition for Review with the Court En Banc *was timely filed.*

Before the Court sets out to discuss the merits of the petition, it is important to dispense with the jurisdictional issue of timeliness.

The taxpayer received a copy of the assailed *Decision* on July 5, 2024.[58] Under Rule 15 Section 1 of the RRCTA,[59] it had fifteen (15) days to file a motion for reconsideration of the decision, or until July 22, 2024.[60] The taxpayer filed a *Motion for New Trial* on July 22, 2024 by registered mail.[61]

On December 3, 2024, the taxpayer received the November 15, 2024 *Resolution*, which denied the motion.[62]

On December 18, 2024, the taxpayer filed a *Petition for Review*.[63]

This petition was filed under Section 18 of RA 1125, as amended by RA 9282. Section 18 of RA 1125, as amended by RA 9282[64] in relation to Rule 8 Section 3(b) of the 2005 RRCTA,[65] provides that a party may appeal the

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[57] *Rollo*, p. 73.
[58] *Notice of Decision*, Division Docket, Vol. II, p. 799.
[59]

RULE 15

MOTION FOR RECONSIDERATION OR NEW TRIAL

SECTION 1. *Who may and when to file motion.* – Any aggrieved party may seek a reconsideration or new trial of any decision, resolution or order of the Court. He shall file a motion for reconsideration or new trial within fifteen days from the date he received notice of the decision, resolution or order of the Court in question. (RCTA, Rule 13, sec. 1a)

[60] July 20, 2024 was a Saturday.

[61] *Division Docket*, Vol. III, p. 1003.

[62] *Notice of Resolution*, *Rollo*, p. 99.
[63] *Rollo*, pp. 9-18.

[64] SECTION 18. *Appeal to the Court of Tax Appeals En Banc.* — No civil proceeding involving matter arising under the National Internal Revenue Code, the Tariff and Customs Code or the Local Government Code shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the CTA and disposed of in accordance with the provisions of this Act.

A party adversely affected by a resolution of a Division of the CTA on a motion for reconsideration or new trial, may file a petition for review with the CTA *en banc*.

[65] SEC. 3. *Who may appeal; period to file petition.* —

xxx xxx xxx

resolution of a division of the Court by filing a petition for review or a motion for extension of time to file the petition with the Court *En Banc* within fifteen (15) days from receipt of the questioned resolution. In this case, the taxpayer, only had fifteen (15) days from December 3, 2024 or until December 18, 2024 to file a petition or to ask for an extension to file a petition.

Accordingly, since the *Petition for Review* was filed on December 18, 2024, it was filed within the reglementary period. The Court can take cognizance of the present case.

Although timely filed, however, the petition is *bereft of merit.*

Findings of facts of the court* a quo *will not be disturbed absent a showing of grave abuse of discretion.

The court *a quo* dismissed the taxpayer's petition because it failed to establish the timeliness of its judicial appeal.[66] Quoted below are the findings of the court *a quo* on this issue:

> "Based on the foregoing provisions, a VAT-registered person intending to file a claim for refund or tax credit of input VAT must file an administrative claim with the BIR within two (2) years after the close of the taxable quarter when the sales were made. In case of full or partial denial of the refund claim, or if respondent or the BIR fails to act thereon within a period of ninety (90) 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 90-day period.
>
> In this case, petitioner filed its administrative claim on 31 January 2019 *via* the Letter Claim for Refund dated 18 January 2019. Respondent then has 90 days therefrom, or until 01 May 2019, within which to act on the said administrative claim.
>
> Petitioner alleges that on 10 May 2019, it received respondent's Denial Letter dated 30 April 2019, purportedly referring to the Letter dated 30 April 2019 issued by then RD Geraldino.
>
> However, petitioner failed to provide proof that it indeed received the Denial Letter on 10 May 2019. Specifically, it did not present evidence of the Denial Letter itself, indicating receipt on that date.

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

[66] *Decision, Rollo*, pp. 48-55.

Firstly, a review of petitioner's FOE confirms that the Denial Letter is not among the pieces of evidence offered by petitioner.

Secondly, none of petitioner's witnesses testified to that specific date of receipt. In fact, only ICPA Bambao mentioned, on page 9 of her Judicial Affidavit dated 14 January 2020, that according to petitioner, the Denial Letter was received on 10 May 2019 and referred to Exhibit **"P-3-b"** to be marked by petitioner's counsel. However, Exhibit **"P-3"**, which was among the Denied Exhibits not admitted by this Court due to the failure to present the originals for comparison, is not the Denial Letter. Instead, it is described in petitioner's FOE as the Application for Tax Credit/Refund (BIR Form No. 1914) and Checklist of Mandatory Requirements for Claim for Refund.

Thirdly, the Denial Letter found in the BIR Records also does not bear the 10 May 2019 date of receipt alleged by petitioner.

Given these circumstances, there is no means for this Court to determine whether the instant judicial claim was timely filed, *i.e.*, within the 30-day period prescribed under the afore-quoted Section 11 of RA 1125, as amended by RA 9282, and Section 112 (C) of the NIRC of 1997, as amended by the TRAIN Law.

Undoubtedly, the party who alleges an affirmative fact has the burden of proving it because mere allegation of the fact is not evidence of it. Verily, the party who asserts, not he who denies, must prove.

In this case, the supposed receipt by petitioner of the Denial Letter dated 30 April 2019 on 10 May 2019 remained an allegation, for failure of petitioner to substantiate the same, and as such, it cannot be treated as fact."[67] *(Citations omitted and underscoring supplied)*

In this petition, the taxpayer raises a question of procedure on whether the court *a quo* should have relaxed the rules and allowed a new trial to give it a chance to prove the date of receipt of the CIR letter dated April 30, 2019, then establish the timeliness of its judicial claim and ultimately grant the claim.

Significantly, the taxpayer does *not* dispute the facts narrated by the court *a quo*. Rather, the taxpayer the questions the judicial *discretion* exercised by the court *a quo* when it *denied* the MNT, which was filed after the issuance of a decision dismissing the petition. The taxpayer mainly anchors this appeal on the argument that, given the magnitude of its refund claim and the due diligence exercised in establishing the date of receipt of the denial letter, the interest of justice should convince the Court to apply the rules in its favor.[68]

In *Heirs of Teresita Villanueva, et al. v. Heirs of Petronila Syquia Mendoza, et al.*,[69] the Supreme Court ruled that:

[67] *Rollo*, pp. 52-54.
[68] *Petition for Review, Rollo*, pp.
[69] G.R. No. 209132, June 05, 2017.

> "Findings of fact made by a trial court are accorded the highest degree of respect by an appellate tribunal and, absent a clear disregard of the evidence before it that can otherwise affect the results of the case, those findings should not simply be ignored. Absent any clear showing of abuse, arbitrariness, or capriciousness committed on the part of the lower court, its findings of facts are binding and conclusive upon the Court. The reason for this is because the trial court was in a much better position to determine which party was able to present evidence with greater weight." *(Underscoring added)*

More specifically, in *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (Formerly Mirant (Phils.) Energy Corporation,*[70] the Supreme Court ruled that the findings of facts of the CTA, acting as a trier of facts, are accorded with the highest degree of respect:

> "With regard to the second requirement, it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties. Consequently, we adopt the findings of the CTA in Division, which the CTA *En Banc* cited, as follows." *(Underscoring added)*

Factual findings of the CTA, a specialized court exercising expertise on taxation, are generally regarded as final, binding, and conclusive.[71] Thus, in the absence of any allegations or evidence to the contrary, this Court will *not* disturb the facts that have been settled by the court *a quo*.

***The court* a quo *correctly denied the* Motion for New Trial.**

A *Motion for New Trial* is a procedure sanctioned by Rule 15, Section 5 of the RRCTA, which enumerates two (2) grounds for the remedy:

> SEC. 5. *Grounds of motion for new trial.* — A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights; or (a)
>
> (b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result. (a)

[70] G.R. No. 188016, January 14, 2015.

[71] *Commissioner of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548 & 227691, 226682-83, February 15, 2023.

> A motion for new trial shall include all grounds then available and those not included shall be deemed waived. (Rules of Court, Rule 37, sec. 1a)

First, new trial is a remedy that seeks to "temper the severity of a judgment or prevent the failure of justice." However, the grant or denial of a new trial is addressed to the *sound discretion* of the court which cannot be interfered with unless a clear abuse thereof is shown.[72]

In this petition, however, the taxpayer does *not* allege any abuse of discretion by the court *a quo*. In fact, the petition is based on Rule 43 of the Rules of Court in relation to Rule 8, Section 3(b) and 4(b) of the RRCTA,[73] which allows the party to raise only errors of fact or law that would warrant reversal of the assailed judgment.[74]

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[72] *Ybiernas v Tanco-Gabaldon*, G.R. No. 178925, June 1, 2011.
[73] *Petition for Review, Rollo*, p. 2.

RULE 8
PROCEDURE IN CIVIL CASES

xxx xxx xxx

SEC. 3. *Who may appeal; period to file petition.* —

xxx xxx xxx

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

xxx xxx xxx

SEC. 4. *Where to appeal; mode of appeal.* —

xxx xxx xxx

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court en banc shall act on the appeal. (n)

[74] Rule 43, Section 10 of the Rules of Court states:

"Section 10. *Due course.* — If upon the filing of the comment or such other pleadings or documents as may be required or allowed by the Court of Appeals or upon the expiration of the period for the filing thereof, and on the records the Court of Appeals finds *prima facie* that the court or agency concerned has committed errors of fact or law that would warrant reversal or modification of the award, judgment, final order or resolution sought to be reviewed, it may give due course to the petition; otherwise, it shall dismiss the same. The findings of fact of the court or agency concerned, when supported by substantial evidence, shall be binding on the Court of Appeals. (n)"

Clearly, the denial of the motion should stand.

Second, in *Ybiernas v. Tanco-Gabaldon*,[75] the Supreme Court also declared that the evidence to be presented should have been discovered only *after* trial and that it could *not* have been discovered and produced during trial with the exercise of reasonable diligence:

> "xxx. New trial is a remedy that seeks to 'temper the severity of a judgment or prevent the failure of justice.' Thus, the Rules allows the courts to grant a new trial when there are errors of law or irregularities prejudicial to the substantial rights of the accused committed during the trial, or when there exists newly discovered evidence. The grant or denial of a new trial is, generally speaking, addressed to the sound discretion of the court which cannot be interfered with unless a clear abuse thereof is shown.
>
> This Court has repeatedly held that before a new trial may be granted on the ground of newly discovered evidence, it must be shown (1) that the evidence was discovered after trial; (2) that such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) that it is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would probably change the judgment if admitted. If the alleged newly discovered evidence could have been very well presented during the trial with the exercise of reasonable diligence, the same cannot be considered newly discovered." (*Underscoring supplied; citations omitted*)

In this case, the taxpayer's petition filed in the court *a quo* alleged that it received the *Denial Letter* dated April 30, 2019.[76] But without providing any explanation for its omission, petitioner did *not* offer this letter as evidence in its FOE after the presentation of evidence. Therefore, contrary to the requirement in *Ybiernas,* the letter was extant even *before* trial started and the taxpayer was well aware of this.

Clearly, the grant of the *Motion for New Trial* cannot be justified.

Third, the date of receipt of the *Denial Letter* is a jurisdictional fact that could have determined and fixed the jurisdiction of the court *a quo*, underscoring its critical importance to the success of the taxpayer's refund claim. The taxpayer itself concedes as much when it admits that the "Denial Letter was an important aspect of its judicial claim for refund."[77] Thus, its failure to present the *Denial Letter* in evidence,[78] as well as its failure to adduce testimony establishing the actual date of receipt thereof, demonstrates *not* due diligence but a clear absence of it.

[75] G.R. No. 178925, June 1, 2011.
[76] *Petition for Review*, par. 14, Division Docket, Vol. I, p. 17.
[77] *Petition for Review*, par. 33.2, Rollo, p. 10-11.
[78] *Formal Offer of Evidence (With Motion to Set Commissioner's Hearing)*, Division Docket, Vol. II, pp. 589-607.

Due diligence has many definitions, which are contingent on the context prevailing in the case. However, in *Ybiernas v. Tanco-Gabaldon*,[79] the Supreme Court narrowed the factor that is regarded as crucial in a *Motion for New Trial*:

> "The threshold question in resolving a motion for new trial based on newly discovered evidence is whether the [proffered] evidence is in fact a 'newly discovered evidence which could not have been discovered by due diligence.' The question of whether evidence is newly discovered has two aspects: a temporal one, i.e., when was the evidence discovered, and a predictive one, *i.e.*, when should or could it have been discovered. It is to the latter that the requirement of due diligence has relevance. We have held that in order that a particular piece of evidence may be properly regarded as newly discovered to justify new trial, what is essential is not so much the time when the evidence offered first sprang into existence nor the time when it first came to the knowledge of the party now submitting it; what is essential is that the offering party had exercised reasonable diligence in seeking to locate such evidence before or during trial but had nonetheless failed to secure it.
>
> The Rules do not give an exact definition of due diligence, and whether the movant has exercised due diligence depends upon the particular circumstances of each case. Nonetheless, it has been observed that the phrase is often equated with 'reasonable promptness to avoid prejudice to the defendant.' In other words, the concept of due diligence has both a time component and a good faith component. The movant for a new trial must not only act in a timely fashion in gathering evidence in support of the motion; he must act reasonably and in good faith as well. Due diligence contemplates that the defendant acts reasonably and in good faith to obtain the evidence, in light of the totality of the circumstances and the facts known to him." (*Underscoring supplied; citations omitted*)

Because the *Denial Letter* was already in the taxpayer's possession and could have been presented to establish the exact date of receipt, its failure to do so is *inexcusable*. The taxpayer does not even claim that the Denial Letter is newly discovered evidence, having admittedly had it in its custody long before trial commenced. Instead, it merely asserts *excusable negligence* for its failure to prove that May 10, 2019 was the actual date of receipt of the letter.

A client is bound by the acts of his counsel, including the latter's mistakes and negligence.[80]

Fourth, the taxpayer cites *Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue* as support to reopen the case based on excusable negligence that was defined in that case as negligence which ordinary diligence could not have guarded against and by reason of which the rights of an aggrieved party have probably been impaired.[81]

[79] G.R. No. 178925, June 1, 2011.
[80] *Payumo v. Sandiganbayan*, G.R. No. 151911 and 154535, July 25, 2011.
[81] G.R. No. 141973, June 28, 2005.

What is apparent to the Court, however, is that this is a case of *forgotten evidence*, as brought out by the court *a quo*.[82]

Forgotten evidence refers to evidence already in existence or available before or during a trial; known to and obtainable by the party offering it; and could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is *disallowed*, because it results in a piecemeal presentation of evidence, a procedure that is *not* in accord with orderly justice and *serves only to delay the proceedings*. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.[83]

The judicial claim was filed in the court* a quo *beyond the mandatory and jurisdictional 90+30-day period, hence, dismissible.

First, Section 112(C) of the Tax Code, as amended by the *Tax Reform for Acceleration and Inclusion* (TRAIN) Law,[84] details the procedure for the VAT refund claims:

> "**Sec. 112.** *Refunds or Tax Credits of Input Tax* –
>
> (A) xxx
>
> (B) 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."

[82] *Resolution, Rollo*, pp. 106-108.
[83] *Heirs of Barraquio v. Almeda, Inc.*, G.R. Nos. 169649 & 185594 (Resolution), September 30, 2024.
[84] REPUBLIC ACT No. 10963 or the "Tax Reform for Acceleration and Inclusion (TRAIN)" took effect on January 1, 2018.

This provision gives respondent CIR only ninety (90) days to act on an administrative claim for refund. The Court notes, however, that while the text of Section 112(C) as amended by the TRAIN Law no longer contains the "deemed denied" provision of the original text, the relevant law pertaining to the "deemed denied" provision *subsists*, i.e., the CTA Charter (RA 1125, as amended by RA 9282).

In other words, despite the deletion of the "deemed denied" provision found in the original text of Section 112(C),[85] Sections 7(a)(2)[86] and 11[87] of the CTA Charter, have *preserved* the taxpayer's option to appeal the *unacted claim* with the court *a quo*.

Accordingly, upon the expiration of the ninety- (90)-day period without action by the CIR, the taxpayer may treat the *unacted* claim as *deemed denied* by operation of the CTA Charter. In such case, the taxpayer must file an appeal with the CTA within thirty (30) days from the expiration of the ninety- (90)-day period, failing which the right to appeal shall be lost.

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85 The original and relevant text of Section 112 of the Tax Code when it took effect on January 1, 1998 reads:

"Sec. 112 (D). *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 Subsections (A) and (B) hereof.

<u>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</u>, <u>the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration</u> of the one-hundred-twenty-day period, <u>appeal the decision or the</u> **<u>unacted claim</u>** <u>with the Court of Tax Appeals</u>." (*Underscoring and emphasis supplied*)

86 "SEC. 7. *Jurisdiction.* - The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx xxx xxx

2. <u>Inaction by the Commissioner of Internal Revenue in cases involving</u> disputed assessments, <u>refunds of internal revenue taxes</u>, 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, <u>where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial</u>[.]" (*Underscoring supplied*)

87 "SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — <u>Any party adversely affected by a</u> decision, ruling or <u>inaction of the Commissioner of Internal Revenue</u>, 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 <u>may file an appeal with the CTA within thirty (30) days</u> after the receipt of such decision or ruling or <u>after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein</u>.

xxx xxx xxx" (*Underscoring supplied*)

Second, the foregoing interpretation is further supported by the settled rule that statutes in *pari materia* must be read and construed together. The Tax Code, as amended by the TRAIN Law, *cannot be read in isolation but must be harmonized with* the CTA Charter, both statutes bearing on the same subject matter — the right of a taxpayer to seek judicial relief from the CIR's adverse action or inaction on a VAT refund claim.

The rule of *in pari materia* construction was expressed by the Supreme Court *En Banc* in *La Suerte Cigar and Cigarette Factory v. Court of Appeals*[88] in the following terms:

> "Statutes are in *pari materia* when they relate to the same person or thing or to the same class of persons or things, or object, or cover the same specific or particular subject matter.
>
> It is axiomatic in statutory construction that a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system. The rule is expressed in the maxim, '*interpretare et concordare legibus est optimus interpretandi*,' or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence."

Applying this principle to the case at hand: the CTA Charter explicitly vests the CTA with exclusive appellate jurisdiction over the *inaction* of the CIR in cases involving refunds of internal revenue taxes, where the Tax Code provides a specific period for action — in which case, the inaction is expressly deemed a denial. Far from being in conflict with the TRAIN Law amendment, the CTA Charter *complements* it: while the TRAIN Law removed the "deemed denied" language from Section 112(C) of the Tax Code, the CTA Charter independently supplies and preserves that very rule, rendering the deletion of the provision from the Tax Code a matter of form rather than substance.

This reading is further reinforced by the structure of Section 112(C) itself, as amended by the TRAIN Law: (a) it commands the CIR to act on the refund claim *"within ninety (90) days from the date of submission"* of the required documents — a mandatory directive; and, (b) it expressly penalizes the CIR's failure to act within that period under Section 269 of the Tax Code. It would be incongruous to hold that the Legislature intended to penalize the BIR for inaction and yet simultaneously deprive the taxpayer of any judicial remedy arising from that very same inaction.

The deletion of the "deemed denied" provision could *not* have resulted in a *lacuna* or gap where the taxpayer is left with no procedural remedy, unlike the previous version of the same provision.

[88] G.R. No. 125346, November 11, 2014, Supreme Court *En Banc*.

Justice must protect the interests of both the government and the taxpayer alike. Congress could *not* have intended for a taxpayer who has filed an administrative claim for refund to be left at the mercy of the government, forced to wait *indefinitely* for the CIR to act, without any available judicial recourse.

Accordingly, when the CIR fails to act on an administrative VAT refund claim within the ninety- (90)-day period prescribed by Section 112(C), that *inaction* is deemed a denial by force of the CTA Charter. The taxpayer may then appeal the deemed-denied claim to the CTA within thirty (30) days from the expiration of the ninety (90)-day period, pursuant to Sections 7(a)(2) and 11 of the CTA Charter.

Third, this interpretation finds its basis in the landmark case decided by the Supreme Court *En Banc* in *Commissioner of Internal Revenue v. San Roque Power Corporation*[89] where the timeliness of a judicial claim was resolved against the taxpayer based on Section 112 of the Tax Code in relation to the CTA Charter:

> "Failure to comply with the 120-day [now 90-day] waiting period violates a mandatory provision of law. It violates the doctrine of exhaustion of administrative remedies and renders the petition premature and thus without a cause of action, with the effect that the CTA does not acquire jurisdiction over the taxpayer's petition. Philippine jurisprudence is replete with cases upholding and reiterating these doctrinal principles.
>
> The charter of the CTA expressly provides that its jurisdiction is to review on appeal '**decisions** of the Commissioner of Internal Revenue in cases involving . . . refunds of internal revenue taxes.' When a taxpayer prematurely files a judicial claim for tax refund or credit with the CTA without waiting for the decision of the Commissioner, there is no 'decision' of the Commissioner to review and thus the CTA as a court of special jurisdiction has no jurisdiction over the appeal. <u>The charter of the CTA also expressly provides that if the Commissioner fails to decide within **'a specific period'** required by law, such **'inaction shall be deemed a denial'** of the application for tax refund or credit. It is the Commissioner's decision, or inaction 'deemed a denial,' that the taxpayer can take to the CTA for review. Without a decision or an 'inaction . . . deemed a denial' of the Commissioner, the CTA has no jurisdiction over a petition for review.</u>
>
> xxx xxx xxx
>
> At the time San Roque filed its petition for review with the CTA, the 120+30 [now 90+30] day mandatory periods were already in the law. Section 112 (C) expressly grants the Commissioner 120 days [now 90 days] within which to decide the taxpayer's claim. The law is clear, plain, and unequivocal: '. . . the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes **within one hundred twenty (120) days** [now 90 days] from the date of submission of complete documents.' Following the *verba legis* doctrine, this law must be applied exactly as worded since it is clear, plain, and unequivocal. The taxpayer cannot simply file a petition with the CTA without waiting for the Commissioner's decision within the 120-day [now 90-day] mandatory and jurisdictional period. The CTA will have no jurisdiction

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[89] G.R. Nos. 187485, 196113 & 197156, February 12, 2013.

> because there will be no 'decision' or 'deemed a denial' decision of the Commissioner for the CTA to review. In San Roque's case, it filed its petition with the CTA a mere 13 days after it filed its administrative claim with the Commissioner. Indisputably, San Roque knowingly violated the mandatory 120-day period [now 90-day], and it cannot blame anyone but itself.
>
> Section 112 (C) also expressly grants the taxpayer a 30-day period to appeal to the CTA the decision or inaction of the Commissioner, thus:
>
>> . . . 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. (Emphasis supplied)
>
> This law is clear, plain, and unequivocal. Following the well-settled *verba legis* doctrine, this law should be applied exactly as worded since it is clear, plain, and unequivocal. As this law states, the taxpayer may, if he wishes, appeal the decision of the Commissioner to the CTA within 30 days from receipt of the Commissioner's decision, or if the Commissioner does not act on the taxpayer's claim within the 120-day period [now 90-day], the taxpayer may appeal to the CTA within 30 days from the expiration of the 120-day period." (*Underscoring and interpolation supplied; citations omitted*)

This has been the prevailing jurisprudence ever since.[90]

Fourth, recently in 2022, *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue*[91] reiterated that the taxpayer's judicial claim for refund was filed out of time by applying the *deemed denied* provision:

> "In *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, the Court likewise ordained that a judicial claim for refund shall be filed within a period of 30 days after the receipt of Commissioner of Internal Revenue's decision/ruling or after the expiration of the 120-day [now 90-day] period, "**whichever is sooner**," thus, further solidifying the rule.
>
> **Taihei's judicial claims were filed out of time**
>
> Following these doctrinal rulings, the 120+30-day [now 90+30-day] period for Taihei's judicial claims for refund should reckon with the following dates relevant to its earlier administrative claims for refund, thus:

[90] *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*, G.R. No. 191498, January 15, 2014; *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015; *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182737, March 02, 2016; *Aichi Forging Company of Asia, Inc. v. Court of Tax Appeals - En Banc, Et. Al.*, G.R. No. 193625, August 30, 2017; *Steag State Power, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205282 (Resolution), January 14, 2019; *Energy Development Corp. v. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021.

[91] G.R. No. 258791, December 7, 2022.

2011	Administrative Claim Filed	End of 120-day Period	End of 30-day Period
3rd Quarter	September 30, 2013	January 28, 2014	February 27, 2014
4th Quarter	December 23, 2013	April 22, 2014	May 22, 2014

As it was, Taihei filed its **judicial claims with the Court of Tax Appeals only on July 10, 2019** way **beyond the 120+30-day** [now 90+30-day] **period**. Thus:

2011	End of 120-day Period	Judicial Claim Filed	No. of Days Late
3rd Quarter	January 28, 2014	July 10, 2019	1,989 days (or 5 yrs. and 163 days)
4th Quarter	April 22, 2014	July 10, 2019	1,905 days (or 5 yrs. and 79 days)

The ***post facto* denial** of Taihei's administrative claims is **irrelevant** as **Commissioner of Internal Revenue's inaction for 120 days** [now 90 days] is already considered **'deemed denial'** of the administrative claims for refund. Surely, **without a timely appeal**, the 'deemed denial' becomes **final and unappealable**." (*Underscoring and interpolation supplied; citations omitted*)

In this case, the taxpayer filed its administrative claim on January 31, 2019.[92] Based on Section 112(C) of the Tax Code, as amended by the TRAIN Law, the CIR had ninety (90) days to act on the claim, or until May 1, 2019. Thereafter, based on the long line of case law discussed above since *San Roque*, the taxpayer had 30 days after the receipt of the CIR's decision or after the expiration of the 90-day period, "whichever is sooner," to file its judicial claim. This means that the taxpayer had until May 31, 2019 to file its petition with the court *a quo*. However, the taxpayer only filed its petition with the court *a quo* on June 4, 2019.[93] Without a timely appeal, the '*deemed denial*' became final and unappealable.

All told, the taxpayer failed to raise any issue that has successfully convinced the Court to modify or reverse the assailed *Decision* and *Resolution* of the court *a quo*.

ACCORDINGLY, the *Petition for Review* is **DENIED** for lack of merit. The assailed *Decision* and the *Resolution* of the court *a quo* are **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[92] Assailed decision, *Rollo*, p. 31.
[93] *Id.*, p. 32.

WE CONCUR:

With Separate Concurring Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

With due respect, please see Separate Concurring Opinion.
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes - Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

I concur in the result.
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

HP PPS (PHILIPPINES), INC., Petitioner,	**CTA EB No. 3044** (CTA Case No. 10090)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.*, **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: APR 22 2026 4:21

x - x

SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur in the denial of petitioner HP PPS (Philippines), Inc.'s (**petitioner**'s/**HPPI**'s) *Petition for Review* for lack of merit, and in the consequent affirmance of the First Division's Decision dated 02 July 2024 (**assailed Decision**) and Resolution dated 15 November 2024. The pivotal consideration lies in petitioner's failure to prove the alleged date of receipt, *i.e.*, 10 May 2019, of the Letter dated 30 April 2019[1] (**Denial Letter**), which denied its administrative claim for refund. This Denial Letter constitutes the decision appealable to the Court of Tax Appeals (**CTA**). Absent competent proof of the date of receipt, the First Division could not determine whether petitioner timely filed the judicial claim.

However, if wish to clarify my stand on the proper reckoning of the thirty (30)-day period to file a judicial claim vis-à-vis the applicability of the doctrine of "deemed denial" in refund cases under Section 112(A)[2] of the

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1 Exhibit "R-1", BIR Records, pp. 28-30.
2 SEC. 112. *Refunds or Tax Credits of Input Tax.*
(A) *Zero-rated or Effectively Zero-rated Sales.*

National Internal Revenue Code (**NIRC**) of 1997, as amended by Republic Act (**RA**) No. 10963[3] or the Tax Reform for Acceleration and Inclusion (**TRAIN**).

I concur with the *ponencia* in declaring that the prevailing doctrine of "deemed denial" still holds and has not been abrogated. However, with due respect, I submit that this doctrine applies only when the Commissioner of Internal Revenue (**CIR**) or his or her authorized representative fails to act on the administrative claim within the prescribed ninety (90)-day period.

Sections 7 and 11 of the Republic Act (**RA**) No. 9282[4] provide that when the CIR or his or her authorized representative fails to act within the **specific period prescribed by the NIRC of 1997, as amended, such inaction is deemed a denial of the taxpayer's claim, that is already appealable before the CTA**:

> ...
>
> **SEC.** 7. *Jurisdiction.* - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> ...
>
> 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**[.]
>
> ...
>
> **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.**

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3 AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

4 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days** from the receipt of the decision or ruling or **in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon.** A Division of the CTA shall hear the appeal: *Provided, however,* That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc.[5]
>
> ...

Section 86[6] of RA 10963[7] or the TRAIN, which contains the lengthy enumeration of laws expressly repealed by the said law, did *not* mention RA 9282. Thus, considering that the TRAIN did not repeal the pertinent provisions of RA 9282, it cannot be said that the "deemed denial" rule, insofar as claims for refund of unutilized input taxes attributable to zero-rated sales, has already been abrogated. Truth is, the "deemed denial" rule still finds relevance even after the passage of the TRAIN and it could not be disregarded simply because a similar provision dealing with the same subject matter has been deleted.

Consistently, it has been held that "whenever the legislature enacts a law, it has in mind the previous statutes relating to the same subject matter, and **in the absence of any express repeal or amendment, the new statute is deemed enacted in accordance with the legislative policy embodied in those prior statutes.**"[8]

Applying herein the foregoing, in enacting the TRAIN, the legislature is presumed to have in mind the pertinent provisions of RA 9282 with respect to when the taxpayer may treat respondent CIR's (**respondent**'s) inaction as denial. Thus, in the absence of its express repeal, the TRAIN is deemed enacted in accordance with the legislative policy embodied in such prior laws (including RA 9282).

The next pivotal query is whether the doctrine of "deemed denial" could find application in the instant case.

I, respectfully, submit that it does *not.*

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5 Emphasis supplied and italics in the original text.
6 **Sec. 86.** *Repealing Clause.*
7 Supra at note 3.
8 *Hon. Arturo C. Corona, et al. v. Court of Appeals, et al.*, G.R. No. 97356, 30 September 1992.

Section 112 of the NIRC of 1997, as amended by the TRAIN, states that:

...

Sec. 112. *Refunds or Tax Credits of Input Tax -*

...

(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.**[9]

...

In the landmark case of *Commissioner of Internal Revenue v. San Roque Power Corporation,*[10] the Supreme Court, in interpreting Section 112(D) [now Section 112(C)], held that the taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty (30) days after the CIR denies the claim within the 120-day [now ninety (90)-day] waiting period, or (2) file the judicial claim within 30 days from the expiration of the 120-day (now 90-day) period if the CIR does not act within that period.

In *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,*[11] the Supreme Court clarified that the 120-day (now 90-day) period was intended to serve as a waiting period to give time for the CIR or his or her authorized representative to **act** on the administrative claim for a refund or credit. In the same case, it was clarified that the **inaction or when the CIR or his or her authorized representative failed to act within the waiting period, the same shall be considered as a decision itself** that would trigger the running of the 30-day period to appeal.

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9 Emphasis supplied, italics in the original text and supplied.
10 G.R. Nos. 187485, 196113 & 197156, 12 February 2013.
11 G.R. No. 168950, 14 January 2015.

Here, petitioner filed its administrative claim for refund on 31 January 2019.[12] Under Section 112(C)[13] of the NIRC of 1997, as amended, the CIR or his or her authorized representative had 90 days, or until 01 May 2019, to act on the said claim. Petitioner alleges that it received the Denial Letter,[14] which entirely denied the administrative claim, on 10 May 2019. However, petitioner failed to substantiate the alleged date of receipt. Consequently, the Court's First Division could not determine whether petitioner timely filed the judicial claim and, thus, dismissed the *Petition for Review* for lack of jurisdiction.

With due respect, while I concur in the result reached in the *ponencia*, which affirms the assailed Decision, I respectfully submit an alternative rationale, particularly on the proper reckoning point of the period to appeal.

The controlling datum here is the date of the CIR's "action," *not* the date of petitioner's receipt. Revenue Memorandum Circular (**RMC**) No. 17-18,[15] outlines that for claims not more than ₱50 million, such as the present case, the 90-day period ends upon the Assistant CIR-Assessment Service's approval or disapproval of the claim.[16]

In the present case, the Denial Letter, which contains the full denial of petitioner's administrative claim for refund, was issued on 30 April 2019, ***i.e.*, within the 90-day period to act**. Thus, **there was no inaction and the doctrine of "deemed denial" does not apply. What exists is a categorical denial, received by petitioner allegedly on 10 May 2019**. As such, the reckoning of the 30-day period to appeal must commence, not from the expiration of the 90-day period, but from the date of actual receipt of the denial.

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[12] Exhibit "P-31", id., pp. 310-317.

[13] SEC. 112. *Refunds or Tax Credits of Input Tax.*

...

(C) *Period within which Refund of Input Taxes shall be Made.*

[14] Exhibit "R-1", supra at note 1.

[15] Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

[16] ...

VCAD [VAT Credit Audit Division] Cases	No. of Days from Receipt of Application
	For claims not more than ₱50,000,000.00
Verification/processing	65
Review (TARD [Tax Audit Review Division])	20
Recommending/Final Approval	
ACIR-AS [Assistant CIR-Assessment Service]	5
Total No. of Days	**90**

4. The concerned revenue officers/officials shall <u>**act**</u> on the recommended claims in accordance with the **abovementioned time frame**, including VAT claims on importations. (Emphasis and underscoring supplied)

Moreover, in the seminal case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[17] (**Aichi**), the Supreme Court construed Section 112(D) [now Section 112(C)] of the NIRC of 1997, as amended, as follows:

> ...
> The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) **when a decision is <u>issued</u> by the CIR before the lapse of the 120-day period**; and (2) **when no decision is made after the 120-day period**. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.
>
> ...

From the foregoing, it is evident that as early as 2015, the Supreme Court has already construed the phrase "to act" to mean "to issue a decision". Additionally, such a construction is evident in the minutes of the Bicameral Conference Committee Hearings for the disagreeing provisions to the precursor bills to TRAIN, *i.e.*, House Bill No. 5636 and Senate Bill No. 1592, to wit:[18]

> ...
> CHAIRPERSON CUA: My anxiety comes from a force action upon an action 'no. *Kung hindi ka gumalaw* then there's a . . . there's an ultimate result. So may I . . . I have to my left the author of the attrition law. I think that is something . . . I mean *kung walang* action that should be . . . that should be attached somehow to an attrition consequence so that *umaksyon 'yung* BIR within 90 days or *ano*, we can draft some matrix there. May we . . . may we hear from the DOF if they have any proposals here?
>
> CHAIRPERSON ANGARA: Yeah. DOF any . . . any ideas here.
>
> MR. CHUA: The . . . **<u>the objective is to come up with a decision</u>**.
>
> CHAIRPERSON ANGARA: Yes.
> ...
>
> SEN. RECTO: Mr. Chairman, the version has the solution.
>
> CHAIRPERSON ANGARA: Yeah. Yes. What is that, Your Honor?
>
> SEN. RECTO: It says here . . .

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[17] G.R. No. 184823, 06 October 2010; Emphasis and underscoring supplied.

[18] Bicameral Conference Committee Meeting on the Disagreeing Provisions of House Bill No. 5636 and Senate Bill No. 1592 Re: [TRAIN], 17th Congress, 2nd Session, 05 December 2017, pp. XXXI-1 to XXXI-3; Emphasis and underscoring supplied.

CHAIRPERSON ANGARA: Yeah.

SEN. RECTO: . . . a result in the approval of the claim for refund without prejudice to its subsequent audit to be conducted by the BIR.

...

CHAIRPERSON CUA. But even if the number is small, it is considering that the system is broken today. Now, we are trying to reform it to have a system that become more efficient. I understand the objective of the Senate panel and I agree that we have to protect the taxpayers right to collect his money *baka naman masyadong* disadvantageous to the government. I think we want to do is police those officials <u>**to make sure they release it on time, within the prescribed 90-day period**</u>. So, perhaps the penalty for the BIR officials can be upon those metrics, for your consideration, Your Honor.

CHAIRPERSON ANGARA: Are you proposing penalty for BIR officials who fail to decide? Something like that? What does the BIR say to that?

MS. TERESITA M. ANGELES (Director II, Officer-in-Charge, Assistant Commissioner for Large Taxpayers Service, Bureau of Internal Revenue). As far as the present situation, we have the 120 days for the VAT refund. If not acted upon, the revenue officer may be subjected to administrative cases.

CHAIRPERSON ANGARA: Is that in the law?

MS. ANGELES: No, Sir.

CHAIRPERSON ANGARA: That is not in the law?

MS. ANGELES: It is in the revenue . . .

CHAIRPERSON CUA: *Ilan ang naano diyan . . .*

...

The foregoing reflects the unmistakable intent of Congress to impose upon the CIR, or his or her duly authorized representative, the affirmative duty to act upon the claims of taxpayers, not as a matter of administrative convenience, but as a measure of substantive right accorded for the benefit of taxpayers. To dismiss petitioner's claim solely on the ground that it remained unacted upon, notwithstanding a decision having been rendered within the statutory 90-day period but belatedly transmitted, would be to frustrate, if not defy, the clear legislative mandate and the very safeguards the law was designed to bestow. Verily, to countenance such inaction is to denude the law of its spirit and efficacy.

In the present case, since a decision was issued on 30 April 2019 (well within the 90-day period for respondent to act), the first scenario contemplated in *Aichi* applies. Consequently, the doctrine of "deemed denial" finds no application and the 30-day period for judicial recourse must be reckoned from petitioner's actual receipt of respondent's decision and not from the expiration of the 90-day period.

To rule otherwise would unjustly burden the CIR or his or her authorized representative by imputing to him or her the consequences of a delay in the transmittal or receipt of the decision — an event clearly beyond his or her control.[19] Such a construction likewise places an undue strain upon taxpayers who, under threat of losing the right to judicial recourse, would be forced to prematurely resort to litigation — even in cases where the administrative process, if allowed to run its course, might have afforded full and adequate relief. It undermines the doctrine of primary administrative jurisdiction, which commands due deference to the specialized competence and procedural prerogatives of administrative agencies,[20] such as the Bureau of Internal Revenue (**BIR**). It erodes respect for the mechanisms of administrative redress and incentivizes unnecessary judicial intervention. Worse still, it risks compounding the perennial problem of docket congestion, thereby impeding the prompt administration of justice.

The following disquisition likewise finds support in the subsequent amendments to the NIRC of 1997 brought by RA 11976[21] (which took effect on 22 January 2024[22]) or the Ease of Paying Taxes (**EOPT**) and RA 12066[23] (which was signed on 08 November 2024[24]) or the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (**CREATE MORE**), as follows:

EOPT	CREATE MORE
… **Sec. 112.** *Refunds of Input Tax.* – … (C) *Period within which the Refund of Input Taxes shall be Made.* - In proper cases, the Commissioner shall	… **Sec. 112.** *Refunds or Tax Credits of Input Tax* – … (C) *Period within which the Refund or Tax Credit of Input Taxes shall be Made.*

19 Since such inaction exposes the concerned official, agent, or employee of the BIR to penalties and/or fines under Section 269 of the NIRC of 1997, as amended.

20 See *Nestle Philippines, Inc., et al. v. Uniwide Sales, Inc., et al.*, G.R. No. 174674 (Resolution), 20 October 2010.

21 AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 128, 200, 204, 229, 235, 236, 237, 238, 241, 243, 245, 248, AND 169; AND REPEALING SECTION 34(K) OF THE NATIONAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

22 Revenue Memorandum Circular (RMC) No. 3-2024, 10 January 2024.

23 AN ACT AMENDING SECTIONS 27, 28, 32, 34, 57, 106, 108, 109, 112, 135, 237, 237-A, 269, 292, 293, 294, 295, 296, 297, 300, 301, 308, 309, 310, AND 311, AND ADDING NEW SECTIONS 135-A, 295-A, 296-A, AND 297-A OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

24 Available at <https://www.officialgazette.gov.ph/2024/11/08/republic-act-no-12066/> (last accessed on 16 April 2026).

EOPT	CREATE MORE
grant a refund for creditable input taxes within **ninety (90) days from the date of submission of invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into law, medium, and high risk claims with the risk classification based on amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium and high risk claims shall be subject to audit or other verification processes in accordance with the Bureau of Internal Revenue's national audit program for the relevant year: *Provided,* finally, **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 within the ninety (90)-day period.**[25]	- In proper cases, the Commissioner shall grant a refund for creditable input taxes within **ninety (90) days from the date of submission of certified true copies of invoices and other documents specifically limited to those prescribed in the revenue issuances and in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into low-, medium-, and high-risk claims, with the risk classification to be based on the amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium- and high-risk claims shall be subject to audit or other verification processes in accordance with the BIR's national audit program for the relevant year. **Should the Commissioner find that the grant of refund is not proper, the Commissioner must, within the ninety (90)-day period, *communicate* in writing to the taxpayer, the legal and factual basis for the denial,** including the deficiencies of the VAT refund claim.[26]

As can be gleaned from the above, what is required under the TRAIN and the EOPT is for respondent to **state** in writing the legal and factual basis for the denial. However, neither law expressly mandates that this written denial be communicated to the taxpayer within the statutory period for action. The focus is on the sufficiency and form of the denial, not the timing of its communication to the taxpayer.

In contrast, CREATE MORE ushers in a more exacting standard — not only must the denial be reduced in writing and that it should state the legal and factual basis, *but* it must also be **communicated** to the taxpayer within the 90-day period. Under the settled rule of statutory construction, legislative amendments are presumed to be deliberate and meaningful, not mere semantic exercises.[27] There must have been some purpose in making them and the rational explanation is that notice to the taxpayer of the denial ***now*** forms part of the 90-day period to act.

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[25] Italics in the original text, emphasis and underscoring supplied.
[26] Emphasis and underscoring supplied, italics in the original text and supplied.
[27] See *Tan Kim Kee v. The Court of Tax Appeals, et al.*, G.R. No. L-18080, 22 April 1963.

Nonetheless, this legislative innovation finds no application to the instant case. When petitioner received the denial letter, CREATE MORE had not yet taken effect. CREATE MORE may also not be given retroactive application since it would impair petitioner's vested right to question the CIR's decision.

Unfortunately for petitioner, however, it failed to prove the alleged date of actual receipt, *i.e.*, 10 May 2019, of the Denial Letter. As a result, the Court could not ascertain whether petitioner timely filed the judicial claim for refund on 04 June 2019. And if the Court were to assume that petitioner received the Denial Letter on its date of issuance, or on 30 April 2019, the 30-day reglementary period to file an appeal would have lapsed on 30 May 2019. In that case, petitioner would have filed the judicial claim out of time.

In fine, as explained in the assailed Decision, since petitioner failed to provide supporting evidence (from any part of the record or other sources) showing that it received the Denial Letter on 10 May 2019, it did not establish that the *Petition for Review*, filed on 04 June 2019, was timely. As this is a jurisdictional requirement, this Court has no other recourse but to dismiss the petition for lack of jurisdiction.

All told, I vote to **DENY** the present *Petition for Review* for lack of merit.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

HP PPS (PHILIPPINES), INC., *Petitioner,*	**CTA *EB* NO. 3044** (CTA Case No. 10090)
	Present:
-versus-	**RINGPIS-LIBAN,** *PJ* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 22 2026

x -- x

SEPARATE CONCURRING OPINION

MODESTO-SAN PEDRO, J.:

I concur with the *ponencia*'s denial of the instant Petition for Review and affirmation of the assailed Decision and Resolution of the Court in Division. I agree with the court *a quo* that petitioner's failure to establish the date of its receipt of the alleged Denial Letter is fatal to its judicial claim for refund. Without certainty regarding such date, the Court could not verify the timeliness of the filing of petitioner's judicial claim, putting the Court in Division's jurisdiction over said claim into question.

With due respect, however, I disagree with the majority opinion that the "deemed denied" construal of the relevant procedural rules applied while the *TRAIN* law was in effect. My reasons for such are outlined in the Decision penned by me in *Citco International Support Services Limited–Philippines ROHQ v. Commissioner of Internal Revenue.*[1] In short, the text of the relevant provisions in *TRAIN*, as they were actually written, and the discussions during a consultative meeting for the drafting of *EOPTA* both support the position that the "deemed denied" provision was *intentionally* removed from *TRAIN* and thus could not be invoked while that law was in effect.

[1] CTA *EB* No. 2900 (CTA Case No. 10258), August 7, 2025.

I will not go into detail discussing the argument here, as, to reiterate, the disagreement does not affect my overall vote. Whether or not the Commissioner of Internal Revenue's inaction on an administrative claim could be deemed a denial of said claim during *TRAIN*'s effectivity, petitioner ultimately failed to establish the Court in Division's jurisdiction over its judicial appeal and failed to show that it complied with the requirements for the setting of a new trial. Consequently, while I cannot endorse some of the discussions in the present Decision, I fully agree with its result.

All told, I vote to **DENY** the instant Petition for Review for lack of merit and **AFFIRM** the assailed rulings of the Court in Division.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice