REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

MANULIFE DATA SERVICES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10138

Members:

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

Promulgated:
DEC 1 1 2023 2:10 pm

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RESOLUTION

CUI-DAVID, J.:

For the resolution of the Court is petitioner's ***Motion for Reconsideration (Decision dated August 10, 2023)***,[1] filed on August 30, 2023, with respondent's ***Opposition (Re: Motion for Reconsideration of the Decision dated 10 August 2023)***,[2] filed on September 26, 2023.

Petitioner seeks the reconsideration of the Court's *Decision* promulgated on August 10, 2023,[3] the dispositive portion of which reads:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

[1] Docket – Vol. V, unpaged.
[2] *Ibid.*
[3] *Ibid.*

Petitioner received the assailed Decision on August 16, 2023. Thus, petitioner had until August 31, 2023, to file its motion for reconsideration. Accordingly, on August 30, 2023, petitioner timely filed its *Motion for Reconsideration (Decision dated August 10, 2023).*

We now proceed to petitioner's arguments.

Petitioner contends that service must be made upon its counsel; otherwise, the service is null, citing *Heirs of Benjamin Mendoza v. Court of Appeals (Heirs of Mendoza case).* [4] According to petitioner, this counsel-service rule extends to administrative processes and proceedings if the party to those proceedings had chosen to appoint counsel, citing *Social Security System v. Commission on Audit* (*SSS case*).[5] Petitioner contends that the *SSS case* "presents an analogue to tax refund claims."

Petitioner further argues that Republic Act (RA) No. 1125 confers to the Court of Tax Appeals (CTA) exclusive appellate jurisdiction to review by appeal decisions or inaction by herein respondent. Focusing on using the word "appellate," petitioner suggests that such "demonstrates the legislature's view that the administrative aspect of tax refunds is allied or intimately connected with the judicial aspect." According to petitioner, owing to this close connection, procedural norms prevailing in assessing tax claims in judicial settings should not be held inapplicable in administrative settings.

Citing *Soriano v. Soriano (Soriano case)*,[6] petitioner argues that the Supreme Court "echoed longstanding precedents (and the language of the Rules of Court) in saying that the notice should be directed to counsel instead, as a general matter." Petitioner contends that ruling contrary to such would deny petitioner the "benefit of a timely resort to an appropriate remedy."

Finally, petitioner avers that it executed a special power of attorney (SPA), which is part of the mandatory supporting document to a refund claim, and submitted such to respondent. Petitioner argues that "the SPA requirement, if freely disposable at the respondent's convenience, would render it surplusage or arbitrary."

[4] G.R. No. 170247, September 17, 2008, 587 PHIL 280-288.
[5] G.R. No. 222217, July 27, 2021.
[6] 130348

We find the instant Motion without merit.

Service to petitioner itself is valid, even though petitioner appointed a counsel. Accordingly, the 30-day period to file a Petition for Review before the Court is counted from its receipt of the letter informing it that its claim for refund has been denied.

First, as stated in the assailed *Decision*, Section 2 of Rule 13 of the Rules of Court[7] governs judicial proceedings and finds no applicability in administrative proceedings before the Bureau of Internal Revenue (BIR).

Second, the *Heirs of Mendoza* and the *Soriano* cases are thus inapplicable. Said cases involve a judicial proceeding, particularly before the Municipal Trial Court in Cities and the Regional Trial Court.

Third, the SSS case is likewise inapplicable. In noting that the decision of the Regional Director of the Commission of Audit (COA-RD) should be received by the counsel and not of petitioner itself, the Supreme Court discussed:

> Respondent's contention that Section 7, Rule IV of the COA Rules is the applicable rule in the service of the COA-RD Decision to petitioner rather than Section 2, Rule 13 of the Rules of Court, is not well taken. Rule IV is entitled "Proceedings before the Auditor." As such, the provision on service of copies of orders or decisions pertains to those issued by the Auditor and not by the COA Regional Director. This is evident from Section 6 thereof which clearly refers to "ND, NC, NS or other order or decision of the Auditor." **Considering that Rule V of the COA Rules, which governs proceedings before the Regional Director, does not specifically provide for the procedure by which a decision of the Regional Director shall be served on a party who is represented by counsel, the Rules of Court will apply**. [*Emphasis and underscoring supplied.*]

[7] SEC. 2. Filing and service, defined. – Filing is the act of submitting the pleading or other paper to the court. Service is the act of providing a party with a copy of the pleading or any other court submission. If a party has appeared by counsel, service upon such party shall be made upon his or her counsel, unless service upon the party and the party's counsel is ordered by the court. xxx

Accordingly, it is only in the absence of a rule pertaining to the receipt of decisions that the Rules of Court will find suppletory applicability. It is to be noted that the NIRC of 1997, as amended, and pertinent BIR regulations provide rules regarding the receipt of decisions.

Primarily, Section 112(C) of the NIRC of 1997, as amended, provides:

> SEC. 112. Refunds or Tax Credits 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 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. [*Emphasis and underscoring supplied.*]

The phraseology of Section 112(C) provides that the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the CTA. While the indirect object of the verb "receipt" is not explicitly stated, the reasonable interpretation would be to pertain to the subject of the sentence, *i.e.*, the taxpayer as the party who is, as a general rule, entitled to receive the decision.

Even without resorting to ordinary rules of grammar, Item I.18 of Revenue Memorandum Order (RMO) No. 23-2023[8] merely speaks of communication to the taxpayer-claimant, *viz.*:

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[8] Mandatory Requirements and Guidelines, Policies and Procedures in the Processing of Claims for Value-Added Tax (VAT) Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group, June 23, 2023.

> The result of the verification of the claim, whether approval or denial, **shall be communicated to the taxpayer-claimant**, which shall be signed by the authorized revenue official and shall be served by the originating processing office. [*Emphasis and underscoring supplied.*]

The same is echoed by Item II.10 of RMO No. 47-2020[9] and Item II.B(12) of RMO No. 25-2019,[10] the latter being the applicable RMO when petitioner received the decision.

Thus, unlike in the *SSS case* where the COA Rules are silent, the NIRC of 1997, as amended, and the RMOs are explicit that the decision is to be communicated to the taxpayer-claimant who, in this case, is petitioner.

Fourth, We find no merit in petitioner's argumentation that the SPA requirement would be rendered a mere surplusage. It must be underscored that the execution of a SPA under Article 1878 of the Civil Code is a contract of agency. By the contract of agency, a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.[11] There is a rationale in the contract of agency, which flows from the "doctrine of representation," that notice to the agent is notice to the principal.[12] However, nowhere in jurisprudence does it provide that a lack of notice to the agent is a lack of notice to the principal when the principal has had actual notice. Precisely, the purpose of the agency is to *extend* the personality of the principal through the facility of the agent.[13] It does not operate to *divest* the principal entirely of personality to transact, or in this case, to divest petitioner of personality to receive notices from respondent.

As such, We see no compelling reason to depart from our ruling in the assailed *Decision.*

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[9] Consolidated and Updated Guidelines and Procedures on Processing of Claims for VAT Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group, November 24, 2020.
[10] Policies and Procedures to Implement the Ninety (90)-Day Period to Process and Grant Claims for Value-Added Tax (VAT) Refund/Credit Pursuant to Section 112 of the National Internal Revenue Code of 1997, as Amended (Tax Code), May 15, 2019.
[11] Article 1868, Civil Code.
[12] Bank of the Philippine Islands v. Laingo, G.R. No. 205206, March 16, 2016.
[13] Doles v. Angeles, G.R. No. 149353, June 26, 2006, 525 PHIL 673-693.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Decision dated August 10, 2023)* is **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice