REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PHIL. GOLD PROCESSING & REFINING CORP., Petitioner,	CTA CASE NO. 8856
	Members:
-versus-	BAUTISTA, *Chairperson*; FABON-VICTORINO, and RINGPIS LIBAN, JJ.
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 22 2017 2:04 p.m.

x- -x

RESOLUTION

***Fabon-Victorino, J.*:**

Assailed in petitioner's *Motion for Reconsideration* dated February 2, 2017 is the Decision[1] dated January 6, 2017, the dispositive portion of which reads:

> **WHEREFORE**, the instant Petition for Review filed by Petitioner Phil. Gold Processing & Refining Corporation on August 4, 2014, is hereby **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**.

Petitioner avers that Section 112(C) of the Tax Code provides for two options within which to seek relief before the Court via a Petition for Review: (1) within thirty (30) days from receipt of decision denying its claim for refund; or (2) within thirty (30) days from the lapse of the 120-day period that respondent is required to act on the claim. Following the first option, since it received the BIR's letter denying its claim on July 4, 2014, petitioner insists that the filing of the instant Petition on August 4, 2014 was within

---

[1] Docket, pp. 3074-3085.

the 30-day period provided for by law, vesting the correct the competence to determine the case.

Further, petitioner reiterates that it is entitled to the refund sought, claiming that it exported 100% of its products from January 1, 2009 to December 1, 2009, rendering its sales zero-rated. Thus, substantiated excess input VAT attributed thereto may be claimed as refund.

On the contrary, respondent argues that Section 112 of the Tax Code does not give petitioner the option to wait for the denial of its claim before filing the instant Petition. He explains that upon the lapse of the 120-day period on October 20, 2010, petitioner has only until November 19, 2010 within which to file the instant Petition pursuant to the 120+30 mandatory and jurisdictional periods. Hence, the filing of the instant Petition on August 4, 2014 was way beyond the period prescribed by law, precluding the Court from exercising jurisdiction over the case.

Moreover, petitioner has the *onus probandi* to establish the legal and factual bases of its claim for refund. More importantly, tax refunds, being in the nature of tax exemptions, are strictly construed against claimant-petitioner.

A reading of the assailed Decision and the arguments of the parties as confined in their respective Motions for Reconsideration and Oppositions reveals that the contentions they raise are mere repetition of those advanced in their previously filed pleadings which have been considered and passed upon by the Court. There being no new or substantial arguments to modify, much less reverse the assailed Decision dated January 6, 2017, petitioner's Motion for Reconsideration dated February 2, 2017 is **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice