REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

DENSO PHILIPPINES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2239
(CTA Case No. 10046)

Present:

DEL ROSARIO, ***P.J.,***
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, ***JJ.***

Promulgated:
JUN 2 3 2021 4:31 pm

x - x

DECISION

BACORRO-VILLENA, J.:

At bar is a Petition for Review[1] filed by petitioner Denso Philippines Corporation (**petitioner/DPC**) pursuant to Rule 8, Section 3(b)[2] of the Revised Rules of the Court of Tax Appeals (**RRCTA**). The petition seeks the reversal of the Resolutions dated 02 October 2019[3]

---

1 Filed on 24 February 2020, *Rollo*, pp. 1-18.

2 **SEC. 3.** *Who may appeal; period to file petition.* – …

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

…

3 Division Docket, Volume III, pp. 1371-1378.

and 31 January 2020[4] (**assailed Resolutions**) which the Court's First Division[5] promulgated in CTA Case No. 10046, entitled *Denso Philippines Corporation v. Commissioner of Internal Revenue.*

The antecedent facts follow.

Petitioner filed four (4) separate applications for value-added tax (**VAT**) refund with the Bureau of Internal Revenue (**BIR**), covering the following tax periods on dates indicated below:

VAT Refund Application	Date Filed	Period covered
1st	29 January 2007[6]	1 January to 31 March 2005 1 October to 31 December 2005 1 January to 31 March 2006 1 April to 30 June 2006
2nd	26 November 2008[7]	1 October to 31 December 2006 1 April to 30 June 2007
3rd	23 September 2009[8]	1 July to 30 September 2007
4th	30 March 2010[9]	1 January to 31 March 2008

In four (4) Notices of Denial all dated 26 November 2018[10], the BIR denied all of petitioner's applications for VAT refund. Petitioner received the notices on 12 December 2018.[11]

Aggrieved, through a Petition for Review[12], petitioner filed its judicial claim for refund before this Court on 08 March 2019. The case was subsequently raffled to this Court's First Division that later on

4 Id., pp. 1409 -1412.
5 The First Division is composed of Hon. Presiding Justice Roman G. Del Rosario, as Chairperson, Hon. Associate Justice Esperanza R. Fabon-Victorino (Ret.) and Hon. Associate Justice Catherine T. Manahan, as Members.
6 *Rollo*, p. 4.
7 Id.
8 Id.
9 Id.
10 Id., p. 5; See Annexes "B" to "Ë", Petition for Review, Division Docket, Volume I, pp. 44-49.
11 *Rollo*, p. 5.
12 Id., pp. 10-32.

issued summons[13] against respondent Commissioner of Internal Revenue (**respondent/CIR**).

On 14 June 2019, respondent filed its Answer *Ad Cautelam*[14] to which petitioner filed its Reply[15] on 01 July 2019.

On 23 July 2019, respondent filed his Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court[16] (**Motion for Early Resolution**) wherein he argued that petitioner's action was already barred by prescription. On 13 August 2019, petitioner filed its Comment/Opposition (to the Motion for Early Resolution on the Issue of Jurisdiction dated 19 July 2019).[17]

In a Resolution dated 06 September 2019, the First Division deemed respondent's Motion for Early Resolution submitted for resolution.[18]

Subsequently, the First Division issued the assailed Resolution, dated 02 October 2019[19], granting respondent's motion and dismissing petitioner's petition on the ground of lack of jurisdiction, to wit:

> ...
>
> **WHEREFORE**, premises considered, respondent's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court is hereby **GRANTED**. Accordingly, the Petition for Review under CTA Case No. 10046 is **DISMISSED** for lack of jurisdiction,
>
> **SO ORDERED.**
>
> ...

Disgruntled with the outcome, petitioner filed its Motion for Reconsideration[20] (**MR**) of the foregoing resolution on 29 October

---

13 Summons dated 02 April 2019, Division Docket, Volume I, p. 88; Respondent received said summons on 04 April 2019.
14 Id., pp. 108-124.
15 Id., pp. 129-144.
16 Id., pp. 158-165.
17 Id., Volume III, pp. 1351-1361.
18 Id., pp. 1367-1368.
19 Supra at note 3.
20 Division Docket, Volume III, pp. 1379-1389.

2019. Respondent filed his Comment[21] thereto on 21 November 2019 and on 05 December 2019, the Court submitted petitioner's MR for resolution.[22]

In the now similarly assailed Resolution dated 31 January 2020[23], the First Division maintained its prior action and denied petitioner's MR.

On 24 February 2020, petitioner questioned the First Division's action in its present Petition for Review[24] filed before the Court *En Banc*.

Before Us, petitioner raises this issue –

> WHETHER THE FIRST DIVISION ERRED IN GRANTING RESPONDENT COMMISSIONER OF INTERNAL REVENUE'S MOTION FOR EARLY RESOLUTION ON THE ISSUE OF JURISDICTION OF THE HONORABLE COURT AND DISMISSING PETITIONER DENSO PHILIPPINES CORPORATION'S PETITION FOR REVIEW FOR LACK OF JURISDICTION.

In support of this petition, petitioner contends that the Court has jurisdiction over its judicial claim for refund. According to it, the 120-day period given to respondent to decide on its claim for refund is inapplicable to the case at bar since under Revenue Memorandum Circular (**RMC**) No. 42-03[25], as amended by RMC 49-03[26], it had thirty (30) days from the BIR's request (for documents to support its refund claim) within which to submit them.

---

21 Id., pp. 1393-1403.
22 See Resolution, p. 1406.
23 Supra at note 4.
24 Supra at note 1.
25 Clarifying Certain Issues Raised Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS) by Direct Exporters.
26 Amending Answer to Question Number 17 of Revenue Memorandum Circular No. 42-2003 and Providing Additional Guidelines on Issues Relative to the Processing of Claims for Value-Added Tax (VAT) Credit/Refund, Including Those Filed with the Tax and Revenue Group, One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center, Department of Finance (OSS-DOF) by Direct Exporters.

Petitioner also argues that the subsequent enactment of RMC 54-14[27] on 11 June 2014, requiring the filing of all supporting documents together with the refund application, is in clear contrast to RMC 49-03 and should have prevented the BIR from requesting additional documents. As such, petitioner claims that the BIR was left in the "process" of verifying petitioner's documents and due to the lack of the BIR's request for any additional documents, the 120-day period for respondent to decide the claim had not yet started.

Petitioner argues further that, at any rate, the 30-day period within which to file its appeal with the Court should be counted from its receipt of the Notices of Denial on 26 November 2018.

Additionally, petitioner points out the applicability to its case of Revenue Regulations (**RR**) No. 01-17[28] and the Supreme Court's ruling in *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*[29] (**Total Gas**) which revived all pending refund applications filed prior to the enactment of RMC 54-14 on 11 June 2014.

Lastly, petitioner maintains that, despite its action being barred by prescription, the same would still fall under "other matters"[30] within this Court's jurisdiction as provided in Section 7(a)(1) of Republic Act (**RA**) No. 1125[31] as amended.

As expected, respondent agrees fully with the First Division's actions in the assailed Resolutions.

27 Clarifying Issues Relative to the Application for Value-Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code as amended.

28 Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Credit/Refund Filed Under Section 112 of the Tax Code, as Amended, Prior to Revenue Memorandum Circular No. 54-2014 dated June 11, 2014.

29 G.R. No. 207112, 08 December 2015.

30 **Sec. 7.** *Jurisdiction.* - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue[.]
...

31 AN ACT CREATING THE COURT OF TAX APPEALS.

The Court *En Banc*'s ruling follows below.

After a careful review of the records and parties' arguments, the Court *En Banc* finds the present petition devoid of merit.

At the onset, it must be stated that the First Division has already passed upon and resolved all of petitioner's arguments in the assailed Resolutions. Yet, even after a thorough scrutiny of the records, We are left to agree with the First Division's finding that petitioner's judicial claim for refund was filed out of time.

Section 112 of the National Internal Revenue Code (**NIRC**) of 1997, as amended by RA 9337 provides, thusly:

> ...
>
> **Section 112.** *Refunds or Tax Credits of Input Tax.* -
>
> (A) ***Zero-rated or Effectively Zero-rated Sales.*** - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales...**
>
> ...
>
> (C) ***Period within which Refund or Tax Credit of Input Taxes shall be Made.*** - In proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.**
>
> In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, **the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.**[32]
>
> ...

[32] Emphasis supplied.

In its original petition, petitioner alleged that it tendered complete supporting documents and its refund applications were "deemed complete".[33] In such case, the 120-day period for respondent to act on its claim would have begun to run with the applications' filing. As the First Division found correctly[34], the last day of the 120-day period would have fallen on the following dates:

Quarter Ending	**Last day for filing of claim for refund**	**Date of Filing of Administrative Claim**	**Last day of the 120-day period**
31 March 2005	31 March 2007	29 January 2007	29 May 2007
31 December 2005	31 December 2007	29 January 2007	29 May 2007
31 March 2006	31 March 2008	29 January 2007	29 May 2007
30 June 2006	30 June 2008	29 January 2007	29 May 2007
31 December 2006	31 December 2008	26 November 2008	26 March 2009
30 June 2007	30 June 2009	26 November 2008	26 March 2009
30 September 2007	30 September 2010	23 September 2009	21 January 2010
31 March 2008		30 March 2010	28 July 2010

Petitioner would then have 30 days from the last day of the 120-day period within which to appeal its case to this Court. Thus, when petitioner filed an appeal on 08 March 2019[35], the First Division found the action barred by prescription.

In debunking the First Division's findings, petitioner insists that it could not have completed its submission since the BIR never requested the latter for any other additional documents and that the BIR merely issued the Notices of Denial of its claims.

In both of its petitions before the First Division and the Court *En Banc*, petitioner relies heavily on the following paragraphs of RMC 42-03, as amended by RMC 49-03[36], to wit:

---

33 Paragraph 4.10, Petition for Review, Division Docket, Volume I, p. 17.
34 Supra at note 3, id., p. 1374.
35 Supra at note 12.
36 Supra at note 26.

> ...
>
> **II.) Additional paragraphs are hereto added to the last paragraph of RMC No. 42-2003 to read as follows:**
>
> **Q-18: For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?**
>
> A-18: For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.
>
> <u>For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.</u>
>
> For current and future claims for tax credit/refund, the same shall be processed within one hundred twenty (120) days from receipt of the complete documents. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office, which shall be construed as within the one hundred twenty (120) day period.[37]
>
> ...

It is petitioner's contention that since the BIR has not yet requested additional documents in order to complete the former's submission, the 120-day period was never set in motion. As a result, petitioner asserts that its action has not yet prescribed and that it still had 30 days left within which to appeal the Notices of Denial to this Court.

Unfortunately, whether or not petitioner was able to complete its submission of the documents is of little consequence. Although the 120+30-day period is jurisdictional for the perfection of petitioner's

---

[37] Emphasis in the original text and underscoring supplied.

appeal, Section 112 of the NIRC of 1997, as amended, equally provides a two-year period after the close of the taxable quarter when the sales were made, within which to apply for a VAT refund.

First, assuming that petitioner was able to completely submit the supporting documents along with its refund applications, petitioner should have already filed an appeal with this Court within 30 days from the end of the 120-day period counting from the application's filing. Given that more than a decade has lapsed from petitioner's filing of its administrative claim, its recourse for judicial refund is already way too late to be filed.

Furthermore, if We are to take petitioner's present argument that the 120-day period is inapplicable due to the fact that its supporting documents could not be considered complete; petitioner would still have failed to perfect its administrative claim for refund within the two-year prescriptive period since, under RMC 49-03, the application for refund shall be considered received only upon the submission of complete supporting documents.[38]

The foregoing rules are all outlined in the case of *Total Gas* which petitioner itself invokes in support of its case, to wit:

> ...
>
> To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, 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 refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120 day period allowed to the CIR begins to run from the date of filing.
>
> **In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the NIRC**. The 30-day period from denial of the claim or from the expiration of the 120-day period

38 Supra at note 26.

within which to appeal the denial or inaction of the CIR to the CTA must also be respected.

It bears mentioning at this point that the foregoing summation of the rules *should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014*, such as the claim at bench...[39]

...

Equally, RR No. 01-17[40], which reiterated the rules laid down in *Total Gas*, provides:

...

SEC. 3. PROCESSING OF ADMINISTRATIVE CLAIMS. - VAT claims filed and pending prior to the effectivity of RMC 54-2014, the claims solely covered by these Regulations, shall be processed and approved in accordance with the following rules:

1. The claimant-taxpayer, under Section 112(A) of the Tax Code, as amended, has two (2) years after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must have submitted his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, "officially received" as clarified under RMC No. 49- 2003.

2. In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents.
   Hence, pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the clamant-taxpayer within the aforesaid

---

39 Supra at note 29; Emphasis supplied, italics and underscoring in the original text.
40 Supra at note 28.

> statutory two-year period. For this purpose, the result shall be communicated in writing by the concerned revenue official.[41]

...

From the foregoing, it would appear that petitioner's reliance on *Total Gas* and RR No. 01-17 contradicts its own arguments in support of its actions before the First Division and before the Court *En Banc*. Clearly, petitioner has the obligation to ensure the submission of its complete supporting documents to the BIR within two (2) years from the end of taxable quarter wherein the sales were made; otherwise, the claim for refund would be barred by prescription. Given the taxable periods involved, the end of the two-year period would have fallen on the following dates:

Taxable periods covered	**End of two-year period**
1 January to 31 March 2005	31 March 2007
1 October to 31 December 2005	31 December 2007
1 January to 31 March 2006	31 March 2008
1 April to 30 June 2006	30 June 2008
1 October to 31 December 2006	31 December 2008
1 April to 30 June 2007	30 June 2009
1 July to 30 September 2007	30 September 2009
1 January to 31 March 2008	32 March 2010

Since petitioner insists on the impossibility of having completely submitted its supporting documents, it is a safe assumption that it would have no qualms with the conclusion that it was not able to perfect its application for refund within the two-year prescriptive period under Section 112 of the NIRC of 1997, as amended. With that said, there is no legal basis to sustain petitioner's argument that its appeal to the Court should be counted from its receipt of the Notices of Denial when even prior thereto, it had already failed to file its administrative claim for refund in accordance with RMC 49-03 (which deems the same complete only upon submission of the complete supporting documents).

Moreover, a taxpayer's submission of these supporting documents within the two-year period remains the taxpayer's prerogative. As the Supreme Court explains in *Total Gas*:

41 Emphasis in the original text and underscoring supplied.

> ...
>
> ...[E]xcept in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms ***what*** additional document must be presented in support of a claim for tax credit or refund - it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.
>
> The foregoing conclusion is but a logical consequence of the due process guarantee under the Constitution. Corollary to the guarantee that one be afforded the opportunity to be heard, it goes without saying that the applicant should be allowed reasonable freedom as to when and how to present his claim within the allowable period.
>
> **Thereafter, whether these documents are *actually* complete as required by law - is for the CIR and the courts to determine.** Besides, as between a taxpayer-applicant, who seeks the refund of his creditable input tax and the CIR, it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.[42]
>
> ...

Besides, petitioner's claim that its tender of documents at the time of application's filing could not be considered as a complete submission thereof under RMC 49-03 is inconsequential.

Although RMC 49-03 gives the taxpayer an opportunity to file its supporting documents subsequent to the refund application's filing; the same does not, however, bar the taxpayer from submitting all its supporting documents along therewith. Neither does RMC 49-03 prevent the BIR from receiving the submitted documents simultaneous with the application and considering the same complete as of its submission. After all, when petitioner filed its applications for refund, the documents it submitted were duly received while the rest were directly verified at its office. Similarly, RMC 49-03 does not mandate the BIR to further request the taxpayer for additional documents even after finding the documents submitted and verified to be complete in order for the 120-day period to run.

---

42 Supra at note 29; Emphasis and italics in the original text and underscoring supplied.

As regards to petitioner's argument that its case may nevertheless fall within the purview of "other matters" under Section 7(a)(1) of RA 1125, We echo the First Division's resolve when it held, to wit:

> ...
>
> In the instant case, the appeal, through the filing of petitioner's petition for review on March 8, 2019, has already prescribed. Hence, even if the issue raised was within the ambit of "other matters" on jurisdiction, this Court was already precluded from taking cognizance of the instant case since the appeal was filed out of time, hence, vesting no jurisdiction on the court.[43]
>
> ...

WHEREFORE, with the foregoing premises considered, the Petition for Review filed by petitioner Denso Philippines Corporation on 24 February 2020 is hereby **DENIED** for lack of merit. Accordingly, the assailed Resolutions dated 02 October 2019 and 31 January 2020, respectively, of the Court's First Division in CTA Case No. 10046, entitled *Denso Philippines Corporation v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

---

43 Supra at note 4.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice