19-000396-0065

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10148

CEAMSA ASIA, INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village, Makati City

COMMISSIONER OF INTERNAL REVENUE
Thru: Litigation Division
Bureau of Internal Revenue
BIR National Office Building
BIR Road, Diliman, Quezon City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. CLARISSA J. VIRTUDES-BABARAN
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
BIR Road, Diliman, Quezon City

SANCHEZ LAMBO-SANCHEZ LAW FIRM
5th Floor Richville Corporate Tower
1101 Alabang-Zapote Road, Madrigal Business Park
Ayala Alabang, Muntinlupa City

GREETINGS:

You are hereby notified by these presents that on **February 3, 2023,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 7, 2023.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
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FIRST DIVISION

CEAMSA ASIA, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10148

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:

FEB 03 2023 2:57 AM

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DECISION

MANAHAN, *J.:*

This is a *Petition for Review* posted by petitioner Ceamsa Asia, Inc. against respondent Commissioner of Internal Revenue on August 1, 2019, praying for the refund or issuance of a tax credit certificate (TCC) in the amount of ₱6,565,007.35, representing allegedly unutilized input value-added tax (VAT) for the taxable period January 1, 2017 to December 31, 2017.[1]

THE FACTS

Petitioner Ceamsa Asia, Inc. is a corporation duly registered with the Philippine Securities Exchange Commission.[2] It is also registered with the Bureau of Internal Revenue (BIR) as a taxpayer, under Tax Identification Number (TIN) 007-244-594-000, with address at 001 Pook Looban 2, Crispulo Dela Cruz, Loma de Gato, Marilao, Bulacan.[3]

Respondent is the Commissioner of Internal Revenue who is duly appointed and is empowered to perform the duties

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[1] Statement of the Case, Pre-Trial Order dated February 3, 2020, Docket – Vol. I, p. 234.
[2] Exhibit "P-3", Docket – Vol. II, pp. 791 to 800.
[3] Exhibit "P-4", Exhibit "P-31", ICPA Exhibits, USB. *cmm*

of his office, including the power to deny or grant tax refunds pursuant to Section 112(C) of the Tax Code.[4]

Petitioner filed its *Application for Tax Credits/Refund* (BIR Form No. 1914),[5] and its duly accomplished *Revised Checklist of Mandatory Requirements on Claims for VAT Refund,*[6] applying for a VAT Refund amounting to ₱6,565,007.35, for the period from January 1, 2017 to December 31, 2017, on March 28, 2019. The BIR then issued Tax Verification Notice No. TVN201800083001 dated March 28, 2019 covering the period from January to December 2017.[7]

On July 2, 2019, petitioner received the Denial Letter dated June 6, 2019.[8]

The present *Petition of Review* was posted on August 1, 2019.[9]

Respondent filed his *Answer* on September 11, 2019,[10] and the *BIR Records* for this case were transmitted to the Court.[11]

The Pre-Trial Conference was set and held on November 14, 2019.[12] Prior thereto, the *Respondent's Pre-Trial Brief* was submitted on October 15, 2019,[13] while the *Pre-Trial Brief (For the Petitioner)* was filed on November 11, 2019.[14]

On December 10, 2019, the parties filed their *Joint Stipulation of Facts and Issues,*[15] which the Court approved in

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[4] Par. 1, Stipulated Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 217.
[5] Exhibit "P-1", *BIR Records* (Exhibit "R-8"), p. 157.
[6] Exhibit "P-10", *BIR Records* (Exhibit "R-8"), p. 158.
[7] Par. 4, Stipulated Facts, JSFI, Docket – Vol. I, p. 217; Exhibit "P-11", Docket – Vol. II, p. 816; and Exhibit "R-1", *BIR Records* (Exhibit "R-8"), p. 160.
[8] Par. 2, Stipulated Facts, JSFI, Docket – Vol. I, p. 217; Exhibit "P-2", Docket – Vol. I, pp. 30 to 31.
[9] Docket – Vol. I, pp. 13 to 25.
[10] Docket – Vol. I, pp. 117 to 124.
[11] Compliance dated October 23, 2019, Docket – Vol. I, pp. 161 to 163.
[12] Notice of Pre-Trial Conference dated September 25, 2019, Docket – Vol. I, pp. 135 to 136; Minutes of the hearing held on, and Order dated, November 14, 2019, Docket – Vol. I, pp. 179 to 181, and 183 to 184, respectively.
[13] Docket – Vol. I, pp. 139 to 142.
[14] Docket – Vol. I, pp. 171 to 176.
[15] Docket – Vol. I, pp. 217 to 222. *gm*

its Resolution dated December 20, 2019,[16] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order was then issued on February 3, 2020.[17]

Trial ensued.

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Mr. Pedrito B. San Felipe,[18] the Finance Manager of petitioner; and (2) Mr. John Christian B. Sabal,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

The ICPA's *Report* was submitted on June 30, 2020.[21]

Petitioner filed a *Motion to Admit Formal Offer of Exhibits* on September 29, 2020,[22] attaching therewith its *Formal Offer of Exhibits.*[23] Respondent then filed his *Comment (Re: Petitioner's Formal Offer of Evidence)* on October 5, 2020.[24] In the Resolution dated October 29, 2020,[25] the Court granted petitioner's *Motion to Admit Formal Offer of Exhibits*, however, in the course of resolving petitioner's formal offer, the Court failed to access or open the USB submitted by petitioner and so petitioner was given an additional period to submit an accessible USB, which petitioner submitted on December 7, 2020.[26]

In the Resolution dated January 8, 2021,[27] the Court admitted petitioner's offered exhibits, *except* for Exhibits "P-

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[16] Docket – Vol. I, pp. 230 to 231.
[17] Docket – Vol. I, pp. 234 to 241.
[18] Exhibits "P-26" and "P-27", Exhibit Docket – Vol. II, pp. 524 to 538, and 757 to 759, respectively; Minutes of the hearing held on, and Order dated, September 1, 2020, Docket – Vol. II, pp. 762 to 764.
[19] Exhibit "P-29", Docket – Vol. I, pp. 715 to 725; Minutes of the hearing held on, and Order dated, September 1, 2020, Docket – Vol. II, pp. 762 to 764.
[20] *Oath of Commission* dated February 6, 2020, Docket – Vol. I, p. 245; Minutes of the hearing held on, and Order dated, February 6, 2020, Docket – Vol. I, pp. 242 to 244, and 246 to 247, respectively.
[21] Exhibit "P-28", Docket – Vol. I, pp. 492 to 515.
[22] Docket – Vol. II, pp. 774 to 777.
[23] Docket – Vol. II, pp. 779 to 790.
[24] Docket – Vol. II, pp. 911 to 913.
[25] Docket – Vol. II, pp. 917 to 919.
[26] Compliance dated December 7, 2020, Docket – Vol. II, pp. 924 to 925.
[27] Docket – Vol. II, pp. 928 to 932.

33-9", "P-38-9", "P-41-24", "P-42-23", "P-42-49", "P-42-62", "P-42-64", "P-42-82", "P-42-122" to "P-42-125", "P-43-42" to "P-43-43", "P-43-62" to "P-43-63", "P-43-102" to "P-43-104", "P-43-124", and "P-43-166", for not being found in the records of the case.

Respondent likewise presented his documentary and testimonial evidence. He offered the testimony of Revenue Officer Jan Kevin S. Bautista.[28]

On May 17, 2021, respondent filed via electronic mail his *Formal Offer of Evidence.*[29] Petitioner failed to file its comment thereto.[30] In the Resolution dated October 20, 2021,[31] the Court admitted all of respondent's offered evidence.

Respondent's *Memorandum* was filed on June 14, 2021,[32] while the *Memorandum [For The Petitioner]* was posted on February 2, 2022.[33]

This case was submitted for decision on March 17, 2022.[34]

THE ISSUE

The parties stipulated the following issue for this Court's resolution, *viz.*:

> "Whether the Petitioner is entitled to its claim for VAT refund in the amount of Six Million Five Hundred Sixty-Five Thousand Seven Pesos and 35/100 (Php6,565,007.35) for the period covering the first, second, third and fourth quarters of taxable year 2017."[35]

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[28] Exhibit "R-9", Docket – Vol. I, pp. 152 to 156; Minutes of the hearing held on, and Order dated, April 29, 2021, Docket – Vol. II, pp. 945 to 946.
[29] Docket – Vol. II, pp. 947 to 952.
[30] Records Verification dated June 18, 2021 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 968.
[31] Docket – Vol. II, pp. 974 to 975.
[32] Docket – Vol. II, pp. 961 to 965.
[33] Docket – Vol. II, pp. 976 to 988.
[34] Resolution dated March 17, 2022, Docket – Vol. II, p. 992.
[35] Stipulated Issues, JSFI, Docket – Vol. I, pp. 217 to 218.

Petitioner's arguments:

Petitioner argues that it submitted all the necessary requirements provided under Revenue Memorandum Circular No. 17-18; that it is entitled to its claim for VAT refund pursuant to the pertinent laws and jurisprudence; and that it has complied with the substantiation requirements prescribed under Sections 113 and 237 of the Tax Code in relation to Revenue Regulations (RR) No. 16-2005.

Respondent's counter-arguments:

Respondent contends that since he rendered a decision, the jurisdiction of this Court shifts from a trial court to an appellate tribunal; that this Court should confine itself to whether the findings of respondent are consistent with law; that since a Decision has been rendered in this case denying petitioner's administrative claim for refund for failure to substantiate the same, petitioner cannot submit documents it did not submit at the administrative level; that the Court is confined to a more limited issue of whether the denial was proper, given the evidence submitted at the administrative level; that issuance of sales invoices (SIs) which is not in accordance with the format approved and issued with the corresponding *Authority To Print* (ATP) has no probative value for purposes of VAT refund; that petitioner was not able to prove its zero-rated sales of goods for failure to issue valid and registered SIs, hence, the input taxes relative thereto cannot be allowed for tax refund; that taxes paid and collected by the BIR are presumed to have been made in accordance with law, rules and regulations and the burden to prove otherwise is upon petitioner; and that claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation and as such, they are looked upon with disfavor.

THE COURT'S RULING

The *Petition for Review* is dismissed for lack of jurisdiction.

Requisites for the grant of the refund or issuance of TCC under the law.

Section 112 of the National Internal Revenue Code (NIRC) of 1997, as last amended by Republic Act (RA) No. 10963[36], provides, in part, as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> xxx xxx 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,*

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[36] 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 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

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."

Based on the foregoing provision, jurisprudence has laid down certain requisites which the taxpayer-applicant must comply with to successfully obtain a credit/refund of input VAT. Said requisites may be classified into certain categories as follows:

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

1. The refund claim is filed with the BIR within two (2) years after the close of the taxable quarter when the sales were made;[37]
2. In case of full or partial denial of the refund claim rendered within a period of ninety (90) days from the date of submission of the ORs or invoices and other documents in support of the application, the judicial claim shall be filed with this Court within thirty (30) days from receipt of the decision;

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

3. The taxpayer is a VAT-registered person;[38]

<u>In relation to the taxpayer's output VAT</u>:

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

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

4. The taxpayer is engaged in zero-rated or effectively zero-rated sales;[39]
5. For zero-rated sales under Section 106(A)(2)(a)(1) and (2); 106(B); and 108(B)(1) and (2), the acceptable foreign currency exchange proceeds have been duly accounted for in accordance with the *Bangko Sentral ng Pilipinas* (BSP) rules and regulations;[40]

As regards the taxpayer's input VAT being refunded:

6. The input taxes are not transitional input taxes;[41]
7. The input taxes are due or paid;[42]
8. The input taxes claimed are attributable to zero-rated or effectively zero-rated sales. However, where there are both zero-rated or effectively zero-rated sales and taxable or exempt sales, and the input taxes cannot be directly and entirely attributable to any of these sales, the input taxes shall be proportionately allocated on the basis of sales volume;[43] and
9. The input taxes have not been applied against output taxes during and in the succeeding quarters.[44]

In addition, and as already intimated, in claims for VAT refund/credit, applicants must satisfy the substantiation and invoicing requirements under the NIRC and other implementing rules and regulations.[45] Thus, petitioner's compliance with all the VAT invoicing requirements is required to be able to file a claim for input taxes attributable to zero-rated sales.[46] The invoicing and substantiation requirements should be followed because it is the only way to determine the

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[39] Ibid.
[40] Ibid.
[41] Ibid.
[42] Ibid.
[43] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; and *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra.
[44] *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*, supra; *San Roque Power Corporation vs. Commissioner of Internal Revenue*, supra; and *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, supra.
[45] *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 197663 and 197770, March 14, 2018.
[46] *J.R.A. Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 171307, August 28, 2013. *am*

veracity of the taxpayer's claims.[47] Moreover, it must be pointed out that compliance with all the VAT invoicing requirements provided by tax laws and regulations is mandatory.[48]

Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.[49]

Furthermore, it must be emphasized that in cases filed before this Court, which are litigated *de novo*, party-litigants must prove <u>every minute aspect</u> of their case.[50] Thus, it behooves petitioner to show compliance with each of the foregoing requisites and invoicing requirements. As a corollary, the absence of *any* of the said requisites is already a valid ground to deny the refund claim.

Petitioner's administrative claim was timely filed.

The *first* requisite pertains to the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

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[47] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

[48] *Eastern Telecommunications Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 183531, March 25, 2015.

[49] *Team Energy Corporation vs. Commissioner of Internal Revenue, et seq.*, supra.

[50] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue, et seq.*, G.R. Nos. 201665 and 201668, August 30, 2017; *Commissioner of Internal Revenue vs. Philippine National Bank*, G.R. No. 180290, September 29, 2014; *Commissioner of Internal Revenue vs. United Salvage and Towage (Phils.), Inc.*, G.R. No. 197515, July 2, 2014; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.

The present claim covers the 1st, 2nd, 3rd and 4th quarters of CY 2017. Counting two (2) years from the close of the said quarters, respectively, the following table indicates the pertinent last day for the filing of an administrative claim for the concerned quarter/period, to wit:

2017	Period	Close of the Taxable Quarter	Last Day to File Administrative Claim
1st quarter	January 1, 2017 to March 31, 2017	March 31, 2017	March 31, 2019
2nd quarter	April 1, 2017 to June 30, 2017	June 30, 2017	June 30, 2019
3rd quarter	July 1, 2017 to September 30, 2017	September 30, 2017	September 30, 2019
4th quarter	October 1, 2017 to December 31, 2017	December 31, 2017	December 31, 2019

In this case, there is no dispute that petitioner timely filed its administrative claim for refund, covering the said four (4) quarters, on March 28, 2019.[51]

The judicial claim was filed out of time.

As regards the *second* requisite, the same necessitates that the judicial claim must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the 90-day period under Section 112(C) of the NIRC of 1997, as amended.

In *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,*[52] the Supreme Court summarized the rules regarding the prescriptive periods for filing of the administrative and judicial claims for refund or tax credit of input VAT. The pertinent rules for the judicial claim are quoted below:

> "**B. 120 [now 90] + 30-Day Period**
>
> 1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day [now 90-day] period, or (2) file the judicial claim within thirty days from the expiration of the 120-day [now 90-

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[51] Exhibit "P-1", *BIR Records* (Exhibit "R-8"), p. 157; Exhibit "P-10", *BIR Records* (Exhibit "R-8"), p. 158.
[52] G.R. No. 173241, March 25, 2015, citing *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership*, G.R. No. 191496, January 15, 2014. am

day] period if the Commissioner does not act within the 120-day [now 90-day] period.

2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.

3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. *(Aichi and San Roque)*

4. As an exemption to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. *(San Roque)*

5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. *San Roque)*"

In *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*,[53] the Supreme Court stated:

> "A final note, the taxpayers are reminded that when the 120-day [now 90-day] period lapses and there is inaction on the part of the CIR, they must no longer wait for it to come up with a decision thereafter. The CIR's inaction is the decision itself. It is already a denial of the refund claim. Thus, the taxpayer must file an appeal within 30 days from the lapse of the 120-day [now 90-day] waiting period."

The Supreme Court has also stated that "any claim filed in a period less than or beyond then 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA."[54]

Thus, from the filing of petitioner's administrative claim on March 28, 2019, respondent had ninety (90) days or until June 26, 2019, to act on the said claim. In case of inaction within the said 90-day period, petitioner has thirty (30) days from such expiration to file its judicial claim, or until July 26, 2019.

In the present case, the BIR issued the letter denying petitioner's entire claim for refund on June 6, 2019, which

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[53] G.R. No. 168950, January 14, 2015, see also *Lapanday Foods Corporation vs. Commissioner of Internal Revenue*, G.R. No. 252821, September 2, 2020.
[54] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

while dated within the 90-day period, was received by petitioner only on July 2, 2019, which is already beyond the 90-day period.[55]

Petitioner then posted its judicial claim, via the present *Petition for Review*,[56] on August 1, 2019, which was beyond the 90+30-day period for respondent to resolve the administrative claim and for petitioner to file its judicial claim, which ended on July 26, 2019.

It is reiterated that the "judicial claim should be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day [now 90-day] period, <u>whichever is sooner</u>."[57] Petitioner's receipt of the June 6, 2019 letter on July 2, 2019 does not alter the jurisdictional period within which to appeal due to inaction. Here, the 30-day period to appeal to the CTA due to inaction commenced on June 27, 2019, after the lapse of the 90-day period on June 26, 2019, and ended on July 26, 2019.

Clearly, the instant Petition for Review, posted only on August 1, 2019, was filed out of time. Thus, this Court has no jurisdiction.

WHEREFORE, the instant Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

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[55] Par. 2, Stipulated Facts, JSFI, Docket – Vol. I, p. 217; Exhibit "P-2", Docket – Vol. I, pp. 30 to 31.
[56] Docket – Vol. I, pp. 13 to 25.
[57] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice

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