REPUBLIC OF THE PHILIPPINES
**COURT OF TAX APPEALS**
Quezon City

## SPECIAL SECOND DIVISION

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| **SANKYU-ATS CONSORTIUM - B,** Petitioner, | CTA CASE NO. **10591** |
| | Members: |
| - versus - | **BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** ***JJ.*** |
| **COMMISSIONER OF INTERNAL REVENUE,** Respondent. | Promulgated: DEC 0 2 2024 3:00 p.m. |

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# RESOLUTION

***BACORRO-VILLENA, J.:***

For the Court's resolution is petitioner Sankyu-Ats Consortium - B's (**petitioner**'s) "Motion for Reconsideration (to the Decision promulgated on 16 May 2024)"[1] (**MR**), filed on 03 June 2024, with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment/Opposition (Re: Petitioner's Motion for Reconsideration)"[2] (**Comment**) filed on 25 June 2024.

In the MR, petitioner seeks the reversal and setting aside of this Court's Decision[3] promulgated on 16 May 2024 (**assailed Decision**) in the above-captioned case, which dismissed the Petition for Review, filed on 19 July 2021, for lack of jurisdiction.[4]

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1 Division Docket, pp. 558-572.
2 Id., pp. 576-585.
3 Id., pp. 536-557.
4 Denied *per* assailed Decision's *fallo*.

In the assailed Decision, this Court held that petitioner failed to file an appeal within the mandatory thirty (30)-day period after receiving the Bureau of Internal Revenue's (**BIR**'s) Denial Letter dated 20 April 2021[5] (**First Denial Letter**), resulting in the Court losing jurisdiction over the instant judicial claim. Although petitioner insisted that its Letter Claim for Refund dated 26 March 2021[6] (**First Administrative Claim**) should not be denied due to incomplete documentation, the Court found this argument without merit, emphasizing the difference between failing to file a claim and submitting incomplete documents.

This Court further ruled that the BIR's First Denial Letter was the "decision" appealable to this Court, and petitioner's refiling of its Letter Claim for Refund dated 12 April 2021[7] (**Second Administrative Claim**) was untimely, as the two (2)-year prescriptive period had already expired. As a result, petitioner lost its right to a refund and/or issuance of a tax credit certificate (**TCC**) in the amount of **₱5,302,408.94**, allegedly representing its excess and/or unutilized input value-added tax (**VAT**) credits attributable to zero-rated sales for the 1$^{st}$ quarter of the calendar year (**CY**) 2019.

In the instant MR, petitioner insists that the filing date of its administrative claim for refund under Section 112(A) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, should be the date of its First Administrative Claim, which was filed on **31 March 2021**, or the last day of the two (2)-year prescriptive period. Despite its initial submission being incomplete, petitioner contends that it genuinely believed it could continue submitting additional or complete documents as the First Denial Letter explicitly states that the denial of its VAT refund application is "**without prejudice to the re-filing of the same with complete documents** within the reglementary period set by law".[8] Petitioner interprets this statement as respondent allowing the continuation of the administrative process, especially since the First Denial Letter was issued after the two (2)-year prescriptive period had lapsed.

5 Exhibit "P-11", Division Docket, p. 429; BIR Records, p. 98.
6 Exhibit "P-6", id., pp. 360-373; id., pp. 82-95.
7 Exhibit "R-1", BIR Records, p. 152.
8 Emphasis supplied.

Petitioner contends further that its Second Administrative Claim[9] was timely filed as a continuation of its First Administrative Claim.[10] Based on this reasoning, petitioner claims that it properly appealed with this Court the BIR's Denial Letter dated 28 May 2021[11] (**Second Denial Letter**). Given that the instant judicial claim[12] was filed on 19 July 2021, petitioner argues that it was filed within the 30-day reglementary period following its receipt of the Second Denial Letter on 18 June 2021.

Lastly, petitioner urges this Court to exercise its equity jurisdiction to relax the strict application of procedural rules in this case, arguing that rigid adherence would hinder rather than promote the broader interests of justice (particularly given that petitioner has allegedly presented strong arguments on the merits of its case).

In his or her Comment, respondent echoes this Court's ruling that it lacks jurisdiction over the instant petition because petitioner's administrative claim for refund was filed beyond the two (2)-year prescriptive period. Respondent reiterates that petitioner's failure to submit complete documentary requirements with its First Administrative Claim amounts to non-filing. Consequently, respondent asserts that this Court correctly ruled that it lacked jurisdiction, not only because petitioner filed its Second Administrative Claim after the prescriptive period, but also because petitioner failed to appeal the First Denial Letter.

Respondent also reiterates that a tax refund, being in the nature of a tax exemption, must be construed *strictissimi juris* against the claimant. The burden of proof lies with petitioner to demonstrate its entitlement to the refund through sufficient and competent evidence. As petitioner failed to meet the necessary requirements for a successful claim, particularly the timely filing of both the administrative and judicial claims, it is not entitled to the refund. Consequently, this Court properly denied the claim for lack of jurisdiction.

**We rule below.**

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9 Exhibit "R-1", supra at note 7.
10 Exhibit "P-6", supra at note 6.
11 Exhibit "R-3", BIR Records, p. 155.
12 Supra at note 3.

After a careful consideration of the parties' arguments, this Court finds no merit in petitioner's MR.

As regards the timeliness of the instant judicial claim, petitioner maintains that its filing of the Second Administrative Claim on 14 May 2021 should be considered timely as a continuation of its First Administrative Claim filed on 31 March 2021. The alleged basis for this interpretation is that the BIR's First Denial Letter explicitly stated that the denial was "**without prejudice to the re-filing of the same with complete documents** within the reglementary period set by law".[13]

We cannot agree with petitioner's interpretation.

As explained in the assailed Decision, filing an administrative claim for refund or tax credit for unutilized input VAT is subject to the mandatory and jurisdictional two (2)-year prescriptive period under Section 112(A) of the NIRC of 1997, as amended. Although petitioner filed its First Administrative Claim within this period, it failed to provide the complete documentary requirements, leading to the BIR's non-acceptance thereof (as stated in the First Denial Letter).

The Court finds no basis for petitioner's argument that the filing of its Second Administrative Claim should be treated as a continuation of its First Administrative Claim, despite the phrase in the First Denial Letter stating the denial was "without prejudice to the re-filing of the same with complete documents **within the reglementary period set by law**". The phrase in question explicitly requires that any refiling include complete documentation and occur within the prescribed period. Since petitioner's First Administrative Claim was incomplete, it is deemed not filed and treated as a mere scrap of paper.

This non-filing indicates there was no valid administrative claim that could be continued by the Second Administrative Claim. Additionally, because the First Administrative Claim was filed on 31 March 2021—the last day of the two (2)-year prescriptive period—petitioner effectively lost the opportunity to refile its administrative claim for refund within the allowable time. As such, the Second Administrative Claim was definitely filed out of time.

[13] Emphasis supplied.

In tax refund cases, strict compliance with the statutory requirements is necessary, including the complete submission of supporting documents within the reglementary period prescribed by law. Again, as pointed out in the assailed Decision, since petitioner opted to refile its administrative claim, it effectively admitted that its earlier submission was incomplete.

To reiterate, for emphasis, even granting that there is no such admission on petitioner's part, it still failed to realize that the BIR's First Denial Letter is the "decision" appealable to this Court. Thus, the BIR's First Denial Letter, which was issued in reference to the timely filed First Administrative Claim but with incomplete documentation, was the decision that should have been appealed to this Court within the 30-day reglementary period. Petitioner's failure to timely appeal this First Denial Letter results in the finality of the BIR's decision.

Moreover, the filing of the Second Administrative Claim after the expiration of the two (2)-year prescriptive period does not cure the untimeliness of the appeal. Jurisprudence is clear that both the administrative claim and the judicial claim must be filed within the prescribed periods.[14] The two (2)-year period provided by law is a jurisdictional requirement, and this Court has no authority to extend or relax such period.

Although, the doctrine of equity jurisdiction allows the Court to relax procedural rules in exceptional circumstances where strict application would result in manifest injustice[15], such equity, however, cannot be used to circumvent or disregard statutory provisions[16], especially when the law expressly provides for mandatory and jurisdictional periods. The two (2)-year prescriptive period under Section 112(A) of the NIRC of 1997, as amended, is not a mere

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14 See *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 173241, 25 March 2015; *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*, G.R. No. 191498, 15 January 2014; *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. Nos. 187485, 196113 and 197156, 12 February 2013.

15 See *Spouses Antonio and Monette Prieto v. Bank of the Philippine Islands [as Successor-In-Interest of Far East Bank and Trust Company] substituted by Philippine Asset Investment [SPV-AMC], as further substituted by Philippine Investment One [SPV-AMC], Inc.*, G.R. No. 259282, 30 August 2023; *Rafael M. Crisol, Jr. v. Commission on Audit*, G.R. No. 235764, 14 September 2021; *Spouses Lanisa Dionela and Leonardo Dionela v. Spouses Esequio Ayuste and Ricarda Ayuste*, G.R. No. 194843 (Notice), 13 March 2019.

16 See *Mariano A. Velez (Deceased), Sr., et al. v. Rev. Francisco Demetrio (Deceased), et al.*, G.R. No. 128576, 13 August 2002, citing *Quirino Mateo and Matias Mateo v. Dorotea Diaz, et al.*, G.R. No. 137305, 17 January 2002.

technicality but a substantive requirement that cannot be waived or extended by the Court.[17]

Pertinently, in *Hedcor, Inc. v. Commissioner of Internal Revenue*[18], the Supreme Court emphasized that the burden of proving entitlement to a tax refund lies with the taxpayer, who cannot be allowed to submit supporting documents after filing the administrative claim for a refund and beyond the two (2)-year prescriptive period, as this would amount to proscribed legal maneuvering, *viz*:

> ...
>
> The Court finds that the Transmittal Letter submitted by petitioner is not a substantial submission that would warrant a change in the reckoning date for the 120-day period for the BIR to act on the claim for refund. As aptly found by the CTA, the letter does not even bear any stamp marking that would show that it was legitimately received by the BIR. The only proof of receipt was a signature, which was not even identified by petitioner.
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> **To allow petitioner's allegations to prevail would set a dangerous precedent, as the reckoning period for the 120 days would be at the mercy of taxpayers. They will then submit complete supporting documents even after the two-year prescriptive period for filing an administrative claim has lapsed. This is obviously not the intention of the law.**
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> **It is worth emphasizing at this point that the burden of proving entitlement to a tax refund is on the taxpayer. It is logical to assume that in order to discharge this burden, <u>the law intends the filing of an application for a refund to necessarily include the filing of complete supporting documents to prove entitlement for the refund. Otherwise, the mere filing of an application without any supporting document would be as good as filing a mere scrap of paper</u>. Besides, the taxpayer was already given two (2) years to determine its refundable taxes and complete the documents necessary to prove its claim. <u>The alleged completion of supporting documents after the filing of an application for an administrative claim</u> — and worse, after the filing of a judicial claim — <u>is tantamount to legal maneuvering, which this Court will not tolerate</u>.**
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> ...

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17 See *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 196907, 13 March 2013.

18 G.R. No. 207575 (Resolution), 15 July 2015; Citation omitted, emphasis and underscoring supplied.

Clearly from the foregoing, petitioner's failure to comply with the statutory requirements, particularly the timely filing of both the administrative and judicial claims, cannot be cured by equity. Tax refunds, being in the nature of tax exemptions, are construed *strictissimi juris* against the taxpayer.[19] The burden of proving entitlement to a tax refund lies with the petitioner, who must strictly comply with the requirements set by law.

Accordingly, the Court finds no cogent reason to disturb the assailed Decision.

**WHEREFORE**, in view of the foregoing, petitioner's "Motion for Reconsideration (to the Decision promulgated on 16 May 2024)", filed on 03 June 2024, is hereby **DENIED** for lack of merit.

**SO ORDERED.**

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**I CONCUR:**

**LANEE S. CUI-DAVID**
Associate Justice

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[19] *Eastern Telecommunications Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 183531, 25 March 2015.