20-000051-0063

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 10258

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. CLARISSA J. VIRTUDES-BABARAN
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ROMULO MABANTA BUENAVENTURA SAYOC & DELOS ANGELES
21st Floor, Philamlife Tower
8767 Paseo de Roxas, Makati City

GREETINGS:

You are hereby notified by these presents that on **March 7, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **March 13, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED-PHILIPPINE ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10258

Members:
DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO *JJ.*

Promulgated:
MAR 07 2024 ; 2:30PM

x- -x

RESOLUTION

REYES-FAJARDO, *J.*:

On October 5, 2023, a Decision (assailed Decision)[1] was rendered, the *fallo* of which reads:

> **WHEREFORE**, the Petition for Review, filed on February 13, 2020, is **DISMISSED**, for lack of jurisdiction.
>
> **SO ORDERED.**

In so ruling, the Court found that it failed to acquire jurisdiction over CTA Case No. 10258 because petitioner failed to comply with 90+30 days mandatory and jurisdictional periods under Section 112(C) of the NIRC, as amended by Republic Act (RA) No. 10963,[2] in relation to Section 7(a)(1) and (2) of RA No. 1125, as amended by RA No. 9282. Specifically, petitioner filed its

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1 Docket -Volume II, pp.815-828.
2 Tax Reform for Acceleration and Inclusion (TRAIN).

administrative claim for input value-added tax (VAT) refund and its supporting documents on September 30, 2019. Counting ninety (90) days therefrom, the BIR had until December 29, 2019 to decide on said administrative claim. As no BIR adverse decision was received by petitioner as of December 29, 2019, said administrative claim was considered denied by law. Counting another thirty (30) days from December 29, 2019, petitioner had until January 28, 2020 to seek judicial redress. Petitioner's belated filing of its Petition for Review on February 13, 2020 resulted in the Court's lack of jurisdiction over its judicial claim for unused input VAT refund for the 3rd and 4th quarters of Calendar Year (CY) 2017.

In its Motion for Reconsideration (of the Decision promulgated on October 5, 2023)[3] filed on October 25, 2023, petitioner acknowledges that in case of full or partial denial of the claim for unused input VAT refund, the taxpayer may, within thirty (30) days from the receipt of the adverse decision, appeal the same with the Court of Tax Appeals. However, petitioner contends that the reckoning of such thirty (30)-day period should be counted from receipt of respondent's adverse decision, irrespective of whether it was received within or after the lapse of ninety (90)-day period to decide granted by law. The reasons are: (1) the amendments introduced by RA No. 10963 on Section 112(C) of the NIRC, as amended, provides that a claimant shall wait for a full or partial denial of the claim for tax refund, before it may invoke the Court's jurisdiction; (2) the legislative intent behind the amendments introduced by RA No. 10963 to Section 112(C) of the NIRC, as amended, provides that a claimant is entitled to wait for the Commissioner of Internal Revenue's action on its administrative claim for refund before it may appeal the same to the Court of Tax Appeals; and, (3) nothing in Section 112(C) of the NIRC, as amended by RA No. 10963, in relation to Section 7 (a)(2) of RA No. 1125, as amended suggest that failure of the claimant to timely appeal respondent's inaction deemed by law as denial, would foreclose its right to appeal respondent's adverse decision made beyond the ninety (90)-day period to decide the administrative claim for refund of unused input VAT.

Through his *Opposition [Re: Motion for Reconsideration of the Decision dated October 5, 2023]*[4] filed on November 20, 2023,

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[3] *Id.* pp. 829-873.
[4] *Id.*pp.876-991.

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respondent echoes the ruling of the Court which found that petitioner's belated filing of its Petition for Review on February 13, 2020 deprived the Court of jurisdiction over CTA Case No. 10258.

After due consideration of the parties' submissions, the Court finds no compelling reason to reconsider, modify, or even reverse the assailed Decision. The issues raised by petitioner were already passed upon by the Court. In particular, the Court already discussed that petitioner should not have waited for the adverse decision rendered by the BIR outside the ninety (90)-day period to decide petitioner's administrative claim. There is no need to "cut and paste" pertinent portions of the Decision, or re-write the *ponencia* in accordance with the outline of the instant motion.[5]

The pronouncement in *Social Justice Society (SJS) Officers, et al. v. Lim*[6] on the effect and disposition of a motion for reconsideration is instructive:

> The filing of a motion for reconsideration, authorized by Rule 52 of the Rules of Court, does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. This would be a useless formality or ritual invariably involving merely a reiteration of the reasons already set forth in the judgment or final order for rejecting the arguments advanced by the movant; and it would be a needless act, too, with respect to issues raised for the first time, these being, as above stated, deemed waived because not asserted at the first opportunity. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial (Sec. 14, Art. VIII, Constitution); *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

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5 See *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R Nos. 187836 & 187916, March 10, 2015.

6 *Id.*

WHEREFORE, petitioner's Motion for Reconsideration (of the Decision promulgated on 5 October 2023) filed on October 25, 2023 is **DENIED**, for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

WE CONCUR:

(With due respect, I reiterate my Dissenting Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice