REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

NICKELBASE, INC.,
Petitioner,

CTA *EB* NO. 2268
(CTA Case No. 9632)

-*versus*-

Present:

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
MAY 31 2022 11:35a.m.

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RESOLUTION

MANAHAN, J.:

On July 22, 2020, petitioner Nickelbase, Inc. filed its Petition for Review with the Court of Tax Appeals (CTA) *En Banc* praying that the Decision and Resolution, dated November 18, 2019 and June 16, 2020, respectively, of the CTA 2nd Division be vacated; and that respondent Commissioner of Internal Revenue be directed to issue a tax credit certificate (TCC) representing petitioner's unutilized input taxes attributable to zero-rated sales for the period January 1, 2015 to December 31, 2015, in the total amount of Php90,666,827.96.

On December 16, 2021, the CTA *En Banc* rendered a Decision[1] denying petitioner's appeal on the ground that the CTA 2nd Division correctly found that the Petition for Review was belatedly filed. The dispositive portion states as follows:

[1] EB Docket, pp. 67-74.

> **WHEREFORE**, the Petition for Review is **DENIED** for lack of merit. The Decision and Resolution of the Court's Second Division, dated November 18, 2019 and June 16. 2020, respectively, are **AFFIRMED**.
>
> **SO ORDERED**.[2]

On February 22, 2022, petitioner filed its Motion for Reconsideration.[3] Despite notice,[4] respondent failed to file his comment/opposition.[5]

In its Motion, petitioner once again argues that the 120+30 day periods provided under Section 112(C) of the 1997 National Internal Revenue Code (NIRC), as amended, pertain only to cases of inaction by respondent, and, that in the instant case, respondent rendered a decision within the 120-day period. Petitioner argues that since there was an actual decision on June 14, 2017, received on July 4, 2017, petitioner had a fresh 30-day period from July 4, 2017 within which to file its judicial appeal. As such, the Petition for Review before the Court in Division was timely filed on July 21, 2017.

Petitioner also argues that respondent may render a decision denying the refund after the 120-day period, and that there is no bar in appealing the decision within thirty (30) days from the receipt of the decision denying the claim, which is consistent with the ruling in *Lascona Land Co., Inc. v. Commissioner of Internal Revenue*.[6]

The Motion is denied.

Records show that petitioner's arguments are mere rehash of its arguments raised in its Petition for Review, which has been addressed in the assailed Decision dated December 16, 2021.

Petitioner does not submit any compelling argument or reason to warrant reversal of the Court's findings that the judicial claim filed before the CTA Division was belatedly filed. The period of filing the judicial claim has been clarified to be

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[2] EB Docket, p. 73.
[3] EB Docket, pp. 75-88.
[4] EB Docket, pp. 90-91.
[5] EB Docket, Records Verification dated March 31, 2022.
[6] G.R. No. 171251, March 5, 2012.

within "30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day period, whichever is sooner."[7]

Thus, no cogent reason exists to warrant a reconsideration of the Court's Decision, and it would be useless ritual for the Court to reiterate itself.[8]

WHEREFORE, petitioner's Motion for Reconsideration filed on February 22, 2022 is **DENIED** for lack of merit.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[7] *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.
[8] *Madeleine Mendoza-Ong v. Hon. Sandiganbayan and People of the Philippines*, G.R. Nos. 146368-89, October 18, 2004.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice