REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

STEFANINI PHILIPPINES, INC., *Petitioner,*	**CTA EB NO. 2849** (CTA Case No. 11189)
- *versus* -	Present:
	DEL ROSARIO, *P.J.,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: SEP 11 2025 1:38 p.m.

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DECISION

ANGELES, *J.*:

THE CASE

Before the Court *En Banc* is a *Petition for Review*[1] filed by Stefanini Philippines, Inc. (petitioner) on January 11, 2024 against the Commissioner of Internal Revenue (CIR / respondent), praying for the reversal of the Resolutions dated July 18, 2023[2] and November 8, 2023[3], both promulgated by the CTA Second Division (Court in Division) in CTA Case No. 11189, entitled *Stefanini Philippines, Inc. v. Commissioner of Internal Revenue*. Petitioner likewise prays for the instant case to be remanded to the Court in Division for the continuation of the proceedings.

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[1] EB Docket, pp. 6-23, with annexes.
[2] EB Docket, pp. 29-35.
[3] EB Docket, pp. 37-47.

ANTECEDENT FACTS

The following facts were alleged in the *Petition for Review*[4] filed by petitioner on June 14, 2023 before the Court in Division:

> 3. During the 4th quarter of CY 2020, Petitioner rendered business process outsource solutions and contact or call center services in the Philippines in favor of its non-resident foreign affiliate entities which are engaged in business conducted outside the Philippines, the payments for which were made in acceptable foreign currency (USD, EUR, CAD, and GBP) and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas, and to its PEZA-registered client which is entitled to VAT zero-rating on its purchases from local suppliers of goods and services.
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> 4. During the same period, Petitioner incurred and/or paid input VAT from domestic purchases of goods and services attributable to the above-described sale of services to its non-resident foreign affiliates and PEZA-registered client.
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> 5. On January 25, 2021, Petitioner filed its amended Quarterly VAT Return for the 4th quarter of CY 2020 with the BIR. Petitioner's accumulated excess input tax attributable to zero-rated sales amounted to P57,120,869.75 xxx xxx xxx
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> 6. On November 28, 2022, Petitioner filed an amended Quarterly VAT return for the 3rd quarter of CY 2022 thereby deducting accumulated and unutilized input VAT claimed for refund or issuance of TCC (Box 23D) in the amount of P1,764,157.51, representing input VAT attributable to its zero-rated sale of services for the 4th quarter of CY 2020.
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> 7. Thus, Petitioner's excess input tax attributable to its zero-rated sales for the 4th quarter of CY 2020 amounting to P1,764,157.51, has remained unutilized and/or unapplied against Petitioner's output tax liability xxx xxx xxx
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> 8. On December 21, 2022, Petitioner filed with the BIR an Application for Tax Credits/Refunds (BIR Form No. 1914), with supporting documents, of its excess and unutilized input VAT for the 4th quarter of CY 2020 in the amount of P1,764,157.51 xxx xxx xxx
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> 9. On May 16, 2023, Petitioner received from the BIR a VAT Refund Notice with Annexes "A", "A.1", "A.2", "A.3" and "A.4" dated February 23, 2023 partially granting its Application for Tax Credits/Refunds of excess and unutilized input VAT for the 4th quarter of CY 2020 to the extent of P176,651.08 and denying the same to the extent of P1,587,506.43 xxx xxx xxx

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[4] Division Docket, pp. 6-32, with annexes.

In the Resolution dated July 18, 2023, the Court in Division dismissed outright the aforesaid *Petition* for lack of jurisdiction. It found the same to be filed outside the period allowed under Section 112(C) of the National Internal Revenue Code of 1997 (Tax Code), as amended. The pertinent portion of the Resolution reads:

> Applying the above rule in the case at bar, from the filing of petitioner's administrative application with the BIR on December 21, 2022, the CIR has ninety (90) days from petitioner's administrative claim, or until March 21, 2023, to act on the claim. Should the CIR fail to act on the application within the ninety (90)-day period, petitioner has thirty (30) days from such expiration to file its judicial claim, or until April 20, 2023. The instant Petition for Review was only filed on June 14, 2023, or beyond the prescribed period.
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> In paragraph 9 of the Petition for Review, petitioner avers that it received on May 16, 2023 the VAT Refund Notice from the BIR, dated February 23, 2023, granting partially its Application for Tax Credits/Refunds of excess and unutilized input VAT for the 4^{th} quarter of CY 2020 in the amount of P176,651.08 and denying its input VAT to the extent of P1,587,506.43.
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> This Court, however, notes that the receipt of petitioner of the VAT Refund Notice on May 16, 2023 was already beyond the 90-day period, which ended on March 21, 2023. It is a settled ruled that judicial claim shall be filed within a period of thirty (30) days after the receipt of respondent's decision or ruling; or, after the expiration of the 120-day [now ninety (90)-day] period, whichever is sooner.
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> The petitioner's receipt of the BIR VAT Refund Notice on May 16, 2023, which was already beyond the ninety (90)-day period, does not alter the jurisdictional period within which to appeal to the CTA due to the inaction of the CIR, which ended on March 21, 2023 xxx xxx xxxx
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> **WHEREFORE**, premises considered, the instant Petition for Review filed on June 14, 2023 is **DISMISSED** for lack of jurisdiction.

Petitioner filed a *Motion for Reconsideration*[5] on August 4, 2023, while respondent filed his *Comment and Opposition (Re: Motion for Reconsideration dated 03 August 2023)*[6] on September 19, 2023. In the Resolution dated November 8, 2023, the Court in Division denied petitioner's *Motion for Reconsideration* for lack of merit.[7]

Aggrieved, petitioner filed the instant *Petition for Review* on January 11, 2024. After respondent filed his *Comment and Opposition*

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[5] Division Docket, pp. 231-246.
[6] Division Docket, pp. 249-254.
[7] *Supra*, note 3.

(Re: Petition for Review dated 11 January 2024)[8], the case was submitted for decision on February 28, 2024.[9]

ASSIGNMENT OF ERROR

The sole assignment of error raised by petitioner is as follows:

THE HONORABLE COURT IN DIVISION ERRED IN DISMISSING THE PETITION FOR REVIEW FOR LACK OF JURISDICTION.[10]

ARGUMENTS OF THE PARTIES

Petitioner mainly argues that the Court in Division has jurisdiction over the *Petition for Review* filed before it.

Petitioner points out that Section 112(C) of the Tax Code, as amended by Republic Act (RA) No. 10963[11], also known as the Tax Reform for Acceleration and Inclusion or TRAIN Law, clearly allows the taxpayer to appeal with the CTA within thirty (30) days from receipt of the decision or denial of the claim for tax refund. Here, petitioner received the VAT Refund Notice dated February 23, 2023, on May 16, 2023; petitioner had thirty (30) days therefrom, or until June 15, 2023, to appeal the decision with the CTA. Since petitioner filed the subject *Petition* on June 14, 2023, the same was timely filed, giving the Court in Division jurisdiction over the case.[12]

Petitioner argues that upon the enactment of the TRAIN Law, several phrases referring to inaction by the CIR, no longer appeared in the second paragraph of Section 112(C) of the Tax Code. With such deletion, the said provision now concisely provides that the appeal to the CTA is within thirty (30) days from the receipt of the decision.[13]

Petitioner further argues that even the BIR, in its decision in the VAT Refund Notice dated February 23, 2023, clearly and categorically allowed an appeal to the CTA within thirty (30) days from the receipt of the same. Petitioner submits that it should not be prejudiced for

[8] EB Docket, pp. 50-56.
[9] *Resolution* dated February 28, 2024, EB Docket, p. 57.
[10] *Petition for Review* dated January 11, 2024, EB Docket, p. 9.
[11] December 19, 2017.
[12] *Id*, p. 10-11.
[13] *Supra*, note 10, p. 13.

following the guidance and directive of the BIR on the period to file an appeal with the CTA.[14]

Petitioner likewise argues that the strict application of the ninety plus thirty (90 + 30) - day period rule will lead to multiplicity of suits and procedural inefficiencies, as this will force taxpayers to elevate cases to the CTA even if the decision of the BIR may be favorable to them. Relatedly, petitioner posits that the lapse of the 90-period does not preclude the BIR from granting the claim for refund, citing Section 4.112-1(d) of Revenue Regulations (RR) No. 16-05, as amended by RR No. 26-18.[15]

Lastly, petitioner argues that it was the delay in the service of the decision of the CIR to petitioner, which petitioner had no participation or control of, which caused the (90 + 30) - day period to lapse without petitioner receiving a copy of the same. Hence, the Court *a quo* cannot countenance the application of a rule that would deprive petitioner of a remedy under the law, for a cause that was not its fault. Such would result to injustice to petitioner.[16]

Contrariwise, respondent argues that the Court in Division has no jurisdiction over the subject *Petition*.

He avers that Section 112(C) of the Tax Code must be read in conjunction with Section 7(a)(1) of RA No. 1125[17], as amended by RA No. 9282[18] (CTA Law), which provides for the jurisdiction of the CTA. Based on the said provisions, a taxpayer adversely affected by a decision or inaction of the CIR may file an appeal before the CTA within thirty (30) days after receipt of the full or partial denial of its claim or after the expiration of the period fixed by law. Respondent alleges that the inaction of the CIR on a refund claim is by express provision of law "deemed a denial" thereof, and the taxpayer has (30) days from the expiration of the 90-day period to file its judicial claim with the CTA; otherwise, the "deemed a denial" decision of the CIR is rendered final and unappealable.[19]

Citing the case of *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*[20], respondent asserts that the judicial claim must be filed within a period of thirty (30) days after the receipt of the BIR's

[14] *Id.*, p. 16-17.
[15] *Id.*, p. 17-18.
[16] *Id.*, p. 20.
[17] *An Act Creating the Court of Tax Appeals*, June 16, 1954.
[18] *An Act Expanding the Jurisdiction of the Court of Tax Appeals*, March 30, 2004.
[19] *Comment and Opposition (Re: Petition for Review dated January 11, 2024)* dated February 19, 2024, EB Docket, pp. 50-52.
[20] G.R. No. 182737, March 2, 2016.

decision or after the expiration of the 120 (now 90) - day period, whichever is sooner.

RULING OF THE COURT

Timeliness of the present appeal

Before We discuss the merits of the case, We shall first discuss the timeliness of the present appeal.

Records show that on December 15, 2023, petitioner received a copy of the Resolution dated November 8, 2023.[21] Petitioner had fifteen (15) days from such receipt, or until December 30, 2023, to file a Petition for Review before the Court *En Banc*, pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA).[22]

Petitioner filed a *Motion for Extension to File Petition for Review*[23] on December 22, 2023. In a Resolution[24] dated December 27, 2023, this Court granted the said *Motion*, giving petitioner an additional period of fifteen (15) days from December 30, 2023, or until January 14, 2024, to file its Petition for Review.

The instant *Petition for Review* was filed on January 11, 2024. Hence, the same was timely filed.

Judicial remedies for the refund or credit of input taxes under the TRAIN Law

Section 112(C) of the Tax Code, as amended by RA No. 9337[25], prior to the effectivity of the TRAIN Law or before January 1, 2018, read, as follows:

> SECTION 112. *Refunds or Tax Credits of Input Tax.* —
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> xxx xxx xxx

[21] Division Docket, p. 256.
[22] A.M. No. 05-11-07-CTA, November 22, 2005.
[23] EB Docket, pp. 1-4.
[24] *Id.*, p. 5.
[25] Value Added Tax (VAT) Reform Act, May 24, 2005.

> (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 Subsections (A) hereof.
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> **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. *(Emphasis supplied)*

On January 1, 2018, the TRAIN Law took effect and the above-cited provision was amended, to wit:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* —
>
> xxx xxx xxx
>
> (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.
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> **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. *(Emphasis supplied)*

In relation thereto, Revenue Regulations (RR) No. 13-18 was promulgated to implement the VAT provisions of the TRAIN Law and amend RR No. 16-05 or the Consolidated VAT Regulations. The pertinent portion of the said RR provides:

> SEC. 4.112-1. *Claims for Refund/Credit of Input Tax.* —
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> xxx xxx xxx
>
> (d) Period within which refund/credit of input taxes shall be made

> In proper cases, the Commissioner of Internal Revenue shall grant 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.
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> **The 90-day period to process and decide, pending the establishment of the enhanced VAT Refund System shall only be up to the date of approval of the Recommendation Report on such application for VAT refund by the Commissioner or his duly authorized representative**: *Provided, That* all claims for refund/tax credit certificate filed prior to January 1, 2018 will be governed by the one hundred twenty (120)-day processing period.
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> **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 the Tax Code, as amended. *(Emphasis supplied)*

As can be gleaned from the foregoing, among the changes brought by the TRAIN Law to the Tax Code, is the deletion of the taxpayer's remedy of appeal from the CIR's failure to act on the refund claim within the prescribed period (or the CIR's inaction).

Accordingly, under Section 112(C) of the Tax Code, as amended by the TRAIN Law, there are two (2) periods that must be complied with to warrant the grant of a refund or tax credit of input taxes:

(1) the 90-day period for the CIR or his duly authorized representative to act on the refund claim; and

(2) the 30-day period for the taxpayer to appeal the decision denying the refund claim to the CTA.

With respect to the 30-day period to appeal, in view of the aforesaid deletion of the taxpayer's appeal from the CIR's inaction, it appears that the CTA may take cognizance of an appeal only when it is filed within thirty (30) days from the taxpayer's receipt of the **decision** of the CIR denying the refund claim. This necessarily assumes that the CIR or his duly authorized representative acted on the refund claim by issuing a written decision on the same.

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However, under Section 7(a)(2) of the CTA Law, in relation to Section 11 thereof, the CTA may also take cognizance of an appeal from the **inaction** of the CIR in a refund claim, provided that such appeal is filed within thirty (30) days from the expiration of the period fixed by law for the CIR's action (*i.e.*, 90 days). The said provisions state:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
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> 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 Code or other laws administered by the Bureau of Internal Revenue;
>
> **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;**
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> xxx xxx xxx
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> 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.** *(Emphasis supplied)*

In *Commissioner of Internal Revenue v. San Roque Power Corp.*[26], the Supreme Court clarified that the CTA Law expressly provides that if the CIR fails to decide within "a specific period" required by law, such "inaction shall be deemed a denial" of the application for tax refund or credit. It is the CIR's decision or inaction "deemed a denial" that the taxpayer can take to the CTA for review.

Thus, while Section 112(C) of the Tax Code, as amended by the TRAIN Law, provides only a single scenario when an appeal in an

[26] G.R. Nos. 187485, 196113 & 197156, February 12, 2013.

administrative refund claim may be brought to the CTA (appeal from the CIR's decision), Sections 7(a)(2) and 11 of the CTA Law, which remain unchanged, provide another scenario when such appeal may be made (appeal from the CIR's inaction). Simply stated, applying the TRAIN Law and CTA Law together, the taxpayer may avail of an appeal to the CTA either from the decision of the CIR or his inaction.

The question now is whether the taxpayer may choose to appeal the decision of the CIR to the CTA within thirty (30) days from receipt thereof, even if such decision was issued after the CIR failed to act within the 90-day period.

In the assailed Resolution dated July 18, 2023[27], the Court in Division found petitioner's judicial claim for refund as filed outside the period allowed under Section 112(C) of the Tax Code, as amended.

It was held that it is a settled rule that the judicial claim for refund shall be filed within a period of thirty (30) days after the receipt of the CIR's decision or ruling; or, after the expiration of the 120-day [now 90-day] period, **whichever is sooner.**[28] In the present case, from the filing of petitioner's administrative claim on December 21, 2022, the CIR had ninety (90) days therefrom, or until March 21, 2023, to act on the said claim. However, the CIR failed to act on the said claim within the 90-day period. Thus, petitioner had thirty (30) days from the expiration of such period, or until April 20, 2023, to file its judicial claim. Since the *Petition for Review*[29] was filed only on June 14, 2023, or beyond the prescribed period, the Court in Division dismissed the case for lack of jurisdiction.

It was also held that petitioner's receipt of the VAT Refund Notice on May 16, 2023, which was already beyond the 90-day period, did not alter the jurisdictional period within which to appeal to the CTA due to the inaction of the CIR, which ended on March 21, 2023.[30]

Petitioner now comes before Us to challenge the mandatory and jurisdictional nature of the 90+30 -day period in cases where the decision of the CIR was issued after the expiration of the 90-day period, such as in this case, in light of the amendments introduced by the TRAIN Law to Section 112(C) of the Tax Code.

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[27] *Supra*, note 2.
[28] *Id.*, pp. 32-34.
[29] *Supra*, note 4.
[30] *Supra*, note 27.

Petitioner argues that upon the enactment of the TRAIN Law, the phrases "or the failure on the part of the Commissioner to act on the application within the period prescribed above", "or after the expiration of the one hundred twenty day-period", and "or the unacted claim" were deleted from Section 112(C) of the Tax Code. Section 112(C) of the Tax Code, as amended by the TRAIN Law, concisely provided that the appeal to the CTA must be made within thirty (30) days from the taxpayer's receipt of the CIR's decision on the refund claim. Petitioner submits that as the law is clear and free from ambiguity, it must be given its literal meaning and applied without interpretation. Consequently, as petitioner appealed the VAT Refund Notice partially denying its refund claim within thirty (30) days from its receipt thereof, the CTA in Division had jurisdiction over the *Petition for Review* filed before it.

Respondent contends that the inaction of the CIR on a refund claim is "deemed a denial" of such claim, and the taxpayer has thirty (30) days from the expiration of the 90-day period to file its judicial claim with the CTA; otherwise, the "deemed a denial" decision of the CIR is rendered final and unappealable. Respondent maintains that both the 90-day period for the CIR to decide on the refund claim, and the 30-day period for the taxpayer to file an appeal before the CTA, are mandatory and jurisdictional. Failure to observe both periods is a cause for the dismissal of the action for lack of jurisdiction.

After a scrupulous review of the arguments of the parties vis-a-vis the relevant laws, rules and jurisprudence on the matter, We rule to **grant** the instant *Petition for Review*.

Petitioner filed its appeal with the CTA within the 30-day reglementary period; hence, the Court *a quo* had jurisdiction over the case

Well-entrenched in jurisprudence is the basic principle that if the language of the law is clear, explicit and unequivocal, it admits no room for interpretation but merely application. A statute clear and unambiguous on its face need not be interpreted. The rule is that only statutes with an ambiguous or doubtful meaning may be the subject of statutory construction.[31]

A statute is ambiguous if it is admissible of two or more possible meanings, in which case, the Court is called upon to exercise one of its

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[31] *Miramar Fish Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 185432, June 4, 2014.

judicial functions, which is to interpret the law according to its true intent. The Court should apply the law in a manner that would give effect to its letter and spirit, especially when the law is clear as to its intent and purpose.[32]

The language of Section 112(C) of the Tax Code, as amended by the TRAIN Law, is straightforward, uncomplicated and unambiguous so much so that the letter and intent thereof cannot be mistaken.

The first paragraph of the said provision is a non-issue in this case. It provides for the 90-day period within which the CIR shall either grant or deny the refund claim; but in case of a denial of the claim, the CIR must state in writing the legal and factual basis for such denial.

As for its second paragraph, which is the subject of contention, it simply states, in no unclear terms, that the taxpayer, in case of a full or partial denial of its administrative refund claim, may appeal the decision of the CIR to the CTA within thirty (30) days from its receipt of such decision.

The following phrase, which states, "*[p]rovided, however, [t]hat 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,*" does not in any way affect or qualify the above grant to the taxpayer of the remedy of appeal to the CTA. It merely imposes penalties on the relevant BIR officers who fail to act on the refund claim within the 90-day period.

Thus, **by itself, the second paragraph of Section 112(C) of the Tax Code, as amended by the TRAIN Law, is clear and free from ambiguity or doubtful meaning; hence, does not warrant any interpretation other than that which is plainly stated by the law.**

Further, **the deletion of the relevant phrases from Section 112(c) of the Tax Code by the TRAIN Law cannot be lightly dismissed as inadvertent or without purpose. To the contrary, such deletion should be presumed deliberate**, intending to remove the effects of the deleted phrases, *i.e.*, the mandatory and jurisdictional nature of the 90+30 -day period in cases of inaction, where the CIR decides to issue a decision after the lapse of the ninety (90)-day period.

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[32] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, February 19, 2018.

Had the authors of the TRAIN Law intended to retain the mandatory and jurisdictional nature of the 120+30 [now 90+30] -day period under Section 112(D) [now Section 112(C)] of the Tax Code, the paragraph providing for a judicial appeal from either the decision of the CIR or his inaction, would have been preserved.

This conclusion is in line with the rule that an amendment by the deletion of certain words or phrases indicates an intention to change the meaning of the law or rule. It is presumed that the deletion would not have been made if there had been no intention to effect a change in the meaning of the law or rule. The amended law or rule should accordingly be given a construction different from that previous to its amendment.[33]

It is also consistent with Section 4.112-1 of RR No. 26-18[34], amending RR No. 13-18 or the implementing rules of the TRAIN Law, which expressly allows the BIR to continue to process administrative refund claims even after the lapse of the 90-day period, subject to the imposition of penalties on the erring BIR officer. The provision states:

> (d) Period within which refund/credit of input taxes shall be made
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> In proper cases, the Commissioner of Internal Revenue shall grant 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.
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> The 90-day period to process and decide shall start from the filing of the claim up to the release of the payment of the VAT refund. Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.
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> **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 (CTA):** Provided, 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 the Tax Code, as amended.

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[33] *Laguna Metts Corp. v. Court of Appeals*, G.R. No. 185220 (Resolution), July 27, 2009.
[34] *Amends Certain Provisions of RR No. 13-2018 to Implement the 90-Day Processing of Claim for VAT Refund under Section 112 (C) of the Tax Code of 1997, as Amended by Republic Act (R.A.) No. 10963, Otherwise Known as the Tax Reform for Acceleration and Inclusion or TRAIN*, December 21, 2018.

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> **Provided further, That, in the event that the 90-day period has lapsed without having the refund released to the taxpayer-claimant, the VAT refund claim may still continue to be processed administratively. Provided however, That the BIR official, agent, or employee who was found to have deliberately caused the delay in the processing of the VAT refund claim may be subjected to penalties imposed under said section.** *(Emphasis supplied)*

In fact, in the VAT Refund Notice[35] dated February 23, 2023 received by petitioner from respondent on May 16, 2023, the BIR itself stated that petitioner had "the judicial remedy, within thirty (30) days from the receipt of this letter, to appeal the disallowed portion of your claim with the Court of Tax Appeals (CTA)."

The clear grant to the taxpayer of the remedy of judicial appeal from the decision of the CIR, as provided under the TRAIN Law and its implementing rules, taken together with the express recognition under the BIR rules that the BIR may still continue to process the administrative refund claim even after the lapse of the 90-day period, incontrovertibly show that the taxpayer is allowed to wait for the decision of the CIR on its administrative refund claim beyond the 90-day period. Corollarily, the taxpayer may file an appeal with the CTA within thirty (30) days from the receipt of the said decision, even if such decision was issued after the lapse of the 90-day period.

The Court is aware that in the cases cited by the Court in Division, *i.e., Commissioner of Internal Revenue v. San Roque Power Corp.*[36], *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*[37], *Rohm Apollo Semiconductor Phils. v. Commissioner of Internal Revenue*[38], and *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*[39], the Supreme Court emphasized the mandatory and jurisdictional nature of the 30-day period to appeal, in relation to the CIR's inaction on an administrative claim.

In *Rohm Apollo*[40], in particular, the Supreme Court held that late filing, or the filing of a judicial claim for refund beyond the 120+30 -day period, is absolutely prohibited with no exceptions. A judicial claim for refund filed beyond the said period is outside the jurisdiction of the CTA.

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[35] Division Docket, p. 54.
[36] *Supra*, note 25.
[37] G.R. No. 191498, January 15, 2014.
[38] G.R. No. 168950, January 14, 2015.
[39] G.R. No. 182737, March 2, 2016.
[40] *Supra*, note 37.

The Supreme Court likewise declared that when the 120-day period lapses and there is inaction on the part of the CIR, taxpayers must no longer wait for the CIR to come up with a decision thereafter. The CIR's inaction is the decision itself. It is already a denial of the refund claim. Thus, taxpayers must file an appeal within thirty (30) days from the lapse of the 120-day waiting period.[41]

Similarly, in *Silicon Philippines*[42], the High Court categorically ruled that the judicial claim for refund shall be filed within thirty (30) days after the receipt of the CIR's decision or after the expiration of the 120-day period, whichever is sooner.

A careful examination of the above-cited cases, however, shows that **the "whichever is sooner" rule, applied in *Rohm Apollo*, *Silicon Philippines*, and other Supreme Court cases[43], was based on and has been used in relation to Section 112 of the Tax Code prior to the effectivity of the TRAIN Law.** Understandably, under the old provision, the filing of an appeal with the CTA could be reckoned from either the decision of the CIR or his inaction. But due to instances where both the decision and inaction of the CIR were appealable to the CTA, issues on timeliness of the judicial appeal and on which remedy was more proper to take arose. Hence, the aforementioned rulings were written, relating the mandatory and jurisdictional nature of the 120+30 -day period to the "whichever is sooner" rule.

With the deletion of the appeal from the inaction of the CIR under the TRAIN Law, the appeal from the decision of the CIR remained as the one clear and unmistakable remedy of the taxpayer under Section 112(C) of the Tax Code, as amended by the TRAIN Law. Thus, in view of the differences in the version of the applicable rule in, and context of the above-cited cases vis-a-vis the present case, the Court in Division was incorrect when it ruled that the above-cited cases are still applicable in interpreting Section 112(C) of the Tax Code, as amended by the TRAIN Law.

Furthermore, **the availability of an appeal from the CIR's inaction under the CTA Law cannot be interpreted in such a way as to fully deny the taxpayer of its right to appeal the CIR's decision under the TRAIN Law. There is no legal basis for such interpretation.** While this Court agrees that the appeal

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[41] *Id.*
[42] *Supra*, note 38.
[43] *Carmen Copper Corp. v. Commissioner of Internal Revenue*, G.R. No. 245282, June 19, 2019; *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue*, G.R. No. 258791, December 7, 2022.

from the CIR's decision denying the claim, and appeal from his inaction, are mutually exclusive remedies, such that resort to one bars the application of the other, We are not convinced that the lapse of the 90+30 -day period under the CTA Law bars the taxpayer from appealing the decision of the CIR issued thereafter, where no appeal was filed during the 90+30 -day period.

This Court refuses to make the absurd conclusion that the availability of an appeal from the CIR's inaction under the CTA Law, was intended to limit the taxpayer's recourse to the Court under other relevant laws. The taxpayer cannot be faulted for relying on the plain meaning of Section 112(c) of the Tax Code, as amended. Hence, the appeal within thirty (30) days from the CIR's inaction under the CTA Law, should be treated as a permissive remedy, not a restrictive one.

In the case at bar, it is undisputed that petitioner filed its application for tax refund or credit of unutilized input taxes with the BIR on **December 21, 2022.**[44] The CIR had ninety (90) days therefrom, or until **March 21, 2023** to act on the said application. However, it appears from the records of this case that no decision was received by petitioner during the 90-day period. Nonetheless, on **May 16, 2023**, the parties admit that petitioner received from respondent the VAT Refund Notice[45] dated February 23, 2023, partially denying the said application.[46]

Applying the foregoing disquisition, petitioner had thirty (30) days from its receipt of the VAT Refund Notice, or until **June 15, 2023** to file an appeal with the CTA. As petitioner filed the P*etition for Review*[47] on **June 14, 2023**, the same was timely filed. As a result, the Court in Division had jurisdiction over the case.

The fact that petitioner did not appeal the inaction of the CIR within thirty (30) days from the lapse of the 90-day period on March 21, 2023, or until April 20, 2023, did not bar its right to appeal the VAT Refund Notice received on May 16, 2023.

Anent the Court in Division's ruling that the above-cited cases, *i.e., San Roque Power*[48], *Mindanao II Geothermal*[49], *Rohm Apollo*[50], and *Silicon Philippines*[51], were previously applied by the CTA in several

[44] EB Docket, pp. 7 and 52.
[45] *Supra*, note 34.
[46] EB Docket, pp. 8 and 52.
[47] *Supra*, note 4.
[48] *Supra*, note 25.
[49] *Supra*, note 36.
[50] *Supra*, note 37.
[51] *Supra*, note 38.

cases in resolving its jurisdiction over VAT refund claims under the TRAIN Law, suffice it to say that CTA decisions do not constitute binding precedents. Only decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.[52] Therefore, this Court is not bound to uphold the ruling of the CTA in another case, in disposing of the instant case.

For all the above reasons, We find that the Court in Division gravely erred when it dismissed outright the *Petition for Review*[53] filed by petitioner on June 14, 2023, for lack of jurisdiction.

Consequently, as prayed for in the instant *Petition for Review*, a reversal of the Resolutions dated July 18, 2023[54] and November 8, 2023[55] issued by the Court in Division in CTA Case No. 11189, is in order.

WHEREFORE, premises considered, the instant *Petition for Review* filed on January 11, 2024 is **GRANTED**. Accordingly, the *Resolution* dated July 18, 2023 and *Resolution* dated November 8, 2023 are **REVERSED and SET ASIDE.** Let this case be **REMANDED** to the Court in Division, for the continuation of the proceedings in CTA Case No. 11189.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(With due respect, please see Dissenting Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[52] *Supra*, note 25.
[53] Division Docket, pp. 6-32, with annexes.
[54] *Supra*, note 2.
[55] *Supra*, note 3.

(With due respect, I join Justice Ma. Belen M. Ringpis-Liban's Dissenting Opinion)
CATHERINE T. MANAHAN
Associate Justice

(With Separate Concurring Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

(With due respect, with Separate Concurring Opinion)
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

(With due respect, I join the Dissenting Opinion of Justice Ma. Belen M. Ringpis-Liban)
CORAZON G. FERRER-FLORES
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

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2849
(CTA CASE NO. 11189)

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

Promulgated:
SEP 11 2025 1:38p.m.

x - x

DISSENTING OPINION

RINGPIS-LIBAN, *J.*:

With due respect, I dissent from the majority opinion that the Court in Division was not precluded from acquiring jurisdiction on the said case. Simply put, I am of the firm belief that the filing of the Petition for Review with the Second Division was beyond the prescribed period.

Notwithstanding the change in the phraseology of Section 112(C)[1] on refunds or tax credits of input tax under Republic Act ("RA") No. 10963 or the

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[1] (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

Tax Reform for Acceleration and Inclusion ("TRAIN") Law, the taxpayer still should appeal to the Court of Tax Appeals ("CTA") the failure by the Commissioner of Internal Revenue ("CIR") to act on its administrative claim, if the period within which to act comes sooner than the issuance of the decision of denial.

The Tax Code, as amended by the TRAIN Law cannot be read in isolation but must be interpreted in conjunction with Section 7(a)(2)[2] of RA No. 1125, as amended by RA No. 9282, which states that the CTA has jurisdiction over the inaction by the CIR on refunds of internal revenue taxes. More importantly, Section 7(a)(2) underscores the "deemed denied" principle, *i.e.*, where the National Internal Revenue Code of 1997 provides a specific period of action for the CIR, the latter's inaction shall be deemed a denial by operation of law.

Considering that Section 112(C) of the amendment in the TRAIN Law provides for a specific period of action or "within ninety (90) days from the date of submission", the CIR's inaction during the said period shall be deemed a decision of denial which can be elevated to the CTA. This doctrine was upheld in the landmark case of *Commissioner of Internal Revenue v. San Roque Power Corporation*[3], and has been the prevailing jurisprudence[4] ever since.

Moreover, treating the deletion of the phrase "or after the expiration of the 120-day [now 90-day] period, whichever is sooner" in the TRAIN Law as an express repeal of the deemed denial provision of the old law, will reduce the amended Tax Code to absurdity.

The law must protect both the interests of the government and taxpayer. Congress could not have intended for a taxpayer who administratively filed a claim for refund to stand at the mercy of the government, to wait forever for the CIR to issue a denial thereon for the former has no other judicial relief.

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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.

2 Sec. 7. Jurisdiction. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx xxx xxx

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[.]

3 G.R. Nos. 187485, 196113 and 197156, February 12, 2013.

4 Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership, G.R. No. 191498, January 15, 2014; Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue, G.R. No. 168950, January 14, 2015; Silicon Philippines, Inc. v. Commissioner of Internal Revenue, G.R. No. 182737, March 02, 2016; Aichi Forging Company of Asia, Inc. v. Court of Tax Appeals - En Banc, Et. Al., G.R. No. 193625, August 30, 2017; Steag State Power, Inc. v. Commissioner of Internal Revenue, G.R. No. 205282 (Resolution), January 14, 2019; Energy Development Corp. v. Commissioner of Internal Revenue, G.R. No. 203367, March 17, 2021.

From all the foregoing, I vote to **DENY** the instant Petition for Review.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

STEFANINI PHILIPPINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
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DEL ROSARIO, *P.J.*,
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MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
SEP 11 2025 1:38p.m.

x - x

SEPARATE CONCURRING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Henry S. Angeles, in granting petitioner Stefanini Philippines Inc.'s (**petitioner**'s/**SPI**'s) Petition for Review[1] filed on 11 January 2024 and thereby reversing and setting aside the assailed Resolutions dated 18 July 2023[2] and 08 November 2023[3] (**assailed Resolutions**), both issued by this Court's Second Division.

I, respectfully, essay my reasons below.

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1 *Rollo*, pp. 6-47, with annexes.
2 Id., pp. 29-35.
3 Id., pp. 37-47.

At the onset, I must emphasize that the prevailing doctrine of "deemed denial" still holds and has not been abrogated, consistent with the view espoused in the *ponencia*.

Sections 7 and 11 of the Republic Act (**RA**) No. 9282[4] provide that when the Commissioner of Internal Revenue (**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:
>
> ...
>
> 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,*

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4 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.

> *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 provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc.[5]
>
> ...

Section 86[6] of RA 10963[7] or Tax Reform for Acceleration and Inclusion (**TRAIN**), which contains the lengthy enumeration of laws expressly repealed by the said law, did *not* mention RA 9282. Thus, considering that 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 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**."[8]

Applying herein the foregoing, in enacting TRAIN, the legislature is presumed to have in mind the pertinent provisions of RA 9282 with respect to when the taxpayer may treat respondent CIR's (**respondent**'s) inaction as denial. Thus, in the absence of its express repeal, 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*.

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[5] Emphasis supplied and italics in the original text.

[6] **Sec. 86.** *Repealing Clause.*

[7] 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.

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

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

...

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

...

(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.**[9]

...

In the landmark case of *Commissioner of Internal Revenue v. San Roque Power Corporation*[10], 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*[11], 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 tax 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 30-day period to appeal.

[9] Emphasis supplied, italics in the original text and supplied.
[10] G.R. Nos. 187485, 196113 & 197156, 12 February 2013.
[11] G.R. No. 168950, 14 January 2015.

Here, petitioner filed its administrative claim for refund on 21 December 2022. Under Section 112(C) of the NIRC of 1997, as amended, the CIR or his or her authorized representative had 90 days, or until 21 March 2023, to act upon the said claim. Petitioner alleges that it received the Bureau of Internal Revenue's (**BIR**'s) Value-Added Tax (**VAT**) Refund Notice dated 23 February 2023 only on 16 May 2023, partially granting its administrative claim. On this basis, this Court's Second Division held that the BIR issued the VAT Refund Notice beyond the 90-day period, and that petitioner's judicial claim, filed more than 30 days thereafter, was fatally late.

With due respect, the foregoing conclusion cannot, in my view, withstand scrutiny. While I concur in the result reached in the *ponencia* (reversing the assailed Resolutions), I respectfully submit an alternative rationale in support of such reversal.

The controlling datum here is the date of the CIR's "action", ***not*** **the date of petitioner's receipt**. Revenue Memorandum Circular (**RMC**) No. 17-18[12], outlines that for claims not more than ₱50 million, such as the present case, the 90-day period ends upon the Assistant CIR-Assessment Service's (**ACIR-AS**') approval or disapproval of the claim.[13]

In the present case, the VAT Refund Notice, which contains a partial grant (and denial of the portion not granted) of petitioner's administrative claim for refund, was issued on 23 February 2023, ***i.e.*****, within the 90-day period to act**. Thus, **there was no inaction and the doctrine of "deemed denial" does not apply. What exists is a categorical denial (of the portion not granted), received by petitioner on 16 May 2023.** As such, the reckoning of the 30-day period to appeal must commence, not from the expiration of the 90-day period, but from the date of actual receipt of the denial, *i.e.*, 16 May 2023.

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12 Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

13 ...

VCAD [VAT Credit Audit Division] Cases	**No. of Days from Receipt of Application**
	For claims not more than ₱50,000,000.00
Verification processing	65
Review (TARD [Tax Audit Review Division])	20
Recommending/Final Approval	
ACIR-AS [Assistant CIR-Assessment Service]	5
Total No. of Days	**90**

4. The concerned revenue officers/officials shall **act** on the recommended claims in accordance with the **abovementioned time frame**, including VAT claims on importations. (Emphasis and underscoring supplied)

Moreover, in the seminal case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[14] (**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 as early as 2015, the Supreme Court has already construed 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:[15]

> ...
> 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 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 . . . **<u>the objective is to come up with a decision</u>**.
>
> 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 . . .

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[14] G.R. No. 184823, 06 October 2010; Emphasis and underscoring supplied.

[15] 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.

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 petitioner's claim solely on the ground that the VAT Refund Notice was received beyond the 90-day period (hence, the earlier lapse of the "90+30" window for judicial recourse), notwithstanding a decision having been rendered within the statutory 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 (*i.e.*, VAT Refund Notice) was issued on 23 February 2023 (well within the 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 30-day period for judicial recourse must be reckoned from petitioner's actual receipt of respondent's decision on 16 May 2023 and not from the expiration of the 90-day period on 21 March 2023.

Accordingly, as correctly ruled in the *ponencia*, petitioner *timely* filed its original Petition for Review before this Court's Second Division on 14 June 2023, well within the 30-day reglementary period reckoned from 16 May 2023 and ending on 15 June 2023.

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.[16] 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[17], such as the 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[18] (which took effect on 22 January 2024[19]) or the Ease of Paying Taxes (**EOPT**) and RA 12066[20] (which was signed on 08 November 2024[21]) or the Corporate Recovery and Tax

[16] 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.

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

[18] 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.

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

[20] 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.

[21] Available at <https://www.officialgazette.gov.ph/2024/11/08/republic-act-no-12066/> (last accessed on 31 July 2025).

Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (**CREATE MORE**), as follows:

EOPT	CREATE MORE
... **Sec. 112.** *Refunds or Tax Credits 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.**[22]	... **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.[23]

As can be gleaned from the table above, TRAIN and EOPT require respondent to **state** in writing the legal and factual basis for the denial. However, neither law expressly mandates that respondent communicate this written denial to the taxpayer within the 90-day statutory period for action. The emphasis lies on the sufficiency and form of the denial, not on the timing of its communication to the taxpayer.

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[22] Italics in the original text, emphasis and underscoring supplied.
[23] Emphasis and underscoring supplied, italics in the original text and supplied.

In contrast, CREATE MORE imposes a more exacting standard—not only must the denial be in writing and state its legal and factual basis, *but* it must also be **communicated** to the taxpayer within the 90-day statutory period for action. Under the settled rule of statutory construction, legislative amendments are presumed to be deliberate and meaningful, not mere semantic exercises.[24] There must have been a clear intent behind these revisions, and the logical inference is that the notice of the denial to the taxpayer ***now*** forms part of the 90-day period to act.

Nonetheless, this legislative innovation does not apply to the present case. When petitioner received the BIR's VAT Refund Notice, CREATE MORE had not yet taken effect. Moreover, CREATE MORE may not be given retroactive application since it would impair petitioner's vested right to question the CIR's decision.

In fine, petitioner's claim complied with the "90+30" rule and was timely filed before this Court's Second Division. Accordingly, the *ponencia* correctly granted petitioner's Petition for Review, reversed and set aside the assailed Resolutions, and remanded the case for further proceedings, as the case was dismissed for lack of jurisdiction before trial on the merits could proceed.

With the foregoing, I vote to: (**i**) **GRANT** the Petition for Review filed by petitioner Stefanini Philippines, Inc. on 11 January 2024; (**ii**) **REVERSE** and **SET ASIDE** the assailed Resolutions dated 18 July 2023 and 08 November 2023; and (**iii**) **REMAND** the case to this Court's Second Division for the continuation of the proceedings in CTA Case No. 11189.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

STEFANINI PHILIPPINES, INC., Petitioner,	**CTA EB NO. 2849** (CTA Case No. 11189)
-versus-	Present: **DEL ROSARIO,** *P.J.* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 11 2025 1:38 p.m.

x -- x

SEPARATE CONCURRING OPINION

MODESTO-SAN PEDRO, J.:

I concur with the *ponencia* that the instant Petition for Review should be granted. However, I disagree that the doctrine of "deemed denial" still held during the specific period during which *Republic Act* ("*RA*") *No. 10963*'s ("*TRAIN*") amendments to the *National Internal Revenue Code of 1997, as amended* ("*NIRC*") were in effect, before these were further amended by *RA No. 11976* ("*EOPTA*"), due to *Sections 7(a)(2) & 11 of RA No. 1125, as amended* ("*CTA Law*").

I specifically disagree with the finding that *TRAIN*'s passage allowed taxpayers to file a judicial claim

Preliminarily, I fully acknowledge that I concurred with the Court in Division's Resolution, dated July 18, 2023, which originally dismissed the case for lack of jurisdiction. I have since reviewed the matter more thoroughly, however, and have come to the conclusion that such a ruling is in error.

The issue mostly stems from a single provision: the second paragraph of *Section 112(c) of the NIRC*. It arises specifically from the various versions of the provision produced by relatively recent amendments to the *NIRC*. Particularly relevant here are the amendments made by *TRAIN* and *EOPTA*.

The three relevant versions of the paragraph are quoted below:

NIRC	*TRAIN*	*EOPTA*
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 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 Bureau of Internal Revenue 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 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 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.

Significantly, *TRAIN* removed (i) the phrase "or the failure on the part of the Commissioner of Internal Revenue ("CIR") to act on the application within the period prescribed above" as a condition for raising an appeal to this Court; and (ii) the phrase "or after the expiration of the one hundred twenty day-period" as a reckoning point for the 30-day period for filing such an appeal. It instead added a new provision instituting administrative punishment for such failures to act on claims for refund. *EOPTA*, meanwhile, reinserted the deleted phrases into the provision, while retaining the part about administrative punishment.

An amendment to a law that removes certain provisions must be treated as important. Drawing from the book *Statutory Construction* by Ruben E. Agpalo, the Supreme Court has decreed that "the deliberate selection of language differing from that of the earlier act on the subject indicates that a change in the meaning of the law was intended"[1] and that an amendment to a statute should not be treated as "mere semantic exercise" but must instead be seen as expressing some purpose, which must be given effect.[2] In other words, a change made to the language used in a law must be understood as a change in the law itself.

[1] *Oceanmarine Resources Corporation v. Nedic*, G.R. No. 236263, July 19, 2022.
[2] *Akbayan v. Commission on Elections*, G.R. Nos. 147066 & 147179, March 26, 2001.

To be even more specific, the High Court has held that "an amendment by the deletion of certain words or phrases indicates an intention to change its meaning."[3] Clearly, then, the removal of a course of action previously provided by law must be understood as the law being modified to no longer allow such.

Furthermore, "when there is a reasonable certainty that a particular person, object, or thing has been omitted from a legislative enumeration," such omission must be taken as intentional.[4] The provision in question must consequently be treated as inapplicable to the entity omitted from the enumeration.

Finally, as often emphasized, when the laws do not distinguish, neither should the Courts.[5]

Considering the above, I hold that *TRAIN*'s explicit removal of the CIR's inaction as either a condition of raising an appeal or the reckoning point of the 30-day prescriptive period must be construed as a removal of that particular remedy, even in the face of *Sections 7(a)(2) & 11 of the CTA Law.*

I am not unaware that statutory construction frowns upon repeals by implication, as stated in *The United Harbor Pilots' Association of the Philippines, Inc. v. Association of International Shipping Laws, Inc.*[6] ("*United Harbor*", and in *Hon. Corona v. Court of Appeals*,[7] the latter being cited in the majority opinion. However, as stated in *United Harbor*, repeals by implication are accepted when "it is manifest that the legislative authority so intended" such repeal. And as discussed above, deletions and omissions from legislative enumerations must be understood as expressions of intent to leave out what was deleted or omitted. The deletion and omission of the "deemed denied" provision from *Section 112(c) of the NIRC* by *TRAIN* must therefore be treated as intentional and thus as an *exception* to the general rule against repeals by implication thereby repealing the applicability of *Sections 7(a)(2) & 11 of the CTA Law* to this particular class of case.

Neither can the priority of special laws over general laws be used to introduce the "deemed denial" provision to *TRAIN*. *Sections 7(a)(2) & 11 of the CTA Law* themselves constitute a *general* provision as they cover not just "refunds of internal revenue taxes, fees, or other charges" but also disputed assessments, penalties, and other matters arising from the *NIRC* and other laws administered by the Bureau of Internal Revenue. Their scope is thus broad. Compare this to *Section 112(c) of the NIRC*, as specifically amended

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[3] *Republic of the Philippines v. St. Vincent de Paul Colleges, Inc.*, G.R. No. 192908, August 22, 2012, citing *Laguna Metts Corporation v. Court of Appeals*, G.R. No. 185220 (Resolution), July 27, 2009.

[4] *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, August 7, 2024.

[5] See, for example, *Philippine Contractors Accreditation Board v. Central Mindanao Construction Multi-Purpose Cooperative*, G.R. No. 242296, July 31, 2024.

[6] G.R. No. 133763, November 12, 2002.

[7] G.R. No. 97356, September 30, 1992.

by *TRAIN*, which *exclusively* covers claims for refund or tax credit for input taxes *only*. It governs a *specific* power of the CIR (to grant refunds and tax credits) involving a *specific* type of tax (input taxes), whereas the provisions of the *CTA Law* in question cover the inaction of the CIR on *all kinds of controversies appealable to this Court*. As such, *Section 112(c) of the NIRC*, as amended by *TRAIN*, must be considered the specific *special* law that prevails over the broad *general* provisions the *CTA Law*.

This is further supported by the fact that the contentious passages were reinserted by *EOPTA*. Had legislators intended for the "deemed denied" provision to simply by treated as included in *TRAIN*, then there would be no need to explicitly reinclude it in the *NIRC* through *EOPTA*. Why would they need to add a provision if it was already considered as included in the law, after all? This reinsertion only makes sense if inactions from the CIR on refund claims for input taxes were *not* appealable to this Court under *TRAIN*. As such, treating such inaction as appealable not only ignores the clear amendments made by *TRAIN*—it also ignores the specific changes enacted by *EOPTA*.

TRAIN's removal of the relevant phrases must consequently be construed as the explicit removal of the option to raise an appeal from the CIR's inaction. Under *TRAIN*, a judicial claim could *not* be raised based on the CIR's inaction. A taxpayer's only option, as far as raising a judicial claim goes, was to await the CIR's decision.

As an aside, I note that conflicts of interpretations of the law can be resolved by reference to the legislation's intent, when available. There may thus be need for this Court to independently consult the actual Senate hearings and meetings held for the drafting of *TRAIN* and *EOPTA* to finally put this issue to rest.

ALL TOLD, I vote that the instant Petition for Review be **GRANTED** and that the case be remanded to the Court in Division for the conduct of a trial on the merits.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice