REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

BETHLEHEM HOLDINGS, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9789

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
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RESOLUTION

MANAHAN, *J.*:

For this Court's resolution is respondent's *Motion for Reconsideration (Decision dated 3 December 2021)* posted on February 2, 2022 and received by the Court on March 3, 2022, with petitioner's *Comment/Opposition (Re: CIR's Motion for Reconsideration dated February 2, 2022)* filed on April 11, 2022.

Respondent seeks reconsideration of the Court's Decision promulgated on December 3, 2021 (Assailed Decision), the dispositive portion of which reads as follows:

> "**WHEREFORE,** in light of the foregoing considerations, the instant Petition for Review is **GRANTED.** Accordingly, respondent is **ORDERED** to **REFUND**, or **ISSUE A TAX CREDIT CERTIFICATE**, in the amount of **P8,004,577.61,** in favor of petitioner, representing its excess and unutilized CWTS for CY 2015.
>
> **SO ORDERED**."

Respondent's disagreement with the assailed Decision is based on the sole ground that the claim for refund should have been denied for failure of petitioner to exhaust administrative remedies by not submitting all the documents required by

Revenue Memorandum Order (RMO) No. 19-2015 in the administrative level. Respondent avers that a taxpayer claiming for a tax refund in the judicial level has the initial burden of proving that it has complied with all the administrative requirements continuing up to the judicial review. Respondent also stressed that taxpayers requesting for tax refunds should be subjected to an audit as mandated by RMO 19-2015. The failure to exhaust administrative remedies, according to respondent, cannot be cured by the subsequent filing of an appeal with the courts. To cap off his arguments, respondent cites the jurisprudential principle laid down in the case of *Pilipinas Total Gas, Inc. vs. CIR,*[1] where the Supreme Court supposedly made a distinction between what has been resolved in the administrative level and what may be reviewed in the judicial or appellate level.

Petitioner opposes the contention of respondent and argues that a closer look at the provisions of RMO 19-2015 would reveal that an audit is not a condition before an appeal may be filed with the courts. Petitioner cites the decision of the Supreme Court in the case of *CIR vs. Univation Motor Philippines, Inc.*[2] which allegedly ruled that the law only requires that an administrative claim be priorly filed and "for as long as the administrative claim and the judicial claim were filed within the two-year prescriptive period, then there was exhaustion of administrative remedies."

RULING OF THE COURT

We deny the motion and rule that petitioner did not violate the doctrine of exhaustion of administrative remedies.

Respondent's attempt to link the aforementioned doctrine to the alleged failure of petitioner to submit complete documents in the administrative level is erroneous and misplaced.

The requirement of exhaustion of administrative remedies in the perspective of claiming tax refunds is found in Sections 204 and 229 of the 1997 National Internal Revenue Code (NIRC), as amended, and we quote:

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[1] G.R. No. 207112, December 8, 2015.

[2] G.R. No. 231581, April 10, 2019.

"Section 204 – *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*

-The Commissioner may-

xxx xxx xxx

(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. (emphasis supplied)

Section 229. *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or of any sum alleged to have been excessively or in any manner wrongfully collected **until a claim for refund or credit has been duly filed with the Commissioner of Internal Revenue; but such suit or proceeding may be maintained whether or not such tax, penalty or sum has been paid under protest or duress.** xxx xxx xxx *Provided however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." (emphasis supplied)

Section 204 (C) of the 1997 NIRC, as amended, specifically requires that a written claim for refund must first be filed with the Commissioner of Internal Revenue (CIR) within two (2) years after the payment of the tax. Section 229 of the same Code further adds that a judicial claim for refund (or a proceeding in court) must be preceded by a written claim for refund duly filed with the CIR otherwise the same will not prosper.

The purpose of prior recourse to the relevant administrative body before availing of a judicial remedy was explained clearly by the Supreme Court in the case of *Philippines vs. Catungal Jr., et.al.,*[3] thus:

> "The underlying principle of the rule on exhaustion of administrative remedies rests on the presumption that the administrative agency, if afforded a complete chance to pass upon the matter, will decide the same correctly. There are both legal and practical reasons for the principle."

Lastly, we quote the ruling of the Supreme Court in the case of *CIR vs. Univation Motor Philippines,* Inc,[4] to wit:

> "The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. **Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund."** (emphasis supplied)

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Decision dated 3 December 2021)* filed on November 12, 2021 is **DENIED** for lack of merit.

Accordingly, the Decision of the Court in the above-captioned case dated December 3, 2021 is hereby **AFFIRMED.**

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

(On Leave)
ROMAN G. DEL ROSARIO
Presiding Justice

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[3] G.R. No. 121863, May 5, 1997.
[4] *Ibid.*

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice