REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

TAIHEI ALLTECH CONSTRUCTION (PHIL.), INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10108

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated:

JUL 14 2020 9:00 Am

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RESOLUTION

For the Court's resolution is petitioner's **Motion for Reconsideration (of the February 3, 2020 Resolution)**, filed on March 11, 2020, with respondent's **Opposition (Re: Motion for Reconsideration of the Resolution dated 3 February 2020)**, filed through registered mail on June 24, 2020 and received by the Court on July 2, 2020.

Petitioner moves for the reconsideration of the Court's Resolution dated February 3, 2020, which granted respondent's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court and accordingly dismissed the instant case.

It claims that the jurisprudence relied upon by the respondent and the Court are not on all fours with the instant case. It states that all the cases cited by respondent were decided prior to the issuance of Revenue Regulations (RR) No. 1-2017. It contends that RR No. 1-2017 already repealed Revenue Memorandum Circular (RMC) No. 54-2014. According to petitioner, there is no ruling yet by the courts which categorically factors in the applicability of RR No. 1-2017. Allegedly, the Court's reliance on *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. CIR* and *Rohm Apollo Semiconductor Philippines vs. CIR* is not accurate. Petitioner further submits that this jurisdiction follows the rule of *stare decisis* which provides that a decision must have similar facts in order to be applied as case law or ruling in another pending case.

Moreover, petitioner asserts that the Supreme Court has made an exception to the rule pertaining to the jurisdictional periods of filing a claim, in a case wherein the taxpayer relied on a BIR Ruling, as in the consolidated cases of *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. No. 187485, February 12, 2013 where one of the petitioners, *Taganito Mining Corporation*, was given a leeway by the High Court because of its reliance on a general interpretative order (DA-489-03) issued on December 10, 2003. In the same vein, petitioner is asking for similar treatment since it also relied on the issuance of RR No. 1-2017 which is even more superior to a BIR Ruling.

In his Opposition, respondent points out that the Petition for Review filed on July 10, 2019 was beyond the mandatory and jurisdictional thirty (30)-day period from the expiration of the 120-day period, pursuant to Section 112 of the Tax Code. Hence, respondent prays that the Motion for Reconsideration of the Resolution dated February 3, 2020 be denied for utter lack of merit.

The Court finds the instant motion bereft of merit.

Section 112(C) of the National of Internal Revenue Code (NIRC) of 1997, as amended, provides that respondent has 120 days from the date of submission of the complete documents within which to grant or deny the claim. In case of respondent's inaction on the claim, petitioner is given a period of thirty (30) days from the expiration of the 120-day period to appeal the claim before this Court.

Relevant to the above provision is the case of *Commissioner of Internal Revenue vs. Mindanao II Geothermal Partnership*[1], where the Supreme Court expressly laid down the summary of rules on

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

prescriptive periods for claiming refund or credit of input value added tax (VAT), as follows:

> "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:
>
> xxx xxx xxx
>
> B. 120+30 Day Period
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> 1. The taxpayer can file an appeal in one of two ways: (1) **file the judicial claim within thirty days after the Commissioner <u>denies the claim</u> <u>within the 120-day period</u>**, or (2) **file the judicial claim within thirty days from the expiration of the 120-day period <u>if the Commissioner does not act within the 120-day period</u>**.
>
> 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 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)" (*Emphasis supplied*)

Also, in the case of *Commissioner of Internal Revenue vs. Dash Engineering Philippines, Inc.*[2], the Supreme Court ruled that:

> "In *San Roque*, one of the respondents similarly filed its petition for review with the CTA well after the 120+30-day period. In denying the taxpayer's claim for refund, this Court explained that:
>
> **xxx. The inaction of the Commissioner on Philex's claim during the 120-day period is, by express provision of law, 'deemed a denial' of Philex's claim. Philex had 30 days from the expiration of the 120-day period to file its judicial claim with the CTA. Philex's failure to do so rendered the 'deemed a denial' decision of the Commissioner final and inappealable**. The right to appeal to the CTA from a decision or "deemed a denial" decision of the Commissioner is merely a statutory privilege, not a constitutional right. The exercise of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise. Philex failed to comply with the statutory conditions and must thus bear the consequences. xxx" (*Emphasis supplied*)

From the foregoing, the taxpayer can file the Petition for Review in one of two ways: (1) file the judicial claim within thirty (30) days after the Commissioner denies the claim within the 120-day period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period.

As already held in the assailed Resolution, the rules for claims for refund made prior to the issuance of RMC No. 54-2014 on June 11, 2014 summarized in the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*[3], states that **upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or**

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[2] G.R. No. 184145, December 11, 2013.
[3] G.R. No. 207112, December 8, 2015.

refund; and that the 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

Notably also, Section 3(2) of RR No. 1-2017 itself recognizes the above doctrine in *Pilipinas Total Gas, Inc. vs Commissioner of Internal Revenue*, since the said revenue regulation also states that respondent should have decided on the claim within 120 days from the date of submission of complete documents, or from the date of filing of application, if the claimant-taxpayer did not submit additional documents.

In this case, the 120-day period is counted from petitioner's filing of administrative claims for refund with supporting documents on September 30, 2013 and December 23, 2013 or until **January 28, 2014** and **April 22, 2014**, respectively. Notably, even prior to the issuance of RMC No. 54-2014 on June 11, 2014, the 120-day period had already lapsed. Hence, petitioner should have filed the Petition for Review before the Court within thirty (30) days from the end the 120-day period on January 28, 2014 and April 22, 2014 or until **February 27, 2014** and **May 22, 2014**, respectively. Thus, the filing of the Petition for Review on July 10, 2019, was clearly beyond the 120+30 day period and therefore outside the jurisdiction of the Court.

As to petitioner's allegation regarding the application of the jurisprudence cited in the assailed Resolution, it must be stressed that Article 8 of the Civil Code declares that "judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines." While decisions of the Supreme Court are not laws pursuant to the doctrine of separation of powers, they evidence the laws' meaning, breadth, and scope and, therefore, have the same binding force as the laws themselves.[4]

Furthermore, in the consolidated cases of *De Castro vs. Judicial and Bar Council, et al.*[5], the Supreme Court held:

> "*Stare decisis* derives its name from the Latin maxim *stare decisis et non quieta movere, i.e.*, to adhere

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[4] *Philippine International Trading Corporation vs. Commission on Audit*, G.R. No. 205837, November 21, 2017.

[5] G.R. Nos. 191002, 191032, 191057, 191149, 191342 and 191420, April 20, 2010.

to precedent and not to unsettle things that are settled. It simply means that a principle underlying the decision in one case is deemed of imperative authority, controlling the decisions of like cases in the same court and in lower courts within the same jurisdiction, **unless and until the decision in question is reversed or overruled by a court of competent authority**. The decisions relied upon as precedents are commonly those of appellate courts, because the decisions of the trial courts may be appealed to higher courts and for that reason are probably not the best evidence of the rules of law laid down.

Judicial decisions assume the same authority as a statute itself and, until authoritatively abandoned, necessarily become, to the extent that they are applicable, the criteria that must control the actuations, not only of those called upon to abide by them, but also of those duty-bound to enforce obedience to them. In a hierarchical judicial system like ours, the decisions of the higher courts bind the lower courts, but the courts of co-ordinate authority do not bind each other. The one highest court does not bind itself, being invested with the innate authority to rule according to its best lights." (*Emphasis supplied*)

In this case, petitioner failed to cite any Supreme Court decision which directly reversed or set aside the jurisprudence applied by this Court in the assailed Resolution. There is also no showing that the jurisprudence previously cited in the assailed Resolution are not on all fours with the instant case.

Contrary to petitioner's claim, the Court correctly adopted the ruling in the case of *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*[6], when it considered the respondent's inaction as the decision itself. When the 120-day period lapses and there is inaction on the part of respondent, petitioner must no longer wait for respondent to come up with a decision thereafter. Respondent's inaction is already a denial of the refund claim. Therefore, petitioner must file an appeal within thirty (30) days from the lapse of the 120-day waiting period.[7]

[6] G.R. No. 168950, January 14, 2015.
[7] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, supra.

It bears stressing that a claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. One of the conditions for a judicial claim of refund or credit under the VAT System is compliance with the 120+30 day mandatory and jurisdictional periods. Thus, strict compliance with the 120+30 day period is necessary for such a claim to prosper.[8]

Accordingly, the Court finds no compelling reason to justify the reversal of the assailed Resolution.

WHEREFORE, premises considered, the petitioner's **Motion for Reconsideration (of the February 3, 2020 Resolution)**, is **DENIED** for lack of merit.

SO ORDERED.

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

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

[8] *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.