REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BRITISH AMERICAN TOBACCO (PHILIPPINES), LIMITED, Petitioner,	**CTA CASE NO. 10322**
	Members:
- versus -	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 31 2023 4:30 p.m.

x - x

DECISION

FERRER-FLORES, J.:

The **Petition for Review** prays that the Court render judgment declaring petitioner entitled to a refund in the amount of **₱474,654,897.35**, representing unutilized/excess input VAT on importation of goods and domestic purchases of goods and services as of December 31, 2017, pursuant to Section 112(B) of the National Internal Revenue Code (NIRC) of 1997, as amended, and ordering respondent to grant petitioner a refund in the said amount.[1]

THE PARTIES

Petitioner **British American Tobacco (Philippines), Limited** is a foreign corporation organized and existing under the laws of England with a License to Transact Business issued by the Securities and Exchange Commission (SEC) to establish its branch office in the Philippines to carry on business as importer of cigars and cigarettes and goods related thereto.[2] It is registered with the Bureau of Internal Revenue (BIR) as a value-added

---

[1] Statement of the Case, Pre-Trial Order dated August 4, 2022, Docket – Vol. IV, p. 2032.

[2] Exhibits "P-2" to "P-3", Docket – Vol. IV, pp. 2203 to 2243.

tax (VAT) taxpayer, with address at 11th Floor Kingston Tower, Acacia Avenue, Madrigal Business Park, Alabang, Muntinlupa City.[3]

Respondent is the duly appointed **Commissioner of Internal Revenue** vested under the appropriate laws with the authority to carry out functions, duties and responsibilities of said office, including, the duty to act upon and approve claims for refund or tax credit pursuant to the provisions of the NIRC of 1997, as amended, and other tax laws, rules and regulations.[4]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On July 30, 2018, petitioner filed with the BIR's Excise Large Taxpayers Audit Division II (ELTAD II) an Application for Cancellation of Registration/TIN (BIR Form No. 1905), and letter of even date,[5] requesting for the cancellation of its registration with the BIR and for the issuance of a certificate of tax clearance.

The BIR's ELTAD II issued the Preliminary Assessment Notices (PANs) dated July 23, 2020 for the calendar years (CY) 2016 and 2017, against petitioner.[6] The latter then settled and paid the amounts reflected in the said PANS on July 24, 2020.[7] Subsequently, the BIR's ELTAD II issued the Certificate of No Outstanding Tax Liability dated July 29, 2020,[8] stating that petitioner has no internal revenue tax liability per records of the BIR.

Thereafter, on July 30, 2020, petitioner, through counsel, filed with the BIR's ELTAD II, an Application of Tax Credits/Refunds (BIR Form No. 1914),[9] and letter of even date,[10] requesting for the refund of its previously incurred and unutilized input VAT attributable to importation of goods and local purchases of goods and services as of December 31, 2017 in the amount of ₱474,654,897.35.

The BIR denied the administrative claim for refund in the VAT Refund/Credit Notice dated October 27, 2020, which petitioner received on October 30, 2020.[11]

---

3 Exhibit "P-1", Docket – Vol. IV, p. 2202.
4 Par. 1, Stipulation of Facts, *Joint Stipulations of Facts and Issues* (JSFI), Docket – Vol. IV, p. 1991.
5 Exhibit "P-30", Docket – Vol. 6, pp. 2975 to 2978.
6 Exhibits "P-31" and "P-32", Docket – Vol. 6, pp. 2979 to 2985, and 2987 to 2993, respectively.
7 Exhibits "P-33" and "P-34", Docket – Vol. 6, pp. 2995 to 3030.
8 Exhibit "P-35", Docket – Vol. 6, p. 3031.
9 Exhibits "P-37" and "P-37-A", Docket – Vol. 6, p. 3052; and Exhibit "R-1", BIR Records (Exhibit "R-7"), p. 1262.
10 Exhibits "P-36" and "P-36-A", pp. 3032 to 3040.
11 Exhibit "R-6", BIR Records (Exhibit "R-7"), pp, 1553 to 1554.

PROCEEDINGS BEFORE THIS COURT

The present *Petition for Review* was filed on August 3, 2020.[12]

On November 16, 2020, respondent filed through registered mail his *Answer (To the Petition for Review dated 03 August 2020).*[13]

The Pre-Trial Conference was initially scheduled on April 15, 2021,[14] but was reset to, and held on, June 9, 2022.[15] Prior thereto, the *Pre-Trial Brief for Petitioner* was filed on February 2, 2022,[16] while respondent's *Pre-Trial Brief* was submitted on April 11, 2022.[17]

On June 2, 2021, respondent transmitted the *BIR Records* for this case, consisting of 1562 pages in one folder.[18]

On July 11, 2022, the parties filed their *Joint Stipulation of Facts and Issues*,[19] which was admitted and approved by the Court in its Resolution dated July 20, 2022,[20] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated August 4, 2022 was then issued.[21]

Trial then ensued, with the parties presenting and offering their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following individuals: (1) Ms. Bethany L. Cruz,[22] its Senior Corporate Finance Manager; (2) Ms. Joan D.

[12] Docket – Vol. 1, pp. 57 to 88.
[13] Docket – Vol. IV, pp. 1862 to 1874.
[14] Notice of Pre-Trial Conference dated December 4, 2020, Docket – Vol. IV, pp. 1877 to 1878.
[15] Resolution dated March 14, 2022, Docket – Vol. IV, p. 1958; and Minutes of the hearing held on, and Order dated, June 9, 2022, Docket – Vol. IV, pp. 1987, and 1989 to 1990, respectively.
[16] Docket – Vol. IV, pp. 1896 to 1908.
[17] Docket – Vol. IV, pp. 1980 to 1984.
[18] *Compliance* dated May 24, 2021, Docket – Vol. IV, pp. 1891 to 1892.
[19] Docket – Vol. IV, pp. 1991 to 2004.
[20] Docket – Vol. IV, p. 2006.
[21] Docket – Vol. IV, pp. 2032 to 2045.
[22] Exhibit "P-41", Docket – Vol. II, pp. 872 to 894; Exhibit "P-42", Docket – Vol. IV, pp. 1918 to 1943; Exhibit "P-43", Docket – Vol. IV, pp. 2011 to 2013, and 2015; and Minutes of the hearing held on, and Order dated, September 29, 2022, Docket – Vol. IV, pp. 2057, 2059 to 2060; Exhibit "P-49", Docket – Vol. IV, pp. 2118 to 2124; and Minutes of the hearing held on, and Order dated, February 23, 2023, Docket – Vol. IV, pp. 2137.

Ventanilla,[23] its Resident Agent; and, (3) Mr. Glenn Ian D. Villanueva,[24] the Court-commissioned Independent Certified Public Accountant (ICPA).[25]

The *ICPA Report*[26] and *Final ICPA Report*[27] were respectively submitted on November 28, 2022 and December 13, 2022.

On March 14, 2023, petitioner filed its *Formal Offer of Evidence*.[28] Respondent, however, failed to file his comment thereon.[29] In the Resolution dated June 29, 2023,[30] the Court admitted all of petitioner's offered exhibits, except Exhibits "P-70-42" to "P-70-44", "P-70-48", "P-70-523", "P-70-764", "P-70-1010", "P-70-1571", "P-70-1587", "P-70-1597", "P-70-1620", "P-71-21", and "P-72-18", for not being found in the records.

On July 21, 2023, petitioner filed its *Motion for Reconsideration (of the Resolution dated June 29, 2023)*.[31] Respondent failed to file his comment thereon.[32] In the Resolution dated November 8, 2023,[33] the Court granted the motion, and accordingly admitted Exhibits "P-70-42" to "P-70-44", "P-70-48", "P-70-523", "P-70-764", "P-70-1010" and "P-56-2237" to "P-56-2326".

For his part, respondent presented the testimony of his lone witness, Revenue Officer (RO) Ryan Calvin G. Morga.[34]

On March 18, 2024, *Respondent's Formal Offer of Evidence* was filed,[35] to which petitioner filed its *Comment [on Respondent's Formal Offer of Evidence]* on April 2, 2024.[36] In the Resolution dated June 19, 2024,[37] the Court admitted all of respondent's offered exhibits.

---

[23] Exhibit "P-44", Docket – Vol. IV, pp. 1683 to 1688; Exhibit "P-45", Docket – Vol. IV, pp. 1944 to 1948; and Minutes of the hearing held on, and Order dated, October 27, 2022, Docket – Vol. IV, pp. 2075, and 2077 to 2078.

[24] Exhibit "P-46", Docket – Vol. IV, pp. 2101 to 2108; and Minutes of the hearing held on, and Order dated, January 26, 2023, Docket – Vol. VI, pp. 2131 to 2132.

[25] Oath of Commission dated September 29, 2022, Docket – Vol. IV, p. 2058; and Minutes of the hearing held on, and Order dated, September 29, 2022, Docket – Vol. IV, pp. 2057, and 2059 to 2060, respectively.

[26] Exhibit "P-47", Binder; and Transmittal Letter dated November 28, 2022, Docket – Vol. IV, pp. 2086 to 2090.

[27] Exhibit "P-48", Binder; and Transmittal Letter dated December 13, 2022, Docket – Vol. IV, pp. 2092 to 2096.

[28] Docket – Vol. IV, pp. 2140 to 2201.

[29] Records Verification Reports dated March 30, 2023 and March 31, 2023 issued by this Court's Judicial Records Division, Docket – Vol. 6, pp. 3066 to 3067.

[30] Docket – Vol. 6, pp. 3072 to 3076.

[31] Docket – Vol. 6, pp. 3077 to 3083.

[32] Records Verification dated September 29, 2023 issued by this Court's Judicial Records Division, Docket – Vol. 6, p. 3092.

[33] Docket – Vol. 6, pp. 3094 to 3097.

[34] Exhibit "R-8", Docket – Vol. IV, pp. 1970 to 1978; and Minutes of the hearing held on, and Order dated, March 5, 2024, Docket – Vol. 6, pp. 3110 to 3112.

[35] Docket – Vol. 6, pp. 3113 to 3117.

[36] Docket – Vol. 6, pp. 3119 to 3122.

The *Memorandum for Petitioner* was submitted on July 26, 2024;[38] while respondent's *Manifestation*,[39] stating that he is adopting the arguments raised in his *Answer* dated November 16, 2020 as his memorandum, was filed on July 26, 2024.

The case was considered submitted for decision on July 30, 2024.[40]

THE STIPULATED ISSUE

The parties stipulated the following issue for this Court's resolution, to wit:

> WHETHER OR NOT PETITIONER IS ENTITLED TO A REFUND OF THE AMOUNT OF ₱474,654,897.35 REPRESENTING ALLEGED UNUTILIZED/EXCESS INPUT VAT ARISING FROM IMPORTATION OF GOODS AND DOMESTIC PURCHASES OF GOODS AND SERVICES AS OF DECEMBER 31, 2017 PURSUANT TO SECTION 112(B) OF THE TAX CODE.[41]

Petitioner's arguments

Petitioner asserts that this Court has jurisdiction over the present petition and maintains that it has timely filed both its administrative and judicial claims for refund. It argues that it exhausted all administrative remedies prior to elevating the case to this Court, within the two-year prescriptive period, and correctly availed of the tax remedy pursuant to Section 112(B) of the NIRC of 1997, as amended. Petitioner likewise claims that it complied with the requirement to obtain a Certificate of Tax Clearance in support of a claim for refund of unutilized/excess input VAT. It contends that it is entitled to a refund in the amount of ₱474,654,897.35, representing unutilized/excess input VAT arising from the importation of goods and domestic purchases of goods and services as of December 31, 2017, pursuant to Section 112(B) of the NIRC of 1997, as amended.

---

[37] Docket – Vol. 6, pp. 3125 to 3126.
[38] Docket – Vol. 6, pp. 3127 to 3151.
[39] Docket – Vol. 6, pp. 3153 to 3155.
[40] Minute Resolution dated July 30, 2024, Docket – Vol. 6, p. 3157.
[41] Stipulation of Issues, JSFI, Docket – Vol. IV, pp. 1991 to 1992.

Respondent's counter-arguments

In his *Answer*, respondent contends that the Court has no jurisdiction over the instant case as petitioner failed to exhaust administrative remedies prior to the filing of the *Petition for Review*; and that should this Court acquire jurisdiction, claims for refund are construed strictly against the taxpayer and liberally in favor of the government.

THE COURT'S RULING

The present *Petition for Review* must be dismissed.

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.**[42]

Sections 7(a)(1) and (2), and Section 11 of Republic Act (RA) No. 1125,[43] as amended by RA No. 9282,[44] confers jurisdiction to this Court relative to decisions and inactions of respondent, and states the manner of appealing the same, to wit:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
>
> (2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relation thereto, or other matters arising

---

[42] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.
[43] AN ACT CREATING THE COURT OF TAX APPEALS.
[44] 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.

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 for action, in which case the inaction shall be deemed a denial**; *(Emphases added)*

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...may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**

xxx xxx xxx. *(Emphases and underscoring added)*

Based on the foregoing provisions, this Court has exclusive appellate jurisdiction over decisions, rulings or inactions of respondent; and the appeal must be filed within 30 days from receipt of such decision or ruling, or after the expiration of the period fixed by law for action. It is the denial or inaction "deemed a denial" which the taxpayer-claimant takes to this Court for review. Without any "decision", this Court, as a court of special jurisdiction, acquires no jurisdiction over a taxpayer-claimant's judicial claim for refund.[45]

Pertinent to the resolution of the present case is Section 112(B) and (C) of the NIRC of 1997, as amended by RA No. 10963,[46] otherwise known as Tax Reform for Acceleration and Inclusion (TRAIN), which reads as follows:

SEC. 112. *Refunds or Tax Credits of Input Tax.* —

xxx xxx xxx

(B) *Cancellation of VAT Registration.* – A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of this Code may, **within two (2) years from the date of cancellation**, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes,

(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**

---

[45] *Team Sual Corporation (Formerly Mirant Sual Corporation) vs. Commissioner of Internal Revenue*, G.R. Nos. 201225-26, April 18, 2018.

[46] 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.

> **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. *(Emphases added)*

Corollary thereto, Section 4.112-1(b) and (d) of Revenue Regulations (RR) No. 13-2018,[47] provides:

> <u>**SEC. 4.112-1. Claims for Refund/Credit of Input Tax. –**</u>
>
> **(b) Cancellation of VAT registration**
>
> A VAT-registered person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Sec. 106 (C) of the Tax Code may, <u>**within two (2) years from the date of cancellation**</u>, apply for the issuance of tax credit certificate for any unused input tax which he may use in payment of his other internal revenue taxes: *Provided, however,* that he shall be entitled to a refund if he has no internal revenue tax liabilities against which the tax credit certificate may be utilized: *Provided, further,* that **the <u>date of cancellation</u> being referred hereto is the <u>date of issuance of tax clearance by the BIR</u>, after full settlement of all tax liabilities relative to cessation of business or change of status of the concerned taxpayer**: *Provided, finally,* that the filing of the claim shall be made only after completion of the mandatory audit of all internal revenue tax liabilities covering the immediately preceding year and the short period return and the issuance of the applicable tax clearance/s by the appropriate BIR Office which has jurisdiction over the taxpayer.
>
> xxx xxx xxx
>
> **(d) Period within which refund/credit of input taxes shall be made**
>
> In proper cases, the Commissioner of Internal Revenue shall grant 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.

---

[47] SUBJECT: Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the "Tax Reform for Acceleration and Inclusion (TRAIN)," Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended.

> The 90-day period to process and decide, pending the establishment of the enhanced VAT Refund System shall only be up to the date of approval of the Recommendation Report on such application for VAT refund by the Commissioner or his duly authorized representative: *Provided, That* all claims for refund/tax credit certificate filed prior to January 1, 2018 will be governed by the one hundred twenty (120)-day processing period.
>
> 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 the Tax Code, as amended. (*Emphases and underscoring added*)

From the aforequoted provisions, to confer jurisdiction upon this Court over claims for refund or tax credit of unused input VAT due to retirement from or cessation of business, the administrative claim must be filed with the BIR within two years from the date of cancellation, which shall be reckoned from the date of issuance of tax clearance by the BIR, after full settlement of all tax liabilities relative to cessation of business or change of status of the concerned taxpayer.

Moreover, in case of full or partial denial of the refund claim, or the failure on the part of the Commissioner to act on the said claim within a period of 90 days, the judicial claim shall be filed with this Court within 30 days from receipt of the decision or after the expiration of the said 90-day period.[48]

To recall, petitioner filed an Application for Cancellation of Registration/TIN with the BIR on July 30, 2018 for the permanent closure of its branch office.[49] The BIR then issued PANs dated July 23, 2020[50] for the CYs 2016 and 2017; and petitioner settled the amounts reflected therein on July 24, 2020.[51] As a result, the BIR issued the Certificate of No Outstanding Tax Liability on July 29, 2020.[52] Thus, petitioner had two years from July 29, 2020 or until July 29, 2022, within which to file its administrative claim for VAT refund or tax credit.

---

[48] Refer to *Energy Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 203367, March 17, 2021; *Commissioner of Internal Revenue vs. CE Casecnan Water And Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; and *Commissioner of Internal Revenue vs. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023.

[49] Exhibit "P-30", Docket – Vol. 6, pp. 2975 to 2978.

[50] Exhibits "P-31" and "P-32", Docket – Vol. 6, pp. 2979 to 2985 and 2987 to 2993.

[51] Exhibits "P-33" and "P-34", Docket – Vol. 6, pp. 2995 to 3030.

[52] Exhibit "P-35", Docket – Vol. 6, p. 3031.

Clearly, petitioner's administrative claim for VAT refund in the amount of ₱474,654,897.35 filed with the BIR on July 30, 2020 was within the two-year prescriptive period.[53]

Correspondingly, from the filing of petitioner's administrative claim on July 30, 2020, respondent had 90 days or **until October 28, 2020**, to act on the said claim.

In the present case, while the respondent issued VAT Refund/Credit Notice denying petitioner's entire claim for refund on October 27, 2020, which is within the 90-day period, the same notice was received by petitioner only on October 30, 2020.[54] Thus, petitioner had 30 days from the lapse of respondent's period to act on the claim on **October 28, 2020**, or until **November 27, 2020** within which to appeal before this Court.

However, the present *Petition for Review* filed by petitioner **on August 3, 2020**, was clearly premature, since respondent's period to act on petitioner's claim had not yet expired. Even more so, when the counting of 30 days was reckoned from the receipt of respondent's decision on October 30, 2020.

At the time of the said filing of the present *Petition for Review*, there could have been no *"inaction"* yet on the part respondent, as understood under Section 7(a)(1)(2) of RA No. 1125, as amended by RA No. 9282, for this Court to take cognizance of. To be clear, the filing of the present *Petition for Review* before this Court was premature as there was nothing yet to review. Petitioner should have waited for respondent to issue a decision or ruling or the lapse of the full 90-day period to act before filing the *Petition*.

To emphasize, the right to appeal to this Court from a decision or *"deemed a denial"* decision of respondent is merely a statutory privilege, not a constitutional right. **The exercise of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise.**[55]

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.

[53] Exhibits "P-36", "P-36-A", "P-37" and "P-37-A", Docket – Vol. 6, pp. 3032 to 3040 and 3052; and Exhibit "R-1", BIR Records (Exhibit "R-7"), p. 1262.
[54] Exhibit "R-6", BIR Records (Exhibit "R-7"), pp. 1553 to 1554.
[55] *Commissioner of Internal Revenue vs. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, October 22, 2014.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ATTESTATION

I attest 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's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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