REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

LAPANDAY FOODS CORPORATION,
Petitioner,

CTA EB NO. 2032
(CTA Case No. 9885)

- versus -

Present:

DEL ROSARIO, *P.J.*,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUN 30 2021 3:10 pm

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court *En Banc*'s resolution is petitioner-movant Lapanday Foods Corporation's (**petitioner-movant**'s/**LFC**'s) "Motion for Reconsideration (of the Decision dated 22 July 2020)" (**MR**) filed on 30 September 2020[1], without respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) comment *per* Resolution dated 12 January 2021.[2]

---

[1] Rollo, pp. 665-692.

[2] In the 12 January 2021 Resolution, the Court denied respondent's "Motion to Admit Attached Opposition". Respondent's "Motion for Reconsideration Re: Resolution dated 12 January 2021" was likewise denied in the 22 March 2021 Resolution.

In its MR, petitioner-movant still insists on its alleged right to wait for the CIR's decision in its administrative claim before filing the judicial claim before this Court. It maintains that Section 112(C)[3] of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provides for alterative options: either to file the judicial claim within thirty (30) days from receipt of the decision *or* to file it within 30 days from the lapse of the 120-day waiting period.

Petitioner-movant posits that the 120-day and 30-day reglementary periods in refund cases is a claim processing rule which does not restrict the subject-matter jurisdiction of this court. Thus, the taxpayer's failure to comply with the 120+30-day period does not deprive the Court of Tax Appeals (**CTA**) of its jurisdiction to adjudicate on the assailed letter issued by the Bureau of Internal Revue (**BIR**), denying its claim for refund of value-added tax (**VAT**). For petitioner-movant, the Court's characterization of Section 112(C)'s 120+30-day period as "mandatory and jurisdictional" overlooks the critical distinction between "claim-processing rules" and "rules governing subject-matter jurisdiction".

According to petitioner-movant, the legislative intent was merely to give the taxpayers option to file an appeal to the CTA despite the pendency of the administrative claims. Taking into account the history of Section 112(C), petitioner-movant submits that the legislature never intended to limit the period by which actual receipt by the taxpayer (and not the issuance of the BIR) of the decision denying the administrative claim for refund is had. The legislature also recognized it should not fault the taxpayer for the BIR's lack of prompt action on the tax refund claims. Petitioner-movant is firm that such intent has been carried over to the Tax Reform for Acceleration and Inclusion Act

---

[3] **Sec. 112.** – *Refunds or Tax Credit of Input Tax.* –

...

(C) *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 <u>Subsection (A) 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, 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.

...

(**TRAIN**) law when the remedy of inaction was removed from the provision.

The Court's ruling follows.

After a careful perusal of petitioner-movant's arguments and with the records of this case readily revealing that the issues raised in this MR are mere reiterations of the previous contentions (that were already considered and passed upon by the Court), We find no compelling reason to depart from our earlier disquisitions.

In *Shangri-la International Hotel Management, Ltd., et al. v. Developers Group of Companies, Inc.*[4], the Supreme Court opined that it is incumbent upon petitioner-movant to raise substantially plausible matters to warrant the relief sought, thus:

> ...
>
> The bulk of the aforementioned grounds is a mere rehash of movant's previous arguments. While DGCI is correct in stating that a motion for reconsideration, by its very nature, may tend to dwell on issues already resolved in the decision sought to be reconsidered and that this should not be an obstacle for a reconsideration, the hard reality is that movant has failed to raise matters substantially plausible or compellingly persuasive to warrant the desired cause of action.
>
> Considering that the grounds presently raised have been sufficiently considered, if not squarely addressed, in the subject Decision, it behooves movant to convince the Court that certain findings or conclusions in the Decision are contrary to law. As it is, however, the instant motion does not raise any new or substantial legitimate ground or reason to justify the reconsideration sought.
>
> ...

It is well-settled in our jurisprudence that a claim for input VAT refund or credit is construed strictly against the taxpayer. Accordingly, there must be strict compliance with the prescriptive periods and substantive requirements set by law before a claim for tax refund or credit may prosper. The 120+30-day periods in Section 112 is not a mere procedural technicality that can be set aside if the claim is otherwise

---

[4] G.R. No. 159938, 22 January 2007.

meritorious. It is *mandatory and jurisdictional* condition imposed by law.[5]

WHEREFORE, premises considered, petitioner-movant's "Motion for Reconsideration (of the Decision dated 22 July 2020)" is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

---

[5] *Team Energy Corporation, et al. v. Commissioner of Internal Revenue*, G.R. No. 197663, 14 March 2018.