REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

LEPANTO CONSOLIDATED MINING COMPANY,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10078

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, ***JJ.***

Promulgated:
MAY 1 0 2023
8:30 a.m.

x- x

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review[1] filed by petitioner Lepanto Consolidated Mining Company (**petitioner/LCMC**) pursuant to Section 3(a)(1)(2)[2], Rule 4 of the Revised Rules of the Court of Tax

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1 Filed on 10 May 2019, Division Docket, pp. 10-20.

2 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:
(a) Exclusive original over or appellate jurisdiction to review by appeal the following:
(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 under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided,* that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of

Appeals (**RRCTA**). The petition seeks the refund and/or issuance of a tax credit certificate (**TCC**) for unutilized input taxes attributable to petitioner's zero-rated sales for the third (3rd) and fourth (4th) quarters of calendar year (**CY**) 2007, in the aggregate amount of ₱13,625,763.91.

Petitioner is a corporation organized under the laws of the Philippines, engaged in mining of gold and other precious metals. It holds office at 20th and 21st floors, Lepanto Building, 8747 Paseo de Roxas, 1226 Makati City, Philippines.

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (**respondent/CIR**) with the power to abate tax liabilities and provide tax refunds.

The antecedent facts follow.

In 2007, petitioner exported 100% of its total sales as certified by the Board of Investments (**BOI**). All said sales were allegedly paid in acceptable foreign currency and duly accounted for in accordance with the rules of the Bangko Sentral ng Pilipinas (**BSP**).

In the conduct of its operations, petitioner imported both consumable and capital goods during the 3rd and 4th quarters of CY 2007 and paid value-added tax (**VAT**) thereon in the amount of ₱21,838,649.00. During the same periods, petitioner incurred output VAT in the amount ₱8,212,885.09 incidental to its sale of scrap assets thus resulting in a net input VAT amounting to ₱13,625,763.91.

On 16 July 2009, petitioner filed an application for tax credit of the foregoing amount with the Department of Finance One-Stop Shop (**DOF-OSS**). On 10 April 2019, petitioner received the Bureau of Internal Revenue's (**BIR**'s) Denial Letter on its administrative claim.

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the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code[.]

Hence, the present petition.

In its petition, petitioner alleges a single ground in support of its action, *i.e.*, its alleged compliance with all the necessary requisites for the grant of its claim for refund. Petitioner insists that: (1) it is a VAT registered entity; (2) 100% of its sales during CY 2007 are all effectively zero-rated; (3) it timely filed the present petition; and, (4) its accumulated input VAT arose out of importation of goods which were all indispensable for its operation.

On 20 May 2019, the Second Division, to which the petition was raffled, issued summons[3] against respondent. On 08 July 2019, respondent filed its Answer.[4] Therein, it essentially stated that the Court has no jurisdiction over petitioner's petition and that latter failed to submit all documentary requirements necessary for its claim.

On 10 July 2019, the Court issued a Notice of Pre-Trial Conference[5] ordering the parties to submit their respective pre-trial briefs (**PTBs**). Respondent filed his or her PTB *Ad Cautelam*[6] on 26 July 2019 while petitioner filed its own PTB[7] on 29 July 2019.

In an Order dated 01 August 2019[8], the Court ordered the parties to submit their respective Joint Stipulation of Facts and Issues (**JSFI**). The parties then filed their JSFI[9] on 22 August 2019. Thereafter, a Pre-Trial Order[10] was issued on 29 August 2019.

In the trial that ensued thereafter, petitioner was only able to present the sole testimony of Myra Celeste O. Abalos (**Abalos**), the court-appointed Independent Certified Public Accountant (**ICPA**) who testified *via* a Judicial Affidavit.[11]

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3 Division Docket, p. 86.
4 Id., pp. 94-104.
5 Id., pp. 106-107.
6 Id., pp. 113-115.
7 Id., pp. 123-128.
8 Id., p. 133.
9 Id., pp. 140-144.
10 Id., pp. 147-150.
11 Id., pp. 232-241.

In addition to identifying pertinent documents, the ICPA testified on the contents of its Report[12] wherein it was essentially stated that after a review of petitioner's records, she found out that the latter had incurred unutilized input VAT amounting to ₱13,058,442.12 during the 3rd and 4th quarters of CY 2007.[13]

After petitioner's repeated failure to present its other witnesses, the Court, in an Order dated 22 March 2021[14], deemed waived its right to present further witnesses and evidence. Consequently, it also directed petitioner to file its Formal Offer of Evidence (**FOE**) within fifteen (15) days from such order. The Court also granted respondent an equal period from receipt of its copy of the FOE within which to file its comment to petitioner's FOE.

In a Records Verification dated 21 June 2021[15], it was noted that petitioner failed to file an FOE within the period prescribed by the Court.

During the hearing for respondent's presentation of evidence, respondent manifested that it would not be presenting any witnesses. Consequently, respondent was given thirty (30) days to file his or her memorandum. Given petitioner's absence, petitioner was given twenty (20) days from notice of such order to file its memorandum.[16]

On 18 June 2021, petitioner filed a Motion for Reconsideration[17] (**MR**) of the Order dated 22 March 2021, praying that it be allowed to present its other witnesses and further evidence on its behalf.

On 19 July 2021, respondent filed a Comment/Opposition[18] to petitioner's MR. On 30 September 2021[19], the Court denied petitioner's MR. However, petitioner was still allowed to file its FOE within fifteen (15) days from such order.

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12 Exhibit "P-53".
13 Id.
14 Division Docket, p. 262.
15 Id., p. 268.
16 Order dated 28 June 2021, id., p. 270.
17 Id., pp. 271-273.
18 Id., pp. 284-287.
19 See Resolution dated 30 September 2021, id., pp. 290-294.

Later, petitioner filed its FOE[20] on 15 November 2021 with respondent's Comment[21] thereto on 20 December 2021.

In a Resolution dated 17 February 2022[22], the Court resolved to admit all of petitioner's offered exhibits except for **Exhibit "P-49-11"** for not being found in the records, and **Exhibits "P-63-1"** to **"P-63-18"** for being blurred and unreadable. The Court further ordered the parties to file their respective memoranda within thirty (30) days from receipt of such order.

On 23 March 2022, respondent filed a Manifestation[23] that he or she will no longer file a Memorandum but instead, it will adopt the arguments contained in his or her Answer. While, on 02 May 2022, petitioner filed its Memorandum[24]

Finally, in a Resolution[25] dated 12 May 2022, the Court submitted the case for decision.

ISSUES

In the parties' JSFI, they agreed to submit the following issues for the Court's resolution:

I.

WHETHER THE COURT HAS JURISDICTION OVER THE INSTANT PETITION; AND,

II.

WHETHER PETITIONER LEPANTO CONSOLIDATED MINING COMPANY IS ENTITLED TO A REFUND OR TAX CREDIT FOR ITS THIRD (3RD) AND FOURTH (4TH) QUARTERS OF 2007 INPUT VALUE-ADDED TAX (VAT) ARISING FROM IMPORTATIONS OF CAPITAL AND CONSUMABLE GOODS AMOUNTING TO THIRTEEN MILLION SIX HUNDRED TWENTY-FIVE THOUSAND SEVEN HUNDRED SIXTY-THREE AND 91/100 PESOS (₱13,625,763.91).

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20 Id., pp. 301-321.
21 Id., pp. 369-371.
22 Id., pp. 374-377.
23 Id., pp. 381-383.
24 Id., pp. 391-405.
25 Id., p. 408.

ARGUMENTS

In support of the issues, petitioner argues that the instant petition's filing on 10 May 2019 was timely considering that it received a copy of the BIR's Denial Letter only on 10 April 2019. As regards the amount of its claim, petitioner essentially argues that it has complied with all the requisites to be allowed a refund or be issued a tax credit of the excess unutilized input VAT enumerated in the Supreme Court's Decision in *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[26] (**Silicon**) namely:

> ...
>
> 1) [T]he taxpayer must be VAT-registered;
>
> 2) [T]he taxpayer must be engaged in sales which are zero-rated or effectively zero-rated;
>
> 3) [T]he claim must be filed within two years after the close of the taxable quarter when such sales were made; and
>
> 4) [T]he creditable input tax due or paid must be attributable to such sales, except the transitional input tax, to the extent that such input tax has not been applied against the output tax.
>
> ...

Relying on its own computations, petitioner argues that it is entitled to a VAT refund or credit for the third (3rd) and fourth (4th) quarters of CY 2007 in the aggregate amount of ₱13,625,763.91.

Respondent, on the other hand, simply argues that the Court no longer has jurisdiction over petitioner's petition, the same having already been filed out of time. Furthermore, respondent contends that even if the petition was timely filed, the claim for refund must be denied for petitioner's failure to comply with the submission of documentary requirements necessary for a successful claim for VAT refund.

The Court's ruling follows.

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26 G.R. No. 172378, 17 January 2011.

At the outset, the Court finds that it has no jurisdiction over the instant petition. Petitioner filed its administrative claim for refund on 16 July 2009. It was anchored on Section 112(A) and (C) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, but prior to the amendments introduced by Republic Act (**RA**) No. 10963[27], otherwise known as Tax Reform for Acceleration and Inclusion Law (**TRAIN**). The said provisions reads 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 of 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.

...

(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.

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27 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.

> **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.**[28]
>
> ...

Section 112(C) of the NIRC of 1997, as amended, speaks of two (2) periods: (1) the 120-day period, which serves as a waiting period to give time for the CIR to act on the administrative claim for a tax credit or refund; and, (2) the 30-day period, which refers to the period for filing a judicial claim with the CTA.[29]

In a plethora of cases, the Supreme Court has consistently interpreted the so-called "120+30-day period" in claims for refund or tax credit cases, pursuant to Section 112(C) of the NIRC of 1997, as amended, as both mandatory and jurisdictional.[30]

In the landmark case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[31] (**Aichi**), the Supreme Court emphasized compliance with the "120+30-day period" under Section 112(C) of the NIRC of 1997, as amended, as a jurisdictional necessity, such that judicial claims filed before the denial of the taxpayer's administrative claim or the lapse of the "120-day period" in case of the CIR's inaction would be deemed premature, while judicial claims filed beyond the 30-day period

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28 Emphasis supplied.

29 *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, G.R. No. 168950, 14 January 2015.

30 See: *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, 08 February 2017; *Deutsche Knowledge Services Pte Ltd. v. Commissioner of Internal Revenue*, G.R. No. 197980, 01 December 2016; *Coral Bay Nickel Corporation v. Commissioner of Internal Revenue*, G.R. No. 190506, 13 June 2016; *Procter and Gamble Asia Pte Ltd. v. Commissioner of Internal Revenue*, G.R. No. 204277, 30 May 2016; *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 182737, 02 March 2016; *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, 08 December 2015; *Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue*, G.R. No. 204745, 08 December 2014; *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. No. 187485, 12 February 2013; *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 196907, 13 March 2013; *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*, G.R. No. 184823, 06 October 2010.

31 G.R. No. 184823, 06 October 2010.

after such denial or lapse would be deemed filed beyond the reglementary period.

However, in *Commissioner of Internal Revenue v. San Roque Power Corporation*[32] (**San Roque**), the Supreme Court recognized an exception to the mandatory nature of the 120-day period. It ruled that BIR Ruling No. DA-489-03, dated 10 December 2003, provided a valid claim for equitable estoppel under Section 246[33] of the NIRC of 1997, as amended. In essence, the aforesaid BIR Ruling stated that the taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the Court by way of Petition for Review.

Thereafter, in *Taganito Mining Corporation v. Commissioner of Internal Revenue*[34], the Supreme Court reconciled the pronouncements in *Aichi* and *San Roque,* to wit:

> ...
> Reconciling the pronouncements in the *Aichi* and *San Roque* cases, the rule must therefore be that during the period December 10, 2003 (when BIR Ruling No. DA-489-03 was issued) to October 6, 2010 (when the *Aichi* case was promulgated), taxpayers-claimants need not observe the 120-day period before it could file a judicial claim for refund of excess input VAT before the CTA. **Before and after the aforementioned period (*i.e.*, December 10, 2003 to October 6, 2010), the observance of the 120-day period is mandatory and jurisdictional to the filing of such claim.**
> ...

Relevantly, in *Silicon,* the case cited by petitioner in support of this petition, the Supreme Court explained that while the general interpretative rule (*i.e.*, BIR Ruling No. DA-489-03) allowed the premature filing of judicial claims within the period of 10 December 2003 up to 06 December 2010 (by providing that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review"), the said rule certainly did not allow the filing of a judicial claim long *after* the expiration of the "120+30-day period".

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32 G.R. No. 187485, 12 February 2013.
33 **SEC. 246.** *Non-Retroactivity of Rulings.* — ...
34 G.R. No. 197591, 18 June 2014; Italics in the original text and emphasis supplied.

Subsequently, in the more recent case of *Commissioner of Internal Revenue v. Taganito Mining Corporation*[35], the Supreme Court, citing *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*[36], provided a summary of the rules on prescriptive periods for claiming refund/credit of input VAT, considering the afore-cited statutory provisions together with relevant jurisprudence, to wit:

> ...
>
> SUMMARY OF RULES ON PRESCRIPTIVE PERIODS FOR CLAIMING REFUND OR CREDIT OF INPUT VAT
>
> The lessons of this case may be summed up as follows:
>
> ***A. Two-Year Prescriptive Period***
>
> 1. It is only the administrative claim that must be filed within the two-year prescriptive period. (*Aichi*)
> 2. The proper reckoning date for the two-year prescriptive period is the close of the taxable quarter when the relevant sales were made. (*San Roque*)
> 3. The only other rule is the *Atlas* ruling, which applied only from **8 June 2007** to **12 September 2008**. *Atlas* states that the two-year prescriptive period for **filing a claim for tax refund or credit of unutilized input VAT payments should be counted from the date of filing of the VAT return and payment of the tax.** (*San Roque*)
>
> ***B. 120+30-Day Period***
>
> 1. **The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty [30] days after the Commissioner denies the claim <u>within the 120-day period</u>, or (2) file the judicial claim within [30] days from the expiration of the 120-day period if the Commissioner does not act within the 120-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 exception to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5

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[35] G.R. No. 219630-31, 07 December 2021; Citations omitted, emphasis and italics in the original text, and emphasis and underscoring supplied.

[36] G.R. No. 191498, 15 January 2014.

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*)

...

Consistent with Section 112 of the NIRC of 1997, as amended, Section 7 of RA 1125[37], as amended by RA 9282[38], confers unto the CTA exclusive appellate jurisdiction to review on appeal the CIR's decision or inaction in cases involving refunds of internal revenue taxes within the following periods, *viz*:

...

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[.]

...

The foregoing provisions categorically state that a party adversely affected by the CIR's decision or inaction may file an appeal before the CTA within 30 days after the receipt of such decision or after the expiration of the period fixed by law for action.

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37 AN ACT CREATING THE COURT OF TAX APPEALS.

38 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

It is thus settled that the taxpayer may file the appeal within 30 days after the CIR denies the administrative claim within the 120-day waiting period, **or** in the alternative, file an appeal within 30 days from the expiration of the 120-day period if there is inaction on the part of the CIR.[39] However, it must be emphasized that the judicial claim has to 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 period, **whichever is sooner**.[40]

The Supreme Court in *Team Energy Corporation (Formerly: Mirant Pagbilao Corporation, et al.) v. Commissioner of Internal Revenue*[41] ruled that the CIR's inaction on an administrative claim for tax credit or refund during the 120-day period is "deemed a denial", pursuant to Section 7(a)(2) of RA 1125, as amended by Section 7 of RA 9282, and the taxpayer has 30 days from the expiration of the 120-day period to file its judicial claim with the CTA; otherwise, its failure to do so renders the "deemed a denial" decision of the CIR final and unappealable.

Conversely put, when the 120-day period lapses and there is inaction on the part of the CIR, **the taxpayer must no longer wait for the CIR to come up with a decision as his inaction is the decision itself.**[42] By operation of law, the refund claim is deemed denied as a result of the CIR's inaction and expiration of the 120-day period. In such cases, the taxpayer must then file an appeal to this Court within 30 days from the lapse of the 120-day waiting period.[43] Any claim filed beyond the 120+30-day period provided by Section 112(C) of the NIRC will inevitably fall outside the jurisdiction of the CTA.[44] After the said period's expiration and with no judicial claim for refund having been filed, the taxpayer's only recourse is to await the CIR's decision on its claim which by then will no longer be subject to judicial review.

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39 *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, supra at note 29, citing *Commissioner of Internal Revenue v. San Roque Power Corporation*, supra at note 32.

40 *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, supra at note 26.

41 G.R No. 197663, 14 March 2018.

42 *Lepanto Consolidated Mining Company v. Commissioner of Internal Revenue*, CTA EB No. 2184 24 May 2021.

43 *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*, supra at note 29.

44 *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, supra at note 26.

As can be deduced from the table below, petitioner's judicial claim was filed *way beyond* the "120+30-day period":

CY 2007	Date of Filing of VAT Return	End of two-year period to file claim[45]	Date of Filing of Administrative Claim	End of 120-day Period	End of 30-day Period from Lapse of 120-day Period	Date of Filing of Judicial Claim	Number of Years Late
3rd Quarter (01 July 2007 to 30 September 2007)	28 November 2007	28 November 2009[46]	16 July 2009[47]	13 November 2009	13 December 2009	10 May 2019	9.41
4th Quarter (01 October 2007 to 31 December 2007)	10 April 2008	10 April 2010[48]					

Counting 120 days from 16 July 2009, the subject administrative claims for VAT refund for the 3rd and 4th quarters of CY 2007 were already deemed denied on 13 December 2009. Therefore, petitioner had 30 days or until 12 January 2010 within which to file a Petition for Review before the Court. Unfortunately, petitioner was only able to file its judicial appeal on 10 May 2019 *or more than nine (9) years after the 30-day period had prescribed.*

Considering the foregoing disquisitions, there is no precedent supporting petitioner's view that the period to file its judicial appeal should be counted from its receipt of the CIR's Denial Letter on 10 April 2019. Law and jurisprudence being clear on the matter of this Court's jurisdiction, it has no other option but to rule that it is already barred from acting on petitioner's claims.

Undoubtedly having no jurisdiction over the present petition, the Court finds no need to belabor itself with a determination of the amount of petitioner's refundable input VAT as any conclusion reached thereon will have no bearing on the case's outcome.

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45 Applying the *Atlas* ruling, considering that the subject period for refund falls between 8 June 2007 to 12 September 2008, the two-year prescriptive period for filing a claim for tax refund or credit of unutilized input VAT payments should be counted from the date of filing of the VAT return.

46 Division Docket, p. 82.

47 Id., pp. 22-23.

48 Id., p. 84.

WHEREFORE, the foregoing premises considered, the Petition for Review filed by petitioner Lepanto Consolidated Mining Company on 10 May 2019 is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

LANEE S. CUI-DAVID
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Special 2nd Division Acting 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice