REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11189

Members:

RINGPIS-LIBAN, *Chairperson,*
MODESTO-SAN PEDRO, and
FERRER-FLORES, *JJ.*

Promulgated:

NOV 0 8 2023 1:57 pm

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RESOLUTION

For resolution is petitioner's **Motion for Reconsideration** filed on August 4, 2023 seeking reconsideration of this Court's Resolution, dated July 18, 2023,[1] dismissing its Petition for Review for lack of jurisdiction.

Petitioner moves for reconsideration on the following grounds:

> "I. THE HONORABLE COURT HAS JURIDICTION OVER THE PETITION FOR REVIEW FOR THE SAME WAS FILED BY THE PETITIONER WITHIN THE PERIOD PRESCRIBED UDNER SECTION 112 (C) OF THE TAX CODE, AS AMENDED BY SECTION 36 OF REPUBLIC ACT NO. 10963.
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> II. WITH DUE RESPECT, CONTRARY TO THE HONORABLE COURT'S DISQUISITION IN THE ASSAILED RESOLUTION, SECTION 112 (C) OF THE TAX CODE, AS AMENDED, NO LONGER PROVIDES THAT IN CASE OF INACTION BY THE COMMISSIONER, THE THIRTY (30) DAY PERIOD TO APPEAL MUST ALWAYS BE RECKONED FROM THE LAPSE OF NINETY (90) DAY PERIOD TO ACT ON THE ADMINSITRATIVE CLAM FOR REFUND.
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> III. EVEN THE BIR, THROUGH ITS DECISION, RECOGNIZES THE RULE THAT THE TAXPAYER CAN APPEAL TO THE CTA WITHIN THIRTY (30) DAYS FROM RECEIPT THEREOF.

[1] Received by petitioner on July 20, 2023 per Notice of Resolution dated July 18, 2023.

IV. THE STRICT APPLICATION OF THE 90+30-DAY PERIOD WILL RESULT TO MULTIPLICITY OF SUITS AS THE SAME WILL FORCE TAXPAYERS TO ELEVATE CASES TO CTA EVEN IF THE DECISION OF THE BIR MAY BE FAVORABLE TO THEM. IT WILL LIKEWISE RESULT TO PROCEDURAL INEFFICIENCIES.

V. THE STRICT APPLICATION OF THE 90+30-DAY PERIOD TO THE INSTANT CASE WILL RESULT TO INJUSTICE TO PETITIONER."

On the other hand, respondent filed his **Comment and Opposition (Re: Motion for Reconsideration dated 03 August 2023)** on September 19, 2023 reiterating in essence the Court's finding in the instant assailed Resolution.

After revisiting the arguments raised by petitioner, the Court finds no cogent reason to reverse or modify the assailed Resolution.

The crux of the instant motion is the interpretation of Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (R.A.) No. 10963 or the Tax Reform for Acceleration and Inclusion Law (TRAIN Law), to quote:

"SEC. 112. Refunds or Tax Credits of Input Tax. -

(A) xxx
(B) xxx
(C) Period within which Refund or Tax Credit 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 ninety (90) days period shall be punishable under Section 269 of this Code." (Boldfacing supplied)

Petitioner interprets the above provision in its "plain meaning rule" or *verba legis* expressed in the maxim *animi sermo est* or speech is the index of intention. Petitioner, hence, claims that the counting of the thirty (30)-day period within which to file its judicial claim with the Court of Tax Appeals (CTA) commences on May 16, 2023, the date when it received the decision of the respondent partly granting its claim for refund of the Value-Added Tax

(VAT) for the fourth (4^{th}) quarter of calendar year (CY) 2020. Consequently, when the Petition for Review was filed with this Court on June 14, 2023, petitioner asserts that it was timely filed.

We do not agree.

Article 2254 of the Civil Code ordains that *"[n]o vested or acquired right can arise from acts or omissions which are against the law or which infringe upon the rights of others."*

In *Commissioner of Internal Revenue vs. San Roque Power Corporation (San Roque)*,[2] The Petition for Review was filed before the CTA, sans non-observance of the 120 (now 90)[3] + 30 days mandatory and jurisdictional periods as required by Section 112(C) of the NIRC of 1997, as amended. The Supreme Court held that *San Roque* may not claim any right on said petition for failure to adhere with said provision of the law, *viz*:

> "It is hornbook doctrine that a person committing a void act contrary to a mandatory provision of law cannot claim or acquire any right from his void act. A right cannot spring in favor of a person from his own void or illegal act. This doctrine is repeated in Article 2254 of the Civil Code, which states, "No vested or acquired right can arise from acts or omissions which are against the law or which infringe upon the rights of others." For violating a mandatory provision of law in filing its petition with the CTA, San Roque cannot claim any right arising from such void petition. Thus, San Roque's petition with the CTA is a mere scrap of paper."

The quintessence of *San Roque* is that one may not claim any right from an act in violation of the law.

We find the above pronouncement applicable to the present case. Petitioner cannot claim to have met the jurisdictional requirement under Section 112(C) of the NIRC of 1997, as amended, based on its construction of the said provision.

As aptly explained by Justice Marian Ivy F. Reyes-Fajardo in her Concurring Opinion in the case of *Commissioner of Internal Revenue vs. Maersk Global Services Centres (Philippines) Ltd.*:[4]

> "In refund of unused input Valued-Added Tax (VAT), attributable to zero-rated sales, the Court in Division may only take cognizance of a refund claimant's judicial claim, upon strict adherence with Section 112(C) of the National Internal Revenue Code (NIRC). Juxtaposed below are the then Section 112(C) of the NIRC, with Section 112(C) of the NIRC, as

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[2] G.R. No. 187485, February 12, 2013.
[3] Upon effectivity of the TRAIN Law on January 1, 2018.
[4] CTA EB Nos. 2534 and 2554, June 7, 2023.

amended by Republic Act (RA) No. 10963, otherwise known as Tax Reform for Acceleration and Inclusion (TRAIN):

Section 112(C) of the NIRC, prior to Amendment by TRAIN	Section 112(C) of the NIRC, as amended by TRAIN
SEC. 112. ***Refunds or Tax Credit of Input Tax.*** – (A) xxx ***(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 Subsection (A) hereof. **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.	SEC. 112. ***Refunds or Tax Credit of Input Tax.*** – (A) xxx ***(C) Period within which Refund or Tax Credit 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 ninety (90) days period shall be punishable under Section 269 of this Code.

Indeed, TRAIN introduced amendments on the then Section 112(C) of the NIRC. To be precise, the Legislature removed the phrases 'or the failure on the part of the Commissioner to act on the application within the period prescribed above,' 'or after the expiration of the one hundred twenty day-period' in the second paragraph thereof. Moreover, the same provision states that the taxpayer may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the CTA. These changes might lead one to deduce that the BIR's adverse decision in an administrative claim for input VAT refund may be elevated to the Court in Division, irrespective of whether the same was rendered within or outside the ninety (90)-day period to decide such administrative claim. Yet, *Commissioner of Internal Revenue v. Secretary of Justice, and Philippine Amusement and Gaming Corporation* taught us that:

> A law must not be read in truncated parts: its provisions must be read in relation to the whole law. It is the cardinal rule in statutory construction that a statute's clauses and phrases must not be taken as detached and isolated expressions but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole. Every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be considered together with other parts of the statute and kept subservient to the general intent of the whole enactment.
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> In constructing a statute, courts have to take the thought conveyed by the statute as a whole: construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; and endeavor to make every part effective, harmonious and sensible.

By reading the entirety of Section 112(C) of the NIRC, as amended by TRAIN, only the adverse decision rendered by the BIR *within* the ninety (90)-day period prescribed therein, may be the subject of an appeal before the Court in Division. Consider:

First. The first paragraph of Section 112(C) of the NIRC, as amended by TRAIN, states that '[i]n 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.' Jurisprudence holds that '... the word "shall" connotes mandatory character; it indicates a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory in nature.' Therefore, the claimant's administrative claim for input VAT refund must be decided by the BIR *within* the ninety (90)-day period under Section 112(C) of the NIRC, as amended by TRAIN.

Second. The second paragraph of Section 112(C) of the NIRC, as amended by TRAIN, penalizes the failure of any BIR official, agent, or employee to decide on an administrative claim for input VAT refund, within the ninety (90)-day period prescribed therein. This fortifies the position that indeed, BIR personnel must render an adverse decision *within* said ninety (90)-day period, lest they be punished under Section 269 of the same Code.

Third. In the second paragraph of Section 112(C) of the NIRC, as amended by TRAIN, the word 'decision' was preceded by the definite article 'the.' The definite article 'the' particularizes the subject spoken of, and refers to a certain object, as opposed to the article 'a' which refers to the indefinite. It means that the BIR adverse decision in input VAT refund cases specifically pertains to one decided within the ninety (90)-day period to decide an administrative claim, as commanded by the first paragraph of the same provision of the Code.

Additionally, the adverse decision rendered by the BIR within the ninety (90)-day period, too, must be received by the claimant within said period. Revenue Memorandum Circular No. 17-2018 confirmed:

I. Claims for value-added tax (VAT) refund:

A. General Policies

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Should the claim be for denial, such fact should be communicated in writing to the taxpayer within the 90-day period. The denial letter shall be signed by the Commissioner of Internal Revenue (CIR)/Deputy Commissioner - Operations Group (DCIR - OG)/ Assistant Commissioner (ACIR)/Regional Director, as the case may be.

In a nutshell, save for the modification in the period to decide an administrative claim for input VAT refund, *i.e.*, from 120 to 90 days, the pronouncement in *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue* remains good case-law to date:

The judicial claim shall 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, whichever is sooner.

Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, any claim filed in a period less than or beyond the 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA.

On March 27, 2018, Maersk Global Services Centres (Philippines) Ltd. (Maersk) filed its administrative claim for input VAT refund covering Calendar Year 2016. Counting ninety (90) days therefrom, the BIR had until June 25, 2018 to decide on its administrative claim. No BIR adverse decision was received by Maersk as of June 25, 2018; thus, said administrative claim is considered denied pursuant to Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282. Counting another thirty (30) days from June 25, 2018, Maersk had until July 25, 2018 to seek judicial recourse. Ergo, the late filing of its Petition for Review on July 27, 2018, resulted in the Court in Division's non-acquisition of jurisdiction over CTA Case No. 9895." (Citations omitted)

Similarly, as petitioner filed its VAT refund claim of its excess and unutilized input VAT for the 4th quarter CY 2020 with the Bureau of Internal Revenue (BIR) on <u>December 21, 2022</u>, the latter has up to <u>March 21, 2023</u>, or ninety (90) days from petitioner's filing of administrative claim, to decide on the claim for refund. **As there was no adverse decision received by petitioner as of March 21, 2023, the administrative claim is considered**

denied pursuant to Section 7(a)(2) of Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282.[5]

Counting another thirty (30) days from March 21, 2023, petitioner had until April 20, 2023 to take judicial action. Consequently, when petitioner filed its Petition for Review on June 14, 2023, the Court had already lost its jurisdiction over its case.

In the case of *Regus Service Center Philippines B.V.-ROHQ vs. Commissioner of Internal Revenue*,[6] the Court in First Division, through the *ponencia* of Justice Catherine T. Manahan, elucidated the amendments introduced in Section 112(C) of the NIRC of 1997, as amended, in this wise:

> "In determining the timeliness of the filing of a judicial appeal on claims for refund or issuance of a tax credit certificate for excess input VAT, this Court holds that the afore-quoted Section 112 (C) of the 1997 NIRC, as amended, should be read in relation to Section 7 (a) (1) and (2) of RA No. 1125, as amended by RA No. 9282, quoted as follows:[7]
>
> xxx xxx xxx
>
> The Supreme Court, in *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, had the occasion to interpret the above provision as follows, to wit:
>
> > '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 x x x 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. **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**

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[5] 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.
[6] CTA Case No. 9907, June 29, 2023.
[7] 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 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 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 ~ specific period of action, in which case the inaction shall be deemed a denial**;' (emphases supplied)

> **inaction 'deemed a denial,' that the taxpayer can take to the CTA for review. Without a decision or an 'inaction x x x deemed a denial' of the Commissioner, the CTA has no jurisdiction over a petition for review.**'(emphasis supplied).

Simply put, Section 7(a)(1) and (2) of RA No. 1125, as amended by RA No. 9282, clearly provides for this Court's jurisdiction over refunds such that the CT A has exclusive appellate jurisdiction (a) to review respondent's decisions, and (b) to review respondent's inaction "where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.]." To be sure, the charter of this Court expressly provides that if respondent 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. 53 In other words, under this Court's Charter, respondent's inaction on a claim for refund is considered a "denial" of the claim, which may be appealed before this Court within thirty (30) days from the expiration of the period fixed by law for action.

The TRAIN Law still provided "a specific period of action", albeit in the reduced period of ninety (90) days, on the part of respondent. Thus, despite the deletion of the phrase "or the failure on the part of the Commissioner to act on the application within the period prescribed above" found under the former Section 112(C), it cannot be denied that the afore-quoted Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, should still be applied.

One of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or of two laws so that each shall be effective. 55 Such being the case, both Section 112(C) of the 1997 NIRC, as amended by the TRAIN Law and Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, should both be given effect.

Moreover, repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume. For this reason, it has been held that the failure to add a specific repealing clause particularly mentioning the statute to be repealed indicates that the intent was not to repeal any existing law on the matter, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws. 56 Thus, in enacting the TRAIN Law, the legislature is presumed to know the existence of Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282. Such being the case, had Congress intended to further amend or to repeal the said Section 7(a)(2), it could have easily done the same, by adding or mentioning it, in the repealing clause or Section 86 of the TRAIN Law. Notably, Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, is not one of the provisions mentioned in the said Section 86. In addition, no irreconcilable inconsistency and repugnancy exists between Section 112(C) of the 1997 NIRC, as amended by RA No. 10963, and Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282.

Based on the above disquisition, if respondent fails to act within the 90-day period provided under Section 112(C) of the 1997 NIRC, as amended by the TRAIN Law, such inaction should already be deemed a denial of the administrative claim, in accordance with Section 7(a)(2) of RA

> No. 1125, as amended by RA No. 9282, and the refund-claimant must already appeal the said denial, within thirty (30) days from the expiration of the said 90-day period, otherwise, this Court shall not acquire jurisdiction."

As regards the petitioner's ratiocination that the cases of *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,*[8] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue,*[9] *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership,*[10] and *Commissioner of Internal Revenue vs. San Roque Power Corporation (San Roque),*[11] are not in all fours with the instant case in interpreting the mandatory and jurisdictional nature of the thirty (30)-day period to appeal from the lapse of one hundred twenty (120) [now ninety (90)-day period] as they were decided before the enactment of the TRAIN Law, suffice it to say that the same are still applicable insofar as interpreting the said VAT provision. In fact, these cases were being applied by the Court, whether sitting in division or *en banc,* in resolving its jurisdiction over VAT refund claim under the TRAIN Law; and, to name a few:

1. *New York Bay Philippines, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10417, October 4, 2023 (Special Second Division);

2. *NIIT Technologies Philippines, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10196, August 31, 2023 (Special Third Division);

3. *Kurimoto (Philippines) Corporation vs. Commissioner of Internal Revenue*, CTA Case No. 10156, Resolution dated July 18, 2023 and Decision dated January 30, 2023 (Special First Division)

4. *Regus Service Center Philippines B.V. –ROHQ vs. Commissioner of Internal Revenue*, CTA Case No. 9962, June 29, 2023 (Special Third Division);

5. *Rema Tip Top Philippines, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10303, June 22, 2023 (Special Second Division);

6. *Ceamsa Asia, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10148, Resolution dated June 21, 2023 and Decision February 3, 2023 (Special First Division);

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[8] G.R. No. 182737, March 2, 2016.
[9] G.R. No. 168950, January 14, 2015, see also *Lapanday Foods Corporation vs. Commissioner of Internal Revenue*, G.R. No. 252821, September 2, 2020.
[10] G.R. No. 191496, January15, 2014.
[11] G.R. No. 187485, February 12, 2013.

7. *Commissioner of Internal Revenue vs. Maersk Global Services Centres (Philippines) Ltd*, CTA EB Nos. 2534 and 2554, June 7, 2023 (CTA *En Banc*);

8. *Mitsuba Philippines Technical Center corp. vs. Commissioner of Internal Revenue*, CTA EB No. 2631, May 26, 2023 (CTA *En Banc*);

9. *Regus Service Center Philippines B.V. –ROHQ vs. Commissioner of Internal Revenue*, CTA Case No. 9907, April 19, 2023 (First Division); and,

10. *Pacific Ocean Manning, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 9901, November 10, 2022 (Special Third Division).

The filing of the administrative and judicial claims for refund of the foregoing cases falls within the enactment of the TRAIN Law. Nevertheless, the Court still applied the petitioner's cited cases, one way or the other, in reckoning the ninety (90) + thirty (30)-day period in disposing of the issue on jurisdiction.

Moreover, contrary to petitioner's claim, resorting to filing of judicial claim due to inaction of respondent on taxpayers' claim for refund does not mean promoting multiplicity of suits. Such filing is a remedy provided under Section 112(C) of the NIRC of 1997, as amended, in relation to Section 7(a)(2) of R.A. No. 1125, as amended by R.A. No. 9282, for judicious dispensation of justice. For after all, the controversy will be settled the soonest time possible and the taxpayer's right immediately settled.

When petitioner received the VAT Refund Notice on May 16, 2023[12] partially granting its claim for refund, the same was already beyond the ninety (90)-day period for the CIR to act, which ended on March 21, 2023. It is a settled ruled that a judicial claim shall be filed within a period of thirty (30) days after the receipt of respondent's decision or ruling; or, after the expiration of the ninety (90)-day period, **whichever is sooner**. The filing of the instant Petition for Review on June 14, 2023, or after March 21, 2023, therefore, is beyond the Court's jurisdiction.

Jurisdiction is conferred by law and the lack of it affects the very authority of the Court to take cognizance of and to render judgment on the action; otherwise, the inevitable consequence would make the Court's discretion a "lawless" thing.[13]

Rule 9, Section 1 of the Rules of Court provides:

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[12] Par. 9, Petition for Review, Docket.
[13] *Municipality of Sta. Fe vs. Municipality of Aritao*, G.R. No. 140474, September 21, 2007.

> "SECTION 1. *Defenses and objections not pleaded.* — Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, **when it appears from the pleadings** or the evidence on record **that the court has no jurisdiction over the subject matter**, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, **the court shall dismiss the claim**." (Emphasis supplied)

Pursuant to the above provision, there are four instances when the court may *motu proprio* dismiss the claim, namely: (1) lack of jurisdiction over the subject matter; (2) *litis pendentia*; (3) *res judicata*; and (4) prescription of action.[14] The dismissal of the instant case falls within the prescription of action. The Court, therefore, may *motu proprio* dismiss the case as it appears from the petition that lack of jurisdiction exists.

Settled is the rule that claims for tax credit or refund, just like tax exemptions, are strictly construed against the taxpayers.[15] Strict compliance with the ninety (90) + thirty (30)-day period is, therefore, necessary for such claim for refund to prosper.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

[14] Moya II, Salvador N. (2020 Edition). *Remedial Law (Civil Procedure), Volume 1, Part I*, p. 594.
[15] *Sitel Philippines Corp. vs. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017.