REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

IBEX PHILIPPINES, INC.,
Petitioner,

-versus-

THE COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 1850
(CTA Case No. 8849)

Present:
Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ*

Promulgated:

JUL 08 2020 10:53a.m.

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RESOLUTION

RINGPIS-LIBAN, J.:

For resolution is the petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)"[1] received by the Court *En Banc* on September 25, 2019.

In the "Motion for Reconsideration (of the Decision dated 28 August 2019)," petitioner states that respondent admits that refund claims filed and pending before 11 June 2014 were not deemed denied upon the expiration of the 120-day period from the filing of the VAT refund application as the applicable policy of the respondent then was that the 120-day period runs upon the submission of complete documents; that the denial of petitioner's judicial claim supposedly for being filed out of time amounts to a retroactive application of Revenue Memorandum Circular No. 54-14 ("RMC 54-14")[2] which is prohibited by law; and that petitioner timely filed its judicial claim

[1] Rollo, CTA EB No. 1850, pp. 103-123.
[2] Subject: Clarifying Issues Relative to the Application for Value-Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended.

within 30 days from respondent's notice of denial through RMC 54-14 which stated that all pending administrative VAT refund claims, including petitioner's VAT refund claim, are deemed denied.

On November 7, 2019, the Court *En Banc* issued a Resolution[3] ordering respondent to file his Comment on petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)" within ten (10) days from notice.

On February 4, 2020, the Judicial Records Division of this Court issued a Records Verification Report stating that respondent failed to file his Comment on petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)."

On February 14, 2020, the Court *En Banc* issued a Minute Resolution submitting petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)" for resolution of the Court *En Banc.*

After consideration, the Court *En Banc* resolves to deny the instant motion. The Court *En Banc* reviewed the grounds relied upon by petitioner in support of its Motion for Reconsideration but finds no cogent reason to grant the same. The arguments presented in the said motion were already passed upon, discussed and judiciously resolved in the assailed Decision dated August 28, 2019.

The Court *En Banc* reiterates its ruling that the judicial claim shall be filed within a period of thirty (30) days after receipt of the Commissioner of Internal Revenue (CIR)'s decision or ruling or after the expiration of the 120-day period, whichever is sooner.

The 30-day period for petitioner to file its Petition for Review should be counted from the expiration of the 120-day waiting period that is on the following dates:

Quarterly Return	**Date Filed**	**Expiration of the 120-day period**	**Expiration of the 30-day period**
3rd Quarter 2008	September 30, 2010	January 28, 2011	February 28, 2011
4th Quarter 2008	December 30, 2010	April 29, 2011	May 30, 2011
1st Quarter 2009	March 31, 2011	July 29, 2011	August 30, 2011
2nd Quarter 2009	June 28, 2011	October 26, 2011	November 25, 2011
3rd Quarter 2009	September 28, 2011	January 26, 2012	February 27, 2012
4th Quarter 2009	December 12, 2011	April 10, 2012	May 10, 2012
1st Quarter 2010	March 29, 2011	July 27, 2011	August 26, 2011

[3] Ibid., pp. 126-127.

2nd Quarter 2010	June 27, 2012	October 25, 2012	November 26, 2012
3rd Quarter 2010	September 26, 2012	January 24, 2013	February 25, 2013
4th Quarter 2010	December 10, 2012	April 9, 2013	May 9, 2013
1st Quarter 2011	March 22, 2013	July 20, 2013	August 19, 2013
2nd Quarter 2011	June 28, 2013	October 26, 2013	November 25, 2013
3rd Quarter 2011	September 27, 2013	January 25, 2014	February 24, 2014
4th Quarter 2011	December 3, 2013	April 2, 2014	May 2, 2014

The Petition for Review was filed before the Court in Division only on July 23, 2014. The petitioner's non-compliance with the mandatory period of 120+30 days is fatal to its claim for refund on the ground of prescription. Hence, the Court in Division has no jurisdiction over the petitioner's judicial claim for refund.

It must be stressed that among the ends to which a motion for reconsideration is addressed, one is precisely to convince the Court that its ruling is erroneous and improper, contrary to law or the evidence.[4] If the movant failed to do so, the motion for reconsideration must necessarily fail.

Thus, petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)" deserves to be denied for failing to present any legitimate argument which could warrant reconsideration of the Court *En Banc's* Decision dated August 28, 2019.

WHEREFORE, premises considered, the petitioner's "Motion for Reconsideration (of the Decision dated 28 August 2019)" is **DENIED** for lack of merit. The **assailed Decision** dated August 28, 2019 is **AFFIRMED**.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[4] *Teodulo M. Coquilla vs. The Hon. Commission on Elections and Mr. Neil M. Alvarez*, G.R. No. 151914, July 31, 2002.

WE CONCUR:

(I reiterate my Concurring Opinion)
ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice