21-000200-0043

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CTA CASE NO. 10530

PHILIPPINE AIRLINES, INC.,
Petitioner,

- versus -

NOTICE OF RESOLUTION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. SYLVIA R. ALMA JOSE
ATTY. CLARISSA J. VIRTUDES-BABARAN
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

PAL LEGAL AFFAIRS DEPARTMENT
E/F, Legal Affairs Department
Philippine Airlines, Lucio K. Tan Jr. Center ("LKTJC")
PAL Gate 5, Andrews Avenue, Nichols
Pasay City

GREETINGS:

You are hereby notified by these presents that on **October 28, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **October 29, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

PHILIPPINE AIRLINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10530

Members:

DEL ROSARIO, *P.J., Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:

OCT 2 8 2024 9:35AM

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RESOLUTION

CUI-DAVID, J.:

For this Court's resolution is petitioner's ***Motion for Reconsideration (Re: Decision dated 07 June 2024)*** filed on June 28, 2024, with respondent's *Opposition (Re: Motion for Reconsideration of the Decision dated 7 June 2024)*, filed on July 15, 2024.

Petitioner's *Motion* seeks the reversal of the Court's *Decision* promulgated on June 7, 2024, with the following dispositive portion:

> **WHEREFORE**, premises considered, the instant *Petition for Review* filed by Philippine Airlines, Inc. is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

Petitioner argues that the filing of its administrative claim prior to the timely filing of its judicial claim should be considered substantial compliance with the law, especially since the administrative claim was filed within the extended period provided under Supreme Court (**SC**) Administrative Circular (**AC**) No. 22-2021. Citing various Revenue Memorandum Circulars, which allegedly extended the deadlines for value-added tax (**VAT**) refund claims, petitioner argues that "the [Bureau of Internal Revenue] (**BIR**) has also not provided any explanation regarding the selective extension of VAT refund deadlines while other refund deadlines remain unaffected." Petitioner, therefore, invokes the principles of equity and substantial justice.

In his *Comment*, respondent merely quotes the assailed *Decision* of this Court with affirmation.

We now resolve.

To reiterate the assailed *Decision*, Section 204(C) of the National Internal Revenue Code (NIRC) of 1997,[1] as amended, refers to respondent's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two (2) years from the payment of the tax. Both this Court and the Supreme Court have consistently ruled that administrative and judicial claims must be filed within the two (2)-year reglementary period, and the timeliness of such filing is ***mandatory and jurisdictional.***[2]

In this case, petitioner paid excise taxes amounting to ₱8,427,599.88 on April 26, 2019.[3] Counting two (2) years from this date, petitioner had until **April 26, 2021,** to file administrative and judicial claims for refund. However, petitioner's *administrative* claim was filed with the BIR on **May 18, 2021,**[4] beyond the two (2)-year period.

The Court maintains its ruling that petitioner's reliance on SC AC No. 22-2021 is misplaced, as the Circular does not apply to petitioner's *administrative* claim filed with the BIR. A judicious reading of the law and relevant BIR issuances points this Court to conclude that no law or BIR issuance extended the deadline for filing *administrative* claims for refunds of erroneous tax payments made on April 26, 2019. As previously observed:

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[1] SEC. 204. Authority of the Commissioner to Compromise/Abate and Refund or Credit Taxes. — The Commissioner may —

... ...

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, that a return filed showing an overpayment shall be considered as a written claim for credit or refund."

[2] *Commissioner of Internal Revenue v. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

[3] Exhibits "P-9" and "P-9.1", Docket – Vol. II, pp. 1037 and 1038, respectively.

[4] Exhibit "P-2", Docket – Vol. II, pp. 868 to 877.

> Although the Secretary of Finance, upon the CIR's recommendation, issued revenue regulations authorizing the extension of the two-year period for filing refund applications for erroneous tax payments made during specific periods[5] in response to the COVID-19 pandemic, these extensions do not cover petitioner's erroneous payments made on April 26, 2019. Therefore, the inevitable conclusion is that petitioner had only until April 26, 2021, to file its *administrative* claim with the BIR. Consequently, the filing of petitioner's *administrative* claim on May 18, 2021, was out of time.

Considering that the timely filing of an administrative claim for refund is a condition *sine qua non* for the Court to take cognizance of the *Petition for Review*, the Court is constrained to dismiss petitioner's claim and, consequently, deny the present motion.

Petitioner has not convinced the Court with its invocation of equity and substantial justice. Petitioner attributes its confusion to respondent's failure to extend the periods for filing refunds pertaining to excise taxes. However, petitioner's reliance on equity and substantial justice appears to be an afterthought, as the belated filing of the administrative claim stemmed primarily from petitioner's erroneous interpretation of issuances extending the reglementary periods for filing claims for refunds, not from the "very limited manpower," "widespread office closures," or "delayed processing times" in government offices caused by the pandemic, as now alleged in its *Motion*.

Moreover, invoking "the interest of substantial justice" is not a magic wand that automatically compels this Court to set aside procedural rules, particularly statutory rules on jurisdiction. Like all rules, they must be followed except only for the most persuasive *reasons* when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of its thoughtlessness in not complying with the procedure prescribed.[6] In this case, petitioner's arguments do not warrant the relaxation of the rules as prayed for.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision dated 07 June 2024)* is **DENIED** for lack of merit.

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[5] Refer to Revenue Regulations Nos. 10-2020, and 11-2020. Following these regulations, applications for refund/credit of erroneous tax payments made from March 17, 2018 to April 30, 2018 have been extended until **June 14, 2020**, while erroneous payments made from May 1, 2018 to May 31, 2018 have been extended until **June 30, 2020**.
[6] *Lim v. Delos Santos*, G.R. No. 172574, July 31, 2009, citing *Lazaro v. Court of Appeals*, G.R. No. 137761, April 6, 2000.

x---x

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice