REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ORICA PHILIPPINES, INC.,
Petitioner,

CTA EB NO. 2926
(CTA Case No. 10036)

Present:

RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES *JJ.*

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 25 2026 3:48 p.m.

x- -x

RESOLUTION

FERRER-FLORES, ***J.:***

Before the Court is the **Motion for Reconsideration (Re: Honorable Court of Tax Appeals – En Banc's Decision dated 1 October 2025)** filed by petitioner **Orica Philippines, Inc. (Orica)** on October 27, 2025,[1] with **Comment and Opposition (Re: Motion for Reconsideration dated 27 October 2025)** filed by respondent **Commissioner of Internal Revenue (CIR)** on December 15, 2025.[2]

On October 1, 2025, the Court *En Banc* promulgated a Decision (assailed Decision)[3] denying, for lack of merit, the *Petition for Review* filed by petitioner. In the assailed Decision, the Court *En Banc* affirmed the ruling of the Court in Division, which dismissed the case for lack of jurisdiction for failure of petitioner to timely elevate an appeal within 30 days from the lapse

[1] *Rollo*, pp. 117 to 138.
[2] *Id.* at 142 to 147.
[3] *Id.* at 99 to 111.

of the 90-day period within which respondent must act on the administrative claim for refund. The dispositive portion reads as follows:

> **WHEREFORE**, in light of the foregoing considerations, the instant **Petition for Review (Re: Honorable Court of Tax Appeals – Special First Division's Resolution dated 14 May 2024)** is hereby **DENIED** for lack of merit. Accordingly, the Court in Division's Decision dated December 19, 2023 and Resolution dated May 14, 2024 in CTA Case No. 10036 are hereby **AFFIRMED**.
>
> **SO ORDERED.**

In its *Motion*, petitioner contends that the applicable law at the time of the filing of its administrative and judicial claims for refund was Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (R.A.) No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law. Petitioner, thus, argues that the *Silicon case*,[4] which pertains to the second, third and fourth quarters of taxable year 2001 and the *Rohm case*,[5] which involves the months of July and August 2000, are inapplicable to the present case. Petitioner urges this Court to instead consider the recent case of *Citco International Support Services Limited Philippines ROHQ vs. Commissioner of Internal Revenue*,[6] which involves a claim for refund filed after the effectivity of the TRAIN Law and presents facts similar to the instant case.

Petitioner further contends that Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law, clearly states that the reckoning of the 30-day period within which an appeal to the Court of Tax Appeals (CTA) may be made specifies only one circumstance, that is – from receipt of the decision denying the claim.

Petitioner emphasizes that the deletion of the phrase "*or the failure on the part of the Commissioner to act on the application within the period prescribed above*" and the insertion of the phrase "*the failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90) day period shall be punishable under Section 269 of this Code*" shows the intention of the lawmakers to compel the respondent to act on the taxpayer's administrative claim of refund. To treat the inaction of the BIR as a deemed denial of the administrative claim, notwithstanding the deletion of the phrase, would run counter to the clear intention of the lawmakers in amending Section 112 (C) of the NIRC of 1997, as amended.

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4 *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.

5 *Rohm Apollo Semiconductor Philippines Inc. vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2025.

6 CTA EB No. 2900 (CTA Case No. 10258), August 7, 2025.

Petitioner maintains that there is an irreconcilable inconsistency and repugnancy between Section 7(a)(2) of R.A. No. 1125, as amended by R.A. No. 9282 and Section 112 (C) of the NIRC of 1997, as amended. Petitioner argues that if the concept of deemed denial were to remain applicable, it may lead to an absurd situation wherein a taxpayer files a petition with the CTA within 30 days from the occurrence of a deemed denial, only to later receive an actual decision granting, partially granting, or denying the claim for refund. Such a scenario would result in conflicting determinations between the deemed denial and the actual decision. Petitioner contends that the actual decision must prevail as it involves a substantive review and evaluation of the merits of the taxpayer's claim, whereas a deemed denial occurs without such examination. Moreover, applying both simultaneously would transport taxpayers to the pre-TRAIN Law regime, disregarding the legislative intent to compel the BIR to act within the prescribed period and to save the taxpayers from the unnecessary payment of filing fees.

Finally, petitioner argues that Section 112 (c) of the NIRC of 1997, as amended by the TRAIN Law, being a special law, prevails over Section 7 (a)(2) of R.A. No. 1125,[7] as amended by R.A. No. 9282,[8] which is a general law. Petitioner underscores that the use of the word "shall" in Section 112 (C) of the NIRC of 1997, as amended by TRAIN Law and RR No. 13-2018, denotes the mandatory character of the rule. This means that the CIR is mandated to act on a taxpayer's claim for refund within 90 days from the date of submission of supporting documents. Moreover, the imposition of penalties under Section 269 of the NIRC of 1997, as amended, for failure of any official, agent or employee of the BIR to act within the prescribed period strengthens the mandatory nature of the BIR's action on the taxpayer's claim for refund.

On the other hand, in his *Comment and Opposition*, respondent argues that the Court has no jurisdiction over the instant case. Respondent maintains that, by express provision of law, the inaction of the CIR on a claim during the 90-day period is deemed a denial of a claim, and the taxpayer has 30 days from the expiration of the 90-day period to file a judicial claim with the Court; otherwise, his failure to do so renders the deemed denial final and unappealable. Citing the *Silicon case*, respondent contends that the judicial claim must be filed within a period of 30 days either from receipt of the CIR's decision or ruling, or from the expiration of the 120-day period [now 90], whichever is sooner.

7 An Act Creating the Court of Tax Appeals, June 16, 1954.

8 An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

After evaluating the arguments of both parties, the Court finds that petitioner's *Motion for Reconsideration* is bereft of merit.

A cursory reading of the present *Motion* reveals that the arguments raised by petitioner are merely a reiteration of matters already considered and exhaustively discussed by the Court *En Banc* in the assailed Decision. The Court *En Banc* shall nonetheless address the CIR's arguments to finally lay to rest the issues he has reiterated.

As held in the assailed Decision, the Court agrees with petitioner that the applicable law in this case is Section 112 (C) of the NIRC of 1997, as amended by the TRAIN Law, considering that the administrative claim for refund was filed on September 25, 2018 and its judicial claim for refund filed on February 15, 2019, both after TRAIN Law's effectivity on January 1, 2018. The Court, however, holds that it lacks jurisdiction over the instant case due to petitioner's failure to timely file its judicial claim.

For clarity of discussion, the relevant provision of Section 112(C) of the NIRC of 1997, both prior to and following the enactment of the TRAIN Law and Corporate Recovery and Tax Incentives for Enterprises Act (CREATE Law),[9] is reproduced below:

Before TRAIN Law	After TRAIN Law	After CREATE Law
In case of full or partial denial of the claim for tax refund or tax credit, **or the <u>failure on the part of the Commissioner to act on the application within the period prescribed above</u>**, 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.**	**In case of full or partial denial of the claim for tax refund**, the taxpayer affected may, **within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals**: Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application **within the ninety (90)-day period** shall be punishable under Section 269 of this Code.	In case of full or partial denial of the claim for tax refund, or **<u>the failure on the part of the Commissioner to act on the application within the period prescribed above</u>**, the taxpayer affected may, **within thirty (30) days from** the receipt of the decision denying the claim or after **the expiration of the ninety (90)-day period, appeal the decision with the Court of Tax Appeals**: *Provided, however*, That failure on the part of any official, agent, or employee of the Bureau of Internal Revenue to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.

[9] R.A. No. 11534, April 11, 2021.

Based on the foregoing, it is clear is that the TRAIN Law: (1) reduced the period for the CIR to act on administrative claims for VAT refund from 120 days to 90 days; (2) imposed liability by expressly penalizing the failure of any BIR official, agent, or employee to act on the refund claim within the 90-day period; and, (3) allowed taxpayer to appeal with the CTA within 30 days from receipt of the decision of the CIR.

Verily, the TRAIN Law was enacted to streamline the VAT refund process by shortening the prescribed period for the BIR to act on the refund claim and by underscoring the mandatory nature of such period through the imposition of penalties in case of inaction. The amendment, however, proved deficient insofar as it failed to provide for situations where the CIR does not act on the administrative claim within the prescribed period. In such cases, the taxpayer appears to be left without recourse, compelled to await the CIR's eventual decision and thereafter file an appeal within 30 days from receipt thereof.

When examined against the governing rules, jurisprudence and the well-established rules of statutory construction, however, the Court finds that the taxpayer's remedy for the CIR's inaction remained available even under the TRAIN Law.

To emphasize, Section 7(a)(1) and (2) of R.A. No. 1125, as amended by R.A. No. 9282, categorically vests this Court with exclusive appellate jurisdiction to review by appeal, among others, decisions and <u>inactions</u> by the CIR in cases involving <u>refunds of internal revenue taxes</u>, fees or other charges, penalties <u>where the NIRC provides a specific period for action</u>, <u>in which case the inaction shall be deemed a denial</u>.

Put simply, under this Court's Charter, the CIR's failure to act on an administrative claim is deemed a denial of the claim, which may be appealed before this Court within 30 days from the expiration of the period fixed by law. Significantly, the TRAIN Law continued to provide a specific period of action, shortened to 90 days, for the CIR to act on refund claims. Thus, despite the deletion in Section 112(C) of the NIRC of 1997 of the phrase "*or the failure on the part of the Commissioner to act on the application within the period prescribed above*" under the TRAIN Law, the clear mandate of Section 7(a)(1) and (2) of R.A. No. 1125 remains operative. The CIR's inaction within the statutory 90-day period must still be deemed a denial, thereby preserving the taxpayer's right to appeal before this Court.

Moreover, one of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or two laws so that each shall be effective. In order that one law may operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act.[10]

Section 112 (C) of the NIRC of 1997, as amended by the TRAIN Law is neither inconsistent nor irreconcilable with Section 7(a)(2) of R.A. No. 1125, as amended by R.A. No. 9282. The former provides that when the CIR acts within the prescribed 90-day period and issues a full or partial denial of the administrative claim for refund, the taxpayer may, within 30 days from receipt of the decision, appeal to the CTA. The latter, on the other hand, expressly covers situations where the CIR fails to act within the period required by law, in which case, the taxpayer may file a judicial appeal before the CTA within 30 days from the lapse of the 90-day period. This remedy exists without prejudice to the imposition of penalties upon the responsible officer, agent, or employee of the BIR for failure to act within the prescribed period.

The foregoing interpretation was further reinforced by the enactment of the CREATE Law, which took effect on April 11, 2021. While it adopted the amendments introduced by the TRAIN Law, it also expressly provides the taxpayer's right to appeal to the CTA upon the CIR's failure to act within the 90-day period.

Both Section 112(C) of the 1997 NIRC, as amended by the TRAIN Law and Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, must be harmonized and given effect.

Moreover, repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume.[11] The failure to add a specific repealing clause particularly mentioning the statute to be repealed indicates that the intent was not to repeal any existing law on the matter, unless an irreconcilable inconsistency and repugnancy exists in the terms of the new and the old laws.[12]

In *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation), et. seq.*,[13] although the factual circumstances in that case are not entirely identical to the present case as the administrative claim for refund was filed on December 20, 2004 and the judicial claim on April 22, 2005, prior to the effectivity of TRAIN Law, the Supreme Court nonetheless categorically ruled, making express reference to

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10 *Rosario Valera vs. Mariano Tuason*, G.R. No. L-1276, April 30, 1948.
11 *Celiar Atienza vs. Noel Sacramento Saluta*, G.R. No. 233413, June 17, 2019.
12 *The Commission on Audit of the Province of Cebu vs. Province of Cebu*, G.R. No. 141386, November 29, 2001.
13 G.R. No. 203547, December 3, 2025.

the amendment introduced by the TRAIN Law, that strict compliance with the 90+30 day period is both mandatory and jurisdictional. The Court explained:

> Based on the foregoing, it is evident that if the CIR fails to act on the application for tax refund/credit within the 120-day period (now 90 days), the remedy of the taxpayer is to appeal the inaction of the CIR to the CTA within 30 days. Compliance with the 120+30-day period is mandatory and jurisdictional.

The 90+30 day period is mandatory and jurisdictional such that judicial claims filed before the lapse of the 90-day period for the CIR to act on the administrative claim for refund is deemed premature, while judicial claims filed beyond the 30-day period after such denial or lapse would be deemed filed out of time.

Here, counting 90 days from the date of filing of the administrative claim for refund on September 25, 2018, respondent had until December 24, 2018 to act on the said claim. Considering that the said claim was unacted upon by respondent as of said date, petitioner had until **January 23, 2019**, or 30 days thereafter, to file a judicial claim before this Court. Petitioner, however, filed its judicial claim only on **February 15, 2019.**

Moreover, this Court is not bound by its ruling in *Citco* which granted petitioner's claim for refund despite being filed beyond the 90+30 period. It must be stressed that that the Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justifiable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[14] Courts are bound by prior decisions. Thus, once a case has been decided one way, courts have no choice but to resolve subsequent cases involving the same issue in the same manner.[15]

It bears emphasizing that 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.[16] Thus, the mere fact that a taxpayer has undisputed excess input VAT, or that the tax was admittedly illegally, erroneously or excessively collected from him, does not entitle him as a matter of right to a tax refund or credit. Well-settled is the rule that tax refunds or credits, just like tax

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[14] *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003.

[15] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. Nos. 184360 & 184361; *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.)*, G.R. No. 184384, February 19, 2014.

[16] *Northern Mindanao Power Corporation vs. Commissioner of Internal Revenue*, G.R. No. 185115, February 18, 2015.

exemptions, are strictly construed against the taxpayer. The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.[17]

All told, the Court *En Banc* finds no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: Honorable Court of Tax Appeals – En Banc's Decision dated 1 October 2025)** is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With due respect, please see Dissenting Opinion.
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

With due respect, I maintain my position in the assailed Decision.
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

[17] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et. seq.*, G.R. No. 187485, February 12, 2013.

LANEE S. CUI-DAVID
Associate Justice

Reiterating my previous position in the assailed Decision.
HENRY S. ANGELES
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

ORICA PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2926
(CTA Case No. 10036)

Present:

RINGPIS-LIBAN, *P.J.*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
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CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
MAY 25 2026 3:48 p.m.

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DISSENTING OPINION

BACORRO-VILLENA, J.:

With due respect, I am constrained to withhold my concurrence from the pronouncement of the *ponencia*, which holds that petitioner's judicial claim for refund was belatedly filed and that the Court in Division, thus, had no jurisdiction over the controversy.

I am not unaware of my concurrence in the assailed *En Banc* Decision promulgated on 01 October 2025 (**assailed Decision**), which affirmed the findings and ruling of the Court in Division. However, upon re-examining the factual milieu of the case and the applicable statutes, I respectfully submit that petitioner's claim for refund was filed on time.

I essay my reasons below.

While I agree that the prevailing doctrine of "deemed denial" still holds and has not been abrogated, I, with due respect, submit that this doctrine applies only when the Commissioner of Internal Revenue (**CIR**) or his or her authorized representative fails to act on the administrative claim within the prescribed ninety (90)-day period.

Sections 7 and 11 of the Republic Act (**RA**) No. 9282[1] provide that when the CIR or his or her authorized representative fails to act within the specific period prescribed by the National Internal Revenue Code (**NIRC**) of 1997, as amended, such inaction is deemed a denial of the taxpayer's claim, that is already appealable before the Court of Tax Appeals (**CTA**):

> ...
>
> **SEC.** 7. *Jurisdiction.* - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> ...
>
> 2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial**[.]
>
> ...
>
> **SEC. 11.** *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or **inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA **within thirty (30) days** after the receipt of such decision or ruling or **after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days** from the receipt of the decision or ruling or **in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon**. A Division of the CTA shall hear the appeal: *Provided, however*, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that

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1 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc.[2]

...

Section 86[3] of RA No. 10963[4] or the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law, which contains a lengthy enumeration of laws expressly repealed by the said law, did *not* mention RA 9282. Thus, considering that the TRAIN did not repeal the pertinent provisions of RA 9282, it cannot be said that the "deemed denial" rule, insofar as claims for refund of unutilized input taxes attributable to zero-rated sales, has already been abrogated. Truth is, the "deemed denial" rule still finds relevance even after the passage of the TRAIN, and it could not be disregarded simply because a similar provision dealing with the same subject matter has been deleted.

Consistently, it has been held that "whenever the legislature enacts a law, it has in mind the previous statutes relating to the same subject matter, and in the absence of any express repeal or amendment, the new statute is deemed enacted in accordance with the legislative policy embodied in those prior statutes."[5]

Applying herein the foregoing, in enacting the TRAIN, the legislature is presumed to have had in mind the pertinent provisions of RA 9282 with respect to when the taxpayer may treat respondent CIR's inaction as a denial. Thus, in the absence of its express repeal, the TRAIN is deemed enacted in accordance with the legislative policy embodied in such prior laws (including RA 9282).

The next pivotal query is whether the doctrine of "deemed denial" could find application in the instant case.

I, respectfully, submit that it does *not*.

Section 112 of the NIRC of 1997, as amended by the TRAIN, states that:

...

Sec. 112. *Refunds or Tax Credits of Input Tax -*

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2 Emphasis supplied and italics in the original text.

3 **Sec. 86.** *Repealing Clause.*

4 AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

5 *Hon. Arturo C. Corona, et al. v. Court of Appeals, et al.*, G.R. No. 97356, 30 September 1992.

> ...
>
> (C) *Period within which Refund of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund for creditable input taxes within **ninety (90) days from the date of submission of the official receipts or invoices and other documents** in support of the application filed in accordance with Subsections (A) and (B) hereof: *Provided*, **That should the Commissioner find that the grant of refund is not proper, the Commissioner must *state* in writing the legal and factual basis for the denial.**
>
> In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals: *Provided, however*, That **failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.**[6]
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> ...

In the landmark case of *Commissioner of Internal Revenue v. San Roque Power Corporation*,[7] the Supreme Court, in interpreting Section 112(D) [now Section 112(C)], held that the taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty (30) days after the CIR denies the claim within the 120-day [now ninety (90)-day] waiting period, or (2) file the judicial claim within 30 days from the expiration of the 120-day (now 90-day) period if the CIR does not act within that period.

In *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*,[8] the Supreme Court clarified that the 120-day (now 90-day) period was intended to serve as a waiting period to give time for the CIR or his or her authorized representative to **act** on the administrative claim for a refund or credit. In the same case, it was clarified that the inaction or when the CIR or his or her authorized representative failed to act within the waiting period, the same shall be considered as a decision itself that would trigger the running of the thirty (30)-day period to appeal.

Here, petitioner filed its administrative claim for refund on **25 September 2018**. Under Section 112(C) of the NIRC of 1997, as amended, the CIR or his or her authorized representative had ninety (90) days, or until 24 December 2018, to act upon the said claim. Petitioner alleges that on 16 January 2019, it received a letter dated 07 December 2018 (**Denial Letter**) partially denying its claim for refund. The Court in Division held that the Denial Letter was issued beyond the ninety (90)-day period, thus, petitioner should have elevated an appeal within thirty (30) days from the expiration

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6 Emphasis supplied, italics in the original text and supplied.
7 G.R. Nos. 187485, 196113 & 197156, 12 February 2013.
8 G.R. No. 168950, 14 January 2015.

thereof or until 23 January 2019. As such, the judicial claim filed on 15 February 2019 was filed out of time.

With due respect, the foregoing conclusion may not be able to withstand scrutiny.

The controlling datum here is the date of the CIR's "action," not the date of the petitioner's receipt. In the present case, the Denial Letter, which contains the partial denial of petitioner's administrative claim for refund, was issued on 07 December 2018, ***i.e.*, within the ninety (90)-day period to act.** Thus, **there was no inaction, and the doctrine of "deemed denial" does not apply. What exists is a categorical partial denial, received by the petitioner allegedly on 16 January 2019**. As such, the reckoning of the thirty (30)-day period to appeal must commence, not from the expiration of the ninety (90)-day period, but from the date of actual receipt of the denial.

Moreover, in the seminal case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[9] **(Aichi)**, the Supreme Court construed Section 112(D) [now Section 112(C)] of the NIRC of 1997, as amended, as follows:

> ...
> The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) **when a decision is <u>issued</u> by the CIR before the lapse of the 120-day period**; and (2) **when no decision is made after the 120-day period.** In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.
> ...

From the foregoing, it is evident that the Supreme Court construe the phrase "to act" to mean "to issue a decision." Additionally, such a construction is evident in the minutes of the Bicameral Conference Committee Hearings for the disagreeing provisions to the precursor bills to TRAIN, *i.e.*, House Bill No. 5636 and Senate Bill No. 1592, to wit:[10]

> ...
> CHAIRPERSON CUA: My anxiety comes from a force action upon an action 'no. *Kung hindi ka gumalaw* then there's a . . . there's an ultimate result. So may I . . . I have to my left the author of the attrition law. I think that is something . . . I mean *kung walang* action that should be . . . that should be attached somehow to an attrition consequence so that *umaksyon 'yung* BIR within 90 days or *ano*, we can draft some

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9 G.R. No. 184823, 06 October 2010; Emphasis and underscoring supplied.

10 Bicameral Conference Committee Meeting on the Disagreeing Provisions of House Bill No. 5636 and Senate Bill No. 1592 Re: [TRAIN], 17th Congress, 2nd Session, 05 December 2017, pp. XXXI-1 to XXXI-3; Emphasis and underscoring supplied.

matrix there. May we . . . may we hear from the DOF if they have any proposals here?

CHAIRPERSON ANGARA: Yeah. DOF any . . . any ideas here.

MR. CHUA: The . . . **the objective is to come up with a decision**.

CHAIRPERSON ANGARA: Yes.

...

SEN. RECTO: Mr. Chairman, the version has the solution.

CHAIRPERSON ANGARA: Yeah. Yes. What is that, Your Honor?

SEN. RECTO: It says here . . .
CHAIRPERSON ANGARA: Yeah.

SEN. RECTO: . . . a result in the approval of the claim for refund without prejudice to its subsequent audit to be conducted by the BIR.

...

CHAIRPERSON CUA. But even if the number is small, it is considering that the system is broken today. Now, we are trying to reform it to have a system that become more efficient. I understand the objective of the Senate panel and I agree that we have to protect the taxpayers right to collect his money *baka naman masyadong* disadvantageous to the government. I think we want to do is police those officials **to make sure they release it on time, within the prescribed 90-day period**. So, perhaps the penalty for the BIR officials can be upon those metrics, for your consideration, Your Honor.

CHAIRPERSON ANGARA: Are you proposing penalty for BIR officials who fail to decide? Something like that? What does the BIR say to that?

MS. TERESITA M. ANGELES (Director II, Officer-in-Charge, Assistant Commissioner for Large Taxpayers Service, Bureau of Internal Revenue). As far as the present situation, we have the 120 days for the VAT refund. If not acted upon, the revenue officer may be subjected to administrative cases.

CHAIRPERSON ANGARA: Is that in the law?

MS. ANGELES: No, Sir.

CHAIRPERSON ANGARA: That is not in the law?

MS. ANGELES: It is in the revenue . . .

CHAIRPERSON CUA: *Ilan ang naano diyan . . .*

...

The foregoing reflects the unmistakable intent of Congress to impose upon the CIR, or his or her duly authorized representative, the affirmative duty to act upon the claims of taxpayers, not as a matter of administrative convenience, but as a measure of substantive right accorded for the benefit of taxpayers. To dismiss the petitioner's claim solely on the ground that it remained unacted upon, notwithstanding a decision having been rendered within the statutory ninety (90)-day period but belatedly transmitted, would be to frustrate, if not defy, the clear legislative mandate and the very safeguards the law was designed to bestow. Verily, to countenance such inaction is to denude the law of its spirit and efficacy.

In the present case, since a decision was issued on 07 December 2018 (well within the ninety [90]-day period for respondent to act), the first scenario contemplated in *Aichi* applies. Consequently, the doctrine of "deemed denial" finds no application, and the thirty (30)-day period for judicial recourse must be reckoned from petitioner's actual receipt of respondent's decision and not from the expiration of the ninety (90)-day period

To rule otherwise would unjustly burden the CIR or his or her authorized representative by imputing to him or her the consequences of a delay in the transmittal or receipt of the decision — an event clearly beyond his or her control.[11] Such a construction likewise places an undue strain upon taxpayers who, under threat of losing the right to judicial recourse, would be forced to prematurely resort to litigation — even in cases where the administrative process, if allowed to run its course, might have afforded full and adequate relief. It undermines the doctrine of primary administrative jurisdiction, which commands due deference to the specialized competence and procedural prerogatives of administrative agencies,[12] such as the Bureau of Internal Revenue (**BIR**). It erodes respect for the mechanisms of administrative redress and incentivizes unnecessary judicial intervention. Worse still, it risks compounding the perennial problem of docket congestion, thereby impeding the prompt administration of justice.

The following disquisition likewise finds support in the subsequent amendments to the NIRC of 1997 brought by RA 11976[13] (which took effect on 22 January 2024)[14] or the Ease of Paying Taxes (**EOPT**) and RA 12066[15] (which

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[11] Since such inaction exposes the concerned official, agent, or employee of the BIR to penalties and/or fines under Section 269 of the NIRC of 1997, as amended.

[12] See *Nestle Philippines, Inc., et al. v. Uniwide Sales, Inc., et al.*, G.R. No. 174674 (Resolution), 20 October 2010.

[13] AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 128, 200, 204, 229, 235, 236, 237, 238, 241, 243, 245, 248, AND 169; AND REPEALING SECTION 34(K) OF THE NATIONAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

[14] Revenue Memorandum Circular (RMC) No. 3-2024, 10 January 2024.

[15] AN ACT AMENDING SECTIONS 27, 28, 32, 34, 57, 106, 108, 109, 112, 135, 237, 237-A, 269, 292, 293, 294, 295, 296, 297, 300, 301, 308, 309, 310, AND 311, AND ADDING NEW SECTIONS 135-A, 295-A, 296-A, AND 297-A OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

was signed on 08 November 2024)[16] or the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (**CREATE MORE**), as follows:

EOPT	CREATE MORE
... **Sec. 112.** *Refunds of Input Tax.* – ... (C) *Period within which the Refund of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund for creditable input taxes within **ninety (90) days from the date of submission of invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into law, medium, and high risk claims with the risk classification based on amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium and high risk claims shall be subject to audit or other verification processes in accordance with the Bureau of Internal Revenue's national audit program for the relevant year: *Provided,* finally, **That should the Commissioner find that the grant of refund is not proper, the Commissioner must <u>state in writing</u> the legal and factual basis for the denial <u>within</u> the ninety (90)-day period.**[17]	... **Sec. 112.** *Refunds or Tax Credits of Input Tax* – ... (C) *Period within which the Refund or Tax Credit of Input Taxes shall be Made.* - In proper cases, the Commissioner shall grant a refund for creditable input taxes within **ninety (90) days from the date of submission of certified true copies of invoices and other documents specifically limited to those prescribed in the revenue issuances and in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into low-, medium-, and high-risk claims, with the risk classification to be based on the amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium- and high-risk claims shall be subject to audit or other verification processes in accordance with the BIR's national audit program for the relevant year. **Should the Commissioner find that the grant of refund is not proper, the Commissioner must, <u>within</u> the ninety (90)-day period, <u>*communicate* in writing</u> to the taxpayer, the legal and factual basis for the denial,** including the deficiencies of the VAT refund claim.[18]

As can be gleaned from the above, what is required under the TRAIN and the EOPT is for respondent to **state** in writing the legal and factual basis for the denial. However, neither law expressly mandates that this written denial be communicated to the taxpayer within the statutory period for action. The focus is on the sufficiency and form of the denial, not the timing of its communication to the taxpayer.

[16] Available at <https://www.officialgazette.gov.ph/2024/11/08/republic-act-no-12066/> (last accessed on 05 May 2026).
[17] Italics in the original text, emphasis and underscoring supplied.
[18] Emphasis and underscoring supplied, italics in the original text and supplied.

In contrast, CREATE MORE ushers in a more exacting standard — not only must the denial be reduced in writing and that it should state the legal and factual basis, *but* it must also be **communicated** to the taxpayer within the ninety (90)-day period. Under the settled rule of statutory construction, legislative amendments are presumed to be deliberate and meaningful, not mere semantic exercises.[19] There must have been some purpose in making them and the rational explanation is that notice to the taxpayer of the denial ***now*** forms part of the 90-day period to act.

Nonetheless, this legislative innovation finds no application to the instant case. When petitioner received the Denial Letter, CREATE MORE had not yet taken effect. CREATE MORE may also not be given retroactive application since it would impair petitioner's vested right to question the CIR's decision.

All told, I vote to (i) **GIVE DUE COURSE** to the instant Motion for Reconsideration; and (ii) **REMAND** CTA Case No. 10036 to the Court in Division to proceed with the trial of the case.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[19] See *Tan Kim Kee v. The Court of Tax Appeals, et al.*, G.R. No. L-18080. 22 April 1963.