REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

J-DEL INVESTMENTS AND MANAGEMENT CORP., Petitioner,	**CTA CASE NO. 10239**
	Present:
- versus -	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: NOV 29 2024 1:09 pm

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RESOLUTION

***FERRER-FLORES, J.*:**

Before this Court is respondent's **Motion for Reconsideration (of the Decision dated 31 July 2024)** *(Motion for Reconsideration)* filed through registered mail on August 21, 2024, and received by the Court on August 29, 2024, with petitioner's **Comment/Opposition (Re: Motion for Reconsideration dated August 21, 2024)** *(Comment)* filed on September 5, 2024.

On July 31, 2024, the Court promulgated a Decision granting petitioner's claim for refund of documentary stamp tax (DST) on shares of stock after determining that it was indeed erroneously paid by petitioner, the dispositive portion of which reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present *Petition for Review* is **GRANTED**.
>
> Accordingly, respondent is hereby **ORDERED** to refund to petitioner the amount of **₱4,314,232.00** representing documentary stamp tax which was erroneously paid on January 3, 2018.
>
> **SO ORDERED.**

In his *Motion for Reconsideration*, respondent reiterates that the present *Petition for Review* should be dismissed for lack of jurisdiction. He argues that the period of 30 days, within which to elevate the case before the Court, should be counted from November 4, 2019, the date when petitioner received the denial letter by Revenue District Officer (RDO) Renato J. Mina, relative to its administrative claim for refund. Respondent continues that there is no rule granting a taxpayer the right to file an appeal or a request for reconsideration with the Commissioner of Internal Revenue (CIR) for an administrative claim for refund under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended. The 30-day period was therefore not tolled by filing an appeal or a request for reconsideration, and, thus, petitioner only had until December 4, 2019 within which to elevate the matter with this Court. The present *Petition for Review,* however, was only filed on January 3, 2020, which was already way beyond the prescriptive period.

Furthermore, respondent stresses that there was no erroneous payment of DST. He expounds that petitioner's claim is not a case of erroneously or illegally collected tax that falls within the purview of Section 229 of the NIRC of 1997, as amended, since there is an erroneous payment only when a taxpayer pays under a mistake of fact – as when he is not aware of an existing exemption in his favor at the time the payment was made. In the present case, respondent avers that petitioner was aware of the different transactions that were entered into at the time it made payment on January 3, 2018. Thus, respondent maintains that petitioner cannot be considered to have made an erroneous payment considering that what it paid was legally due to the government.

Lastly, respondent submits that petitioner should be reminded that taxes are the lifeblood of the government and so should be collected without unnecessary hindrance.

On the other hand, in its *Comment*, petitioner asserts that the Court did not err in ruling that the *Petition for Review* was timely filed. Petitioner reasons that elevating the *Denial Letter* of RDO Renato J. Mina to this Court would have been premature and would have failed to grant this Court jurisdiction over its request for refund. Petitioner maintains that the rules are clear, this Court has jurisdiction over decisions and inaction of respondent only and not any subordinate officer. Petitioner, quoting the Court's Decision, submits that the Court has clearly ruled that petitioner filed both its administrative claim and judicial claim for refund on time.

Petitioner further insists that it sufficiently proved the erroneous payment of DST made by its personnel. Petitioner explains that the factual circumstances presented during trial showed that it indeed erroneously paid a tax that it is not subject to since there was only a sale of shares and not an original issuance thereof, as testified to by petitioner's witnesses which remained unrebutted by respondent. Petitioner also avers that it submitted more than sufficient documentary evidence in support of the letter to respondent, showing that no new shares were issued by it from April 1, 2016 to March 31, 2019; hence, negating the need to pay DST on the original issuance of shares.

Finally, petitioner contends that, while it recognizes that taxes are the lifeblood of the government, "the power of the State to collect tax must be balanced with the taxpayer's right to substantial and procedural due process."

We resolve.

After due consideration, the Court finds respondent's *Motion for Reconsideration* bereft of merit.

Notably, the arguments raised by respondent in the present Motion are a mere rehash of the matters alleged in his *Answer with Motion to Dismiss* filed on June 30, 2020,[1] which have already been thoroughly considered and resolved by the Court in the Decision. Nevertheless, for emphasis, the Court shall briefly address the parties' arguments.

As to the jurisdiction of this Court, respondent is mistaken with his argument that the period to appeal should be reckoned from the receipt of the denial letter of the RDO. As have been exhaustively discussed in the Resolution dated October 14, 2020[2] and the assailed Decision, Sections 7(a)(1) and (2) of Republic Act (R.A.) 1125,[3] as amended by R.A. No. 9282,[4] clearly provide that the jurisdiction of this Court pertains to the review by appeal of decisions of or inactions by the **CIR** and not a revenue district officer, to wit:

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1 Docket – Vol. I, pp. 92 to 102.
2 Docket – Vol. I, pp. 147 to 151.
3 An Act Creating the Court of Tax Appeals.
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.

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 a specific period of action, in which case the inaction shall be deemed a denial; xxx *(Emphasis and underscoring supplied)*

Sections 204(C) and 229 of the NIRC of 1997, as amended, provides that claimant must first file an administrative claim for refund with the respondent and thereafter file its judicial claim with the courts. Both claims must be filed within two years from the erroneous payment of tax.

Again, inasmuch as the erroneous DST payment was made on January 3, 2018, the administrative and judicial claims filed on May 20, 2019[5] and January 3, 2020, respectively, were timely filed within the two-year reglementary period. Clearly, the Court acquired jurisdiction over the present claim.

As to respondent's insistence that there was no erroneous DST payment in this case, the Court finds no error in its finding that petitioner was able to substantiate its claim that there was erroneous payment of DST. To reiterate, the records show that there was indeed no original issuance of its shares of stock that will make petitioner liable for the payment of ₱4,314,232.00 DST on January 3, 2018. Evidently, said DST was erroneously paid and thus, refund is warranted.

In view of the foregoing disquisitions, the Court finds no compelling reason to reverse or modify the Decision promulgated on July 31, 2024.

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[5] Exhibits "P-11" and "P-12", Docket – Vol. II, pp. 650 to 652.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (of the Decision dated 31 July 2024)* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice