REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED-PHILIPPINES ROHQ,	**CTA *EB* NO. 2900** (CTA Case No. 10258)
Petitioners,	Present:
-versus-	**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: AUG 07 2025 3:15

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court is a Petition for Review, filed on April 17, 2024, assailing the Decision, dated October 5, 2023, and Resolution, dated March 7, 2024, both rendered by the Court of Tax Appeals ("CTA") Special First Division ("Court in Division"), dismissing petitioner's claim for refund of its value-added tax ("VAT") on zero-rated sales for the 3rd and 4th quarters of calendar year 2017, for lack of jurisdiction.

The Parties[1]

Petitioner CITCO International Support Services Limited-Philippine ROHQ is a VAT-registered taxpayer with a Certificate of Registration issued by Revenue Region No. 8, Revenue District Office No. 50.

Respondent is the duly appointed Commissioner of Internal Revenue.

The Facts

On September 30, 2019, petitioner filed an Application for Tax Credits/Refunds and a letter with the Bureau of Internal Revenue ("BIR") VAT Audit Division to request the refund of its excess and unutilized input VAT, attributable to its zero-rated sales for the period from July 1, 2017 to December 31, 2017. The BIR denied this claim through a letter, dated December 5, 2019, which petitioner received on January 14, 2020.[2]

Aggrieved, petitioner filed a Petition for Review before the Court in Division on February 13, 2020, to which respondent filed an Answer on September 21, 2020.[3]

After trial, the Court in Division dismissed the Petition for Review for lack of jurisdiction through the Assailed Decision on October 5, 2023. Petitioner filed a Motion for Reconsideration to assail this ruling on October 25, 2023, but this was denied in the Assailed Resolution on March 7, 2024.

Still aggrieved, petitioner filed a Motion for Extension of Time (To file Petition for Review)[4] before the Court *En Banc* on April 2, 2024. The Court granted the Motion through a Minute Resolution,[5] dated April 4, 2024, giving petitioner until April 17, 2024 within which to file a Petition for Review.

Petitioner filed the instant Petition on April 17, 2024, while respondent filed his Comment (Re: Petition for Review)[6] on May 21, 2024. The Court then submitted the Petition for decision through a Minute Resolution[7] on June 13, 2024.

Hence, this Decision.

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1 Decision, dated October 5, 2023, pp. 1-2, *Rollo*, pp. 50-51.
2 Decision, dated October 5, 2023, p. 2, *id.* at 51.
3 *Id.*
4 *Id.* at 1-3.
5 *Id.* at 13.
6 *Id.* at 73-77.
7 *Id.*, unpaginated.

The Assigned Errors

Petitioner assigns the following errors to the assailed issuances of the Court in Division:[8]

(a) The Court erred in disregarding petitioner's arguments in its Motion for Reconsideration;
(b) The Court erred in not recognizing the legislative intent behind the amendments made by *Republic Act* ("*RA*") *No. 10963* to *Section 112(c) of the National Internal Revenue Code of 1997, as amended* ("*NIRC*"); and
(c) The Court erred in maintaining that the Petition for Review before it was filed out of time.

The Arguments

Petitioner raises the following arguments:

(a) The Assailed Decision did not actually address the specific arguments raised in petitioner's Motion for Reconsideration before it;[9]
(b) The amendments to *Section 112(c) of the NIRC* made by *RA No. 10963* (the *Tax Reform for Acceleration and Inclusion Act* or "*TRAIN*"), and the reversions of such made by *RA No. 11976* (the *Ease of Paying Taxes Act* or "*EOPTA*") show that the "deemed denial" construction of the prescriptive period for filing judicial claims for refunds was *not* operative during the period relevant here;[10]
(c) Legislators directly intended to remove the "deemed denial" construction with *TRAIN*;[11] and
(d) Nothing in *Section 112(c) of the NIRC*, as it existed under *TRAIN*, prohibits a taxpayer from waiting for the CIR's decision on its administrative claim.[12]

Respondent opposes the above with the following:

(a) Claimants of tax refunds have the burden of proof to establish the factual basis of their claims;[13] and
(b) Claims for refund are strictly construed against claimants.[14]

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8 Petition for Review, pp. 7-8, *id.* at 20-21.
9 Petition for Review, pp. 9-12, *id.* at 22-25.
10 Petition for Review, pp. 12-13 & 17-21, *id.* at 25-26 & 30-34.
11 Petition for Review, pp. 13-17, *id.* at 26-30.
12 Petition for Review, pp. 21-27, *id.* at 34-40.
13 Comment (Re: Petition for Review), p. 3, *id.* at 75.
14 Comment (Re: Petition for Review), pp. 3-4, *id.* at 75-76.

The Ruling of the Court

The Petition has merit.

The Court has jurisdiction over the instant Petition

Under *Rule 4, Section 2(a)(1) of the Revised Rules of the Court of Tax Appeals, as amended* ("*RRCTA*"), this Court *En Banc* has jurisdiction over rulings of the Court in Division in cases involving administrative agencies, such as the present case. Meanwhile, *Rule 8, Section 3(b) of the RRCTA* requires that a Petition assailing such a ruling of the Court in Division be filed with the Court *En Banc* within 15 days from the aggrieved party's receipt of the adverse ruling. The period can be extended by an additional 15 days once.

To recall, petitioner received a copy of the assailed Resolution on March 18, 2024, then filed a Motion for Extension of Time (To [F]ile Petition for Review) on April 2, 2024. This was granted by the Court via a Minute Resolution on April 4, 2024, giving petitioner until April 17, 2024, within which to file a Petition, on the condition that the Motion for Extension of Time was not filed late. Petitioner finally filed the instant Petition on April 17, 2024.

Considering that (i) the Motion for Extension of Time was filed exactly 15 days from petitioner's receipt of the assailed Resolution; and (ii) the Petition for Review was filed on April 17, 2024, the exact date of the deadline, petitioner was able to file the instant Petition on time. This Court *En Banc* thus has jurisdiction over the case at bar.

Section 112(c) of the NIRC was changed by TRAIN and then again by EOPTA

The present disagreement concerns whether, under *Section 112(c) of the NIRC*, as amended specifically by *TRAIN*, the CIR's failure to act on a claim for input tax refund is deemed a denial of such claim. For petitioner, no appeal can be made from the CIR's inaction, so the expiration of the CIR's period to act on a refund claim under *Section 112(c)* does not toll the period for raising a judicial claim. For respondent and the Court in Division, such an inaction can be the basis for an appeal even under *TRAIN*, so the expiration of the CIR's period to act on a refund claim under *Section 112(c)* does mark the beginning of the prescriptive period for filing the corresponding Petition for Review.

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 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 while shortening the 120-day period to 90 days. *EOPTA*, meanwhile, reinserted the deleted phrases into the provision, while retaining the new 90-day period on the part about administrative punishment.

There is no "good" case law on Section 112(c) of the pre-TRAIN NIRC that is fully applicable to TRAIN

In dismissing the Petition before it, the Court in Division found that petitioner filed its Petition late. It based this finding on the assumption that, under *TRAIN*, a taxpayer must file its judicial claim within 30 days from the lapse of the 90-day period for the CIR to act on a VAT refund claim, if the CIR failed to act on the claim within said period. It found that *Silicon*

Philippines, Inc. v. Commissioner of Internal Revenue[15] ("*Silicon*"), which declared the 120+30-day period of the pre-*TRAIN NIRC* mandatory and jurisdictional, was still "good case law" and thus applicable to cases involving administrative VAT refund claims filed during the effectivity of *TRAIN*.

We unfortunately disagree.

Critically, there does not seem to be any clear basis for claiming that *Silicon* is still good case law even under *TRAIN*. The quotation from *Energy Development Corporation v. Commissioner of Internal Revenue*[16] ("*EDC*") simply observes that *TRAIN* instituted a "singular action" for refunds within the 90-day period but says nothing on a 90+30-day period. Meanwhile, the passage from *Revenue Memorandum Circular No. 17-2018* simply mandates that a denial of a claim must be communicated within the 90-day period but is similarly silent on the CIR's inaction. Therefore, neither of these can serve as justification for applying *Silicon* and similar jurisprudence on the pre-*TRAIN* version of *Section 112(c) of the NIRC* to cases governed by *TRAIN*.

Such justification is necessary as the two versions of *Section 112(c)* are not the same. *TRAIN* did not *just* shorten the 120-day period to 90 days. As discussed, it also *removed* any mention of the CIR's inaction and added a provision on punishing BIR officials who fail to act on claims within the 90-day period. *Silicon* and similar, however, seem to be based precisely on the mention of "the expiration of the one hundred twenty-day period" included in the pre-*TRAIN NIRC* but excluded in *TRAIN*. The law as amended by *TRAIN* thus omits any direct basis for the 120+30-day period, putting its applicability to this case into question. In short, We do not see why *Silicon* and similar cases remain "good case law"—the claim is unsupported.

Indeed, no applicable Supreme Court jurisdiction seems to have been available to the Court *a quo* when it rendered its ruling. Of the 29 Supreme Court Decisions promulgated from January 1, 2018 (the effectivity of *TRAIN*) to October 5, 2023 (the promulgation of the assailed Decision), on cases involving claims for refund under *Section 112(c)* (or its older equivalent),[17]

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15 G.R. No. 182737, March 2, 2016.

16 G.R. No. 203367, March 17, 2021.

17 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222428, February 19, 2018; *Team Energy Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 197663 & 197770, March 14, 2018; *Team Sual Corporation v. Commissioner of Internal Revenue*, G.R. Nos. 201225-26, 201132, & 201133, April 18, 2018; *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 203249, July 23, 2018; *Kepco Ilijan Corporation v. Commissioner of Internal Revenue*, G.R. No. 205185, September 26, 2018; *Commissioner of Internal Revenue v. Mindanao I Geothermal Partnership*, G.R. No. 192006, November 14, 2018; *Commissioner of Internal Revenue v. Team Energy Corporation*, G.R. No. 230412, March 27, 2019; *Commissioner of Internal Revenue v. Chevron Holdings, Inc.*, G.R. No. 233301, February 17, 2020; *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue*, G.R. No. 244154, July 15, 2020; *Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd.*, G.R. No. 234445, July 15, 2020; *Commissioner of Internal Revenue v. Filminera Resources Corporation*, G.R. No. 236325, September 16, 2020; *Commissioner of Internal Revenue v. Philex Mining Corporation*, G.R. No. 230016, November

none involve administrative claims filed *after* the effectivity of *TRAIN*. Even *EDC* actually involved an administrative claim filed pre-*TRAIN*, with its statement on *TRAIN* being more of an aside or *obiter dictum*. In other words, there was no applicable jurisprudence from the Supreme Court dealing with the specific issue of whether or not *Section 112(c) of TRAIN* allowed deeming the CIR's inaction on an administrative claim as an implied denial of such.

Considering this, and the continued lack of pronouncements by the High Court on this specific issue,[18] this Court *En Banc* deems it proper to rely on the law itself and the stated intentions behind it.

TRAIN, as written, does not allow appealing the CIR's failure to act on a claim for input tax refund

Without any jurisprudence that directly addresses the issue at hand, the Court *En Banc* must focus first on *TRAIN* as it was written. We now thus turn to the fact that *TRAIN* removed any mention of the CIR's inaction or the expiration of the period for acting on VAT refund claims from *Section 112(c) of the NIRC*.

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"[19] 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.[20] In other

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23, 2020; *Commissioner of Internal Revenue v. Philex Mining Corporation*, G.R. No. 218057, January 18, 2021; *EDC, supra* note 16; *Taganito Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 216656, April 26, 2021; *Hedcor Sibulan, Inc. v. Commissioner of Internal Revenue*, G.R. No. 202093, September 15, 2021; *Commissioner of Internal Revenue v. Taganito Mining Corporation*, G.R. Nos. 219630-31 & 219635-36, December 7, 2021; *Harte-Hanks Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 205189, March 7, 2022; *Chevron Holdings, Inc. v. Commissioner of Internal Revenue*, G.R. No. 215159, July 5, 2022; *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 250479, July 18, 2022; *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue*, G.R. No. 258791, December 7, 2022; *Commissioner of Internal Revenue v. Cargill Philippines, Inc.*, G.R. Nos. 255470-71, January 30, 2023; *Commissioner of Internal Revenue v. CE Casecnan Water and Energy Company, Inc.*, G.R. No. 212727, February 1, 2023; *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. No. 247918, February 1, 2023; *Commissioner of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. Nos. 226548, 227691, & 226682-83, February 15, 2023; *Commissioner of Internal Revenue v. Vestas Services Philippines, Inc.*, G.R. No. 255085, March 29, 2023; *Commissioner of Internal Revenue v. Toledo Power Company*, G.R. Nos. 255324 & 255353, April 12, 2023; and *Commissioner of Internal Revenue v. BW Shipping Philippines, Inc.*, G.R. No. 261171, October 4, 2023.

18 The three Supreme Court rulings on input VAT claims promulgated since October 5, 2023, also involve administrative claims filed before January 1, 2018. See *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*, G.R. No. 253003, January 24, 2024; *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, August 7, 2024; and *Commissioner of Internal Revenue v. Dohle Shipmanagement Philippines Corporation*, G.R. No. 246379, August 19, 2024.

19 *Oceanmarine Resources Corporation v. Nedic*, G.R. No. 236263, July 19, 2022.

20 *Akbayan v. Commission on Elections*, G.R. Nos. 147066 & 147179, March 26, 2001.

words, a change made to the language used in a law must be understood as a change in the law itself.

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."[21] 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.[22] 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.[23]

Considering the above, *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 cannot be brushed aside. To treat the old option, of raising a judicial claim for refund from the CIR's inaction, as still available even after said removal would be to treat *TRAIN*'s amendments to *Section 112(c)* as meaningless, effectively nullifying said changes. It would conflict with the explicit deletion of said option from the *NIRC*. It would ignore the provision's telling omission of appeals from inaction. It would distinguish (between cases where the CIR does and does not act on an administrative claim within the 90-day period) when the law does not. It would thus contradict the law itself.

TRAIN's removal of the relevant phrases must consequently be construed as the explicit removal of said option. 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.

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21 *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.
22 *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, August 7, 2024.
23 See, for example, *Philippine Contractors Accreditation Board v. Central Mindanao Construction Multi-Purpose Cooperative*, G.R. No. 242296, July 31, 2024.

Legislators intentionally removed the reference to the CIR's inaction from Section 112(c) of the NIRC

The above discussions are sufficient to ground this Court *En Banc*'s finding that the CIR's inaction on an administrative claim under *Section 112(c) of the NIRC* was no longer deemed a denial of such claim under *TRAIN*. However, another source of clarity on the issue is available to Us: the transcript of the consultative meeting, held on February 2, 2023, on *EOPTA*, as attached to petitioner's Motion for Reconsideration before the Court *a quo*.[24] While the meeting was for the drafting of *EOPTA* and not *TRAIN*, it is still enlightening for the present purposes as it specifically addresses the lack of a "deemed denied" provision in *TRAIN*.

We shall first quote the pertinent portions of said transcript below, before focusing on specific statements when discussing them in more detail:

> **MR. MENESES.** If the Chair can just allow us to go back to Section 112? Because I think there may be something that we have missed and to correct something that the TRAIN Law ... [two words deleted from the record upon the request of Mr Meneses].
>
> This is one issue that is constantly raised by practitioners in terms of the inaction by the commissioner after the lapse of the 90-day period whether you can file already with the Court of Tax Appeals or not. And this was ... [two words deleted from the record upon the request of Mr. Meneses] ... by the TRAIN Law.
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> So, if we can—kasi the thing is that, I missed it out. And, in fact, I missed it out even before because we were looking only at Section 112(c). But there is that other paragraph, that additional paragraph, on Section 112(c) where it says that, "In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals." And then the TRAIN Law just provided a penalty in case the BIR officer fails to act upon the claim for refund.
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> In the original wording of the Tax Code, it says here that, "In case of full or partial denial of the claim for tax refund or tax credit, the failure on the part of the Commissioner to act upon the application within the period above, the taxpayer affected may, within 30 days from receipt of the decision denying the claim or after the expiration of the 120 days," and now 90 days, "appeal the decision of the unacted claim with the Court of Tax Appeals."
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> So, if we can include now that proviso that "within 30 days from receipt of the decision denying the claim or after expiration of the 90-day period, appeal the decision or the unacted claim with the Court of Tax

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[24] Division Docket Vol. 2, pp. 843-870.

Appeals," that is to clearly clear the matter that was inadvertently deleted[25] by the TRAIN Law.

. . . .

MR. DASCIL. I guess, with due respect to our legislator, I was present during the deliberation and even in the final discussion. There was no inadvertence, deletions, or omission on the part of our legislator. *If you read the provision, there is a mechanism in order the taxpayer*[26] *should go to the Court of Tax Appeals. It provides that, "In case of a full or partial denial of the claim for tax refund, the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals." So, the mechanism was put by our legislators.*

And, subsequently, in the discussion, the provisions of the Court of Tax Appeals on mechanism for motion for reconsideration and other legal remedies are considered as a part of the Taxpayer Bill of Rights.

MR. MENESES. With due respect to the DG, what about if there is an inaction, sir? Because that is the whole point of the previous provision that in case of an inaction by the commissioner, within the lapse of the 90-day period, then the taxpayer can appeal.

In the current version of the Tax Code provision, there is no remedy. The taxpayer is made floating in case of inaction by the BIR. The only thing there is that there is a penalty imposed on the BIR officer in case of inaction. But there is no remedy made available to the taxpayer in case of inaction.

. . . .

MR. PAYAPAG. Mr. Chair, if you can see the provisions of the Tax Code, *the reckoning is the 30 days upon receipt of the decision whether it is within the 90 days period or not.*

MR. GRACIA. Yes.

MR. PAYAPAG. The law provides for an administrative penalty for the erring employees of the bureau in case that the 90 days period has not been observed.

So, the reckoning point now is, if you receive a decision denying your application, then you have 30 days to appeal to the CTA. *So, ang reckoning point nga is regardless whether it is within the 90 days period or after, as along as there is a decision, that is the reckoning point na iakyat natin siya sa CTA.*

Actually po, if we can see, the intention is—*dati kasi nagkaroon ng inaction, na nagkakaroon ng confusion sa side ng taxpayer whether, "May 30 days pa ba ako to appeal or wala na?" So, to clear that po and to shorten the process of refund, nag-focus po si law doon sa erring employees na if you failed to process that within the 90 days period, you are administratively liable.*

[25] This instance of the phrase was left in the transcript, despite Atty. Meneses' later request.
[26] *Sic.*

But with respect to the remedies of the taxpayer, *if you receive a decision, whether it is beyond the 90 days, you have 30 days to appeal before the Court of Tax Appeals po.*

MR. GARCIA. So, Atty. Jason, what if there is no decision within the 90 days? You mean to say that right now we should wait for the decision of the CIR before we go to the Court of Tax Appeals?

Because, I think, previously, ang ano ata before is, iyong 120 days is kung wala, you can already go up to the Court of Tax Appeals. I think that is where the confusion lies with our practitioners. Kasi previously, I think, it was clear that after the 120 days, if there is inaction, you can already go to the Court of Tax Appeals.

MR. PAYAPAG. Yes, Mr. Chair. The word of the law is that, "the taxpayer affected within 30 days from the receipt of the decision." So, the decision is not limited whether—*Basta't parang ang naging reckoning point ng law is, if you receive, whether it is not beyond the 90 days period, you may appeal to the Court of Tax Appeals.*

. . . .

MR. DASCIL. *Actually, Senator, during the deliberation, if they will look at provisions of 269, may idinagdag po doon na paragraph (j), "Deliberate failure to act on the application for refunds within the prescribed period provided under Section 112 of this Act."*

So, if you read the transcripts and if you read faithfully the concept of the TRAIN law, mas binigyan pa nga ng leeway iyong taxpayer, kasi dati 120 days, it was lowered to 90 days. Then you only file your appeal to the Court of Tax Appeals after the lapse of 120 days.[27] But in this concept, the taxpayer, within the 90 days, kung nakatanggap ka ng denial in 30 days, you go directly to the Court of Tax Appeal;[28] 60 days, you go directly; 90 days, wala, the action is a deliberate failure on the part of the BIR employees or its—then you go directly to the Court of Tax Appeal.[29] The mechanism was there.

MS. MARCELO. Sir, I think the problem is, iyong ina-address po ng practitioners natin, there is a scenario po kasi na BIR does not issue a decision at all. So, doon po sila at a loss what to do in the case na walang decision, whether approval or denial. Kasi it really happens. I actually experience it na wala talagang natanggap na decision iyong taxpayer after the 90 days. And the CTA cannot acquire jurisdiction over the refund kung walang deemed denial provision, unlike before. Kasi before, malinaw, basta mag-lapse iyong 120-days, deemed denial. Ngayon, tinanggal kasi iyong provision na iyon. So, the taxpayer is confused. Mayroon bang jurisdiction iyong CTA kapag walang action at all, walang approval, walang denial? So, I think that is what Atty. Delos Santos is pointing out. Can we provide a deemed denial provision again after the 90 days? Iyon po iyong point of contention, I thnk.

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[27] Note that this incorrect: under the pre-*TRAIN NIRC*, a taxpayer could also raise a judicial claim if it received an adverse decision within the 120-day period. The lapse of said period was not the *only* time a taxpayer can file an appeal, contrary to what is claimed and implied here. y

[28] *Sic.*

[29] *Sic.*

. . . .

MR. NAPAO. Mr. Chair, if I may comment?

The Tax Code points to a VAT refund system. *It is a deliberate design* that took only effect after meeting the requirements in the TRAIN Act. . .

. . . .

And by the way, we are monitoring iyong—the BIR is submitting naman a report to the DOF monitoring iyong claims acted upon on a monthly basis. And based on our inventory, parang cleared naman ang mga refunds. Iyon nga, half of it denied, half of it granted. But the reasons for denial, it is mostly on errors committed doon sa documentation. So, this is the aspect that we are trying to improve, Mr. Chair. But the 90-day period, it is a deliberate design under the TRAIN Act. We hope that this is—given a chance to prove na it can deliver a better refund to our taxpayers.

Thank you.

THE CHAIRPERSON. Usec, the issue—. . . . Ang tanong ko lang, most often than not ba there's no decision beyond the 90 days? Is there a scenario? I think the issue here is 90 days na, there is no decision. I think that is the issue.

MS. PEREZ. That is the issue.

THE CHAIRPERSON. That is the issue. And then the taxpayer is left hanging on what to do.

MS. PEREZ. We will have to wait for a decision which can come later—much later.

MR. NAPAO. Mr. Chair, VAT refund decisions are rendered within that 90-day period. And if we are looking at iyong—granulize natin iyong division of where the documents will be at a certain time, who is reviewing, ganyan, nandoon iyan. *It is documented. There is no refund that is not acted upon within the 90-day period.*

. . . .

THE CHAIRPERSON. The proposal is to bring back iyong deemed denial provision, tama ba, Atty. Meneses?

MS. PEREZ. Yes, the old provision has a deemed denial.

. . . .

THE CHAIRPERSON. You wait, you go up or you file an administrative case, hindi ba? Because in the provision, there is an administrative eh.

MS. PEREZ. Yes.

MR. MENESES. Yes, Senator.

THE CHAIRPERSON. Hindi ba, there is an administrative? Those are your three options.

MR. MENESES. Under the current provision, there are only two options. Either you wait. Sabi naman ng BIR, they make the decision within 90 days. So, supposed to be from the BIR's perspective, there will never be a point in time where the decision will not be made within 90 days. If that 1 percent chance na they did not act upon after 90 days, the only other option is for you to file an administrative case. From our perspective, wala namang talo ang BIR. Because if the BIR is saying that based on their current program, they will decide. All cases will be decided in 90 days. So that option on the part of the taxpayer, that deemed denial option, will never happen. There will never be a chance. If the BIR is saying that, "Yes, we will resolve everything in 90 days because that is our program," then that deemed denial situation will never happen.

MR. DASCIL. Senator, sorry for being passionate. But with due respect also, I need to defend the integrity of the Senate on the word "inadvertence" because *there was no inadvertence*. If we are here to provide for ease of paying taxes, let's have compromise, but not to diminish the integrity of this institution.

. . . .

MR. DASCIL. If we really want to have ease of paying taxes, the compromise may be taking into account the taxpayers and the advocacy of our Chair to protect also the taxpayer balancing the interest of our government to earn money.

I guess we should provide a proviso providing that, "Provided, finally in case of inaction, the provisions of ease of doing business there is a clear provision on denial—deemed denial." How many days can be considered in this bill? There should be a proviso. And, I guess, there is a mechanism along that line. And I guess the BIR will agree.

. . . .

MR. PAYAPAG. Mr. Chair, ang nagiging ano lang po namin, wala naman din po sa amin ang problema kung ilagay iyong "deemed denial." Ang problema po dito is kailan mo masasabing it is considered as deemed denied. Kumbaga po, halimbawa, within 90 days upon the application—kasi ito po iyong dating bill, iyong dating law na within 120 days days if the commissioner failed or nagkaroon ng inaction, iyong application mo is deemed denied. *Experience po namin is nagiging problema rin po ng taxpayer pag-akyat na nila sa CTA dala iyong records. Kapag minsan iyong one day lang na hindi mo nai-appeal na pumasok iyong 30 days, puwede na siyang i-deny—iyong appeal mo. Unlike po doon sa current provisions ng tax law, maliwanag na kapag na-receive mo, from the date of receipt, you have 30 days to appeal.*

With respect po doon sa 90 days processing po kasi, we assure po, Mr. Chair, na napa-process po namin siya within 90 days. Kasi doon sa current tax law natin, may penalty provision na po.

> And second, siguro ang nagko-cause lang din po ng delay, halimbawa po, doon sa granted na refund is iyong funding. Iyon na naman din po iyong nagiging ano namin, sa funding na rin po kapag iyong mga cash refund. Pero the decision within a 90-day period, especially the denial, in line with the purpose of this ease of paying taxes is baka kasi po—what if iyong normal lang na taxpayer na wala po siyang—cannot afford na kumuha ng consultant or representative, kailan ko sasabihin na deemed denied na iyong refund na in-apply ko sa Bureau of Internal Revenue? Kasi kung mayroon po siyang lawyer or representative, pwede nilang ilaban na "O, pumasok pa siya sa 30 days' appeal." *Iyon po iyong parang—at least po dito kasi naka-fix na po tayo. Kung kailan mo ma-receive iyong decision ni CIR, you have 30 days na iakyat na po siya kay CTA.*
>
> Thank you po, Mr. Chair.
>
> **THE CHAIRPERSON.** . . .
>
> So just to resolve this and move forward, we are inclined to adopt the "deemed denial" provision, subject to style na lang. But the concept there, Attorney, is—ako, the simple concept, after 90 days, no decision, that is already deemed denied. It is the option now of the taxpayer within 30 days to bring it up. If you do not want to bring it up, bahala ka na. If you want to file an administrative case, bahala ka na. If you want to wait further, you have 30 days to wait further. . . .[30]
> [Italics supplied.]

The Court *En Banc* shall now discuss how the above shows that (i) the provision that deemed the CIR's inaction on an administrative claim as a denial of such claim was *removed* from the *NIRC* by *TRAIN*; and (ii) said removal was *intentional.*

Both a BIR Assistant Chief and a Senate official present during the TRAIN deliberations practically admitted that Section 112(c) did not have a "deemed denied" provision under said law

Reading through the transcript, the Court notes two members of the committee who seem directly knowledgeable on *TRAIN*: Atty. Jayson R. Payapag, Assistant Chief of the BIR's Assessment Division, and Atty. Rodelio T. Dascil, Director General of the Senate Tax Study and Research Office. Both had much to reply to a perceived issue in *Section 112(c) of the NIRC*, as specifically amended by *TRAIN*—an issue raised by Chairperson Hon. Win Gatchalian, Ms. Kathleen Marcelo, a member of Hon. Gatchalian's staff, Atty. Cresencio T. Meneses I, Vice President of Corporate Tax at SM Investments Corporation, and Atty. Euney Marie Mata J. Perez, Chair of the Tax Committee at the Management Association of the Philippines.

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[30] *Supra* note 24.

That *TRAIN* no longer included a "deemed denied" provision is most directly seen in Atty. Payapag's repeated insistence that the 30-day reckoning point for appealing the CIR's denial is the taxpayer's receipt of such:

> **MR. PAYAPAG.** Mr. Chair, if you can see the provisions of the Tax Code, the reckoning is the 30 days upon receipt of the decision whether it is within the 90 days period or not.
>
> . . . .
>
> So, the reckoning point now is, if you receive a decision denying your application, then you have 30 days to appeal to the CTA. So, ang reckoning point nga is regardless whether it is within the 90 days period or after, as along as there is a decision, that is the reckoning point na iakyat natin sa CTA.
>
> . . . .
>
> But with respect to the remedies of the taxpayer, if you receive a decision, whether it is beyond the 90 days, you have 30 days to appeal before the Court of Tax Appeals po.
>
> . . . .
>
> **MR. PAYAPAG.** Yes, Mr. Chair. The word of the law is that, "the taxpayer affected within 30 days from the receipt of the decision." So, the decision is not limited whether—Basta't parang ang naging reckoning point ng law is, if you receive, whether it is not beyond the 90 days period, you may appeal to the Court of Tax Appeals.

Note that Atty. Payapag characterizes receipt of the denial as *the* reckoning point and *not* just one reckoning point among multiple, directly using articles such as "the" or "ang" and not using language that would imply multiple or other reckoning points. This implies that receipt of the decision is the *only* reckoning point under *TRAIN*, which naturally excludes treating the lapse of the 90-day period as such.

Crucially, Atty. Payapag identified a reason behind removing the "deemed denied" provision: a perceived confusion among taxpayers regarding said provision:

> Actually po, if we can see, the intention is—dati kasi nagkaroon ng inaction, na nagkakaroon ng confusion sa side ng taxpayer whether, "May 30 days pa ba ako to appeal or wala na?" So, to clear that po and to shorten the process of refund, nag-focus po si law doon sa erring employees na if you failed to process that within the 90 days period, you are administratively liable.
>
> . . . .

> Pero the decision within a 90-day period, especially the denial, in line with the purpose of this ease of paying taxes is baka kasi po—what if iyong normal lang na taxpayer na wala po siyang—cannot afford na kumuha ng consultant or representative, kailan ko sasabihin na deemed denied na iyong refund na in-apply ko sa Bureau of Internal Revenue? Kasi kung mayroon po siyang lawyer or representative, pwede nilang ilaban na "O, pumasok pa siya sa 30 days' appeal." Iyon po iyong parang—at least po dito kasi naka-fix na po tayo. Kung kailan mo ma-receive iyong decision ni CIR, you have 30 days na iakyat na po siya kay CTA.

The confusion seems to have been whether a taxpayer had 30 days from the lapse of the CIR's period to act within which to appeal the deemed denial, or if the appeal had to be raised immediately ("May 30 days pa ba ako to appeal or wala na?"). The ambiguity presumably arises as the relevant paragraph in *Section 112(c) of the NIRC*, pre-*TRAIN*, can be interpreted in two ways:

1) Appeal can be raised either (i) within 30 days from receipt of the denial; or (ii) within 30 days from the lapse of the 120-day period.

2) Appeal can be raised either (i) within 30 days from receipt of the denial; or (ii) immediately upon the lapse of the 120-day period.

In other words, when faced with the letter of the law alone, taxpayers may not have been sure if the 30-day grace period applied to the lapse of the 120-day period as well. Case law tells us that taxpayers had a full 120+30-day period under the pre-*TRAIN NIRC*,[31] but this might not be immediately evident to the "normal lang na taxpayer" who possibly "cannot afford na kumuha ng consultant or representative."

As Atty. Payapag observes, simply removing the option to raise an appeal on inaction removes the ambiguity as well. A "normal" taxpayer, who may not have extensively studied and shepherded the Supreme Court's interpretations of *Section 112(c)*, will be faced with only one option for raising an appeal to the CTA and will thus not get confused about any ambiguities. Indeed, the perceived confusion here may be the "confusion on the reckoning period for judicial claims" mentioned in *EDC*. The stated solution to this, a "*singular* action" instituted by *TRAIN*, would thus be the *singular*, not multiple, period for filing judicial claims: 30 days from receipt of a denial.[32]

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[31] See, for example, *Commissioner of Internal Revenue v. Dohle Shipmanagement Philippines Corporation*, G.R. No. 246379, August 19, 2024, citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015.

[32] As an aside, the Court notes that the original syntactic ambiguity unfortunately returned in *EOPTA*, as the same merely reinstated the potentially confusing syntax of the pre-*TRAIN NIRC* for the relevant paragraph.

Finally, Atty. Payapag seems to imply that the CIR will *never* fail to act on an administrative claim within the 90-day period:

> With respect po doon sa 90 days processing po kasi, we assure po, Mr. Chair, na napa-process po namin siya within 90 days. Kasi doon sa current law natin, may penalty provision na po.

Hon. Dakila Elteen M. Napao, then Acting Undersecretary of the Department of Finance, also insists on this point:

> **MR. NAPAO.** Mr. Chair, VAT refund decision are rendered within that 90-day period. And if we are looking at iyong—granulize natin iyong division of where the documents will be at a certain time, who is reviewing, ganyan, nandoon iyan. It is documented. There is no refund that is not acted upon within the 90-day period.

The idea here is that because of the threat of administrative penalties, and because of the streamlined procedure for processing VAT refund claims, all such claims would be decided upon within the 90-day period. This once again implies that *TRAIN* does *not* recognize raising an appeal from the CIR's inaction on a claim: the provision assumes that such inaction will never occur. It consequently does not provide any remedies for it, which would be unnecessary. The law need not provide a solution to a problem that (in theory) never occurs, after all.

That *TRAIN* removed the option to raise an appeal from the CIR's inaction can also be read off Atty. Dascil's comments, though these are slightly more complicated. Most tellingly, when defending the previous committee's decisions in drafting *TRAIN*, Atty. Dascil focuses on the options to (i) file an appeal from receipt of a decision actually rendered; and (ii) file an administrative case against the BIR employee who failed to act on the administrative claim within the 90-day period.

Note first that when Atty. Meneses initially raised the issue that *TRAIN* lacks a "deemed denied" provision, Atty. Dascil focused *only* on the provision on raising an appeal from receipt of a decision *without* necessarily arguing that the "deemed denied" provision was still active:

> I guess, with due respect to our legislator, I was present during the deliberation and even in the final discussion. There was no inadvertence, deletions, or omission on the part of our legislator. If you read the provision, there is a mechanism in order the taxpayer should go to the Court of Tax Appeals. It provides that, "In case of a full or partial denial of the claim for tax refund, the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals." So, the mechanism was put by our legislators.

So, while Atty. Dascil argues that *TRAIN* included a "mechanism" for taxpayers to raise their refund claims to the CTA, he identifies *only* appeals from received decisions as such.

Further, what Atty. Dascil took issue with from Atty. Meneses' complaints was the latter's characterization of the omission as inadvertent. In other words, what Atty. Dascil "passionately" rejected was *not* necessarily the claim that *TRAIN* lacked a provision on inaction—it was the claim that said omission was inadvertent:

> **MR. DASCIL.** Senator, sorry for being passionate. But with due respect also, I need to defend the integrity of the Senate on the word "inadvertence" because there was no inadvertence. If we are here to provide for the ease of paying taxes, let's have compromise, but not to diminish the integrity of this institution.

Considering that Atty. Dascil, who was quick to defend *TRAIN* and its deliberations, did *not* directly controvert the claim that *TRAIN* lacked an option to raise an appeal from the CIR's inaction, the Court can conclude that said claim is correct.

Complicating this stance somewhat is one of Atty. Dascil's defenses of *TRAIN*, found near the midpoint of the transcript:

> **MR. DASCIL.** Actually, Senator, during the deliberation, if they will look at provisions of 269, may idinagdag po doon na paragraph (j), "Deliberate failure to act on the application for refunds within the prescribed period provided under Section 112 of this Act."
>
> So, if you read the transcripts and if you read faithfully the concept of the TRAIN law, mas binigyan pa nga ng leeway iyong taxpayer, kasi dati 120 days, it was lowered to 90 days. Then you only file your appeal to the Court of Tax Appeals after the lapse of 120 days. But in this concept, the taxpayer, within the 90 days, kung nakatanggap ka ng denial in 30 days, you go directly to the Court of Tax Appeal; 60 days, you go directly; 90 days, wala, the action is a deliberate failure on the part of the BIR employees or its—then you go directly to the Court of Tax Appeal. The mechanism was there.

The ending statement in this quote seems to imply that, under *TRAIN*, a taxpayer can, in fact, go to the CTA if the CIR fails to render any decision after 90 days: "90 days, wala. . . then you go directly to the Court of Tax Appeal[s]."

This does not seem to be consistent, however. Atty. Dascil's statement here emphasizes that the lack of a rendered decision within the 90-day period is a "deliberate failure on the part of the BIR employee." It is also based on

TRAIN's addition of *Section 269(j)* to the *NIRC*, which covers administrative punishments for erring BIR employees, considering that Atty. Dascil started his statement by pointing out said addition. In short, it still characterizes the lapse of the 90-day period as a failure, subject to disciplinary action, but *not* necessarily as a denial that can be appealed before the CTA. And as this Court does not have jurisdiction over administrative punishments for BIR employees, the taxpayer could not, in fact, go to the CTA when no decision was rendered after 90 days.

A final point to note is that both Atty. Payapag and Atty. Dascil eventually agreed to include the "deemed denied" provision in *EOPTA*:

> **MR. DASCIL.** If we really want to have ease of paying taxes, the compromise may be taking into account the taxpayers and the advocacy of our Chair to protect also the taxpayer balancing the interest of our government to earn money.
>
> I guess we should provide a proviso providing that, "Provided, finally in case of inaction, the provisions of ease of doing business there is a clear provision on denial—deemed denial." How many days can be considered in this bill? There should be a proviso. And, I guess, there is a mechanism along that line. And I guess the BIR will agree.
>
> . . . .
>
> **MR. PAYAPAG.** Mr. Chair, ang nagiging ano lang po namin, wala naman din po sa amin ang problema kung ilagay iyong "deemed denial."

By agreeing to add a "deemed denied" provision to *Section 112(c)*, both Atty. Payapag and Atty. Dascil acknowledge that *TRAIN*'s version of the section *omitted* such a provision. It would not need to be added to *EOPTA* if it were included in *TRAIN*, after all. Said law, therefore, lacked any "deemed denied" provision.

The removal of the "deemed denied" provision was deliberate

The transcript at hand not only shows that the "deemed denied" provision was omitted from *Section 112(c) of the NIRC* as amended specifically by *TRAIN*—it also shows that such omission was a *deliberate removal* of the provision.

Recall, first, that Atty. Dascil emphatically disagreed with the characterization of the omission as "inadvertent," to the point that Atty. Meneses requested that his use of the phrase "inadvertently deleted" be withdrawn from the records. This already establishes that the removal of the provision was not a mistake—it was deliberate and intentional.

Recall next that, according to Atty. Payapag, a reason for the amendment was the need to address the confusion that arose from having two different options for appealing a denial. Being grounded in a specific reason, the omission must thus be seen as deliberate, as having been intentionally enacted by those who drafted *TRAIN* to address a particular problem.

Finally, note that Hon. Napao characterized the VAT refund system under *TRAIN* as a "deliberate design" as part of the efforts to streamline administrative processes. As "deliberate" and "designed," even seemingly small details of the refund system under *TRAIN*, such as the absence of a provision present in a previous iteration, cannot be dismissed as meaningless or unintentional. As such, *Section 112(c)* as amended by *TRAIN* must be interpreted as having been deliberately designed to *lack* any provision regarding raising appeals from the CIR's inaction.

As a last aside, the above also bolsters Our present interpretation against counterarguments that invoke *Section 7(a)(2) of Republic Act No. 1125, as amended* ("*CTA Law*"), which states:

> 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 relation thereto, and 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 for action, in which case the inaction shall be deemed a denial.*

(Italics supplied.)

Drawing from the above, one may argue that since *Section 112(c)* provides a "specific period for action" (90 days), the expiration of the same is "deemed a denial."

This, however, is mistaken. As pointed out by Presiding Justice Hon. Roman G. Del Rosario in his Dissenting Opinion to the assailed Decision, *Section 112(c) of the NIRC* governs judicial claims for VAT refunds specifically, making it a special law. *Section 7(a)(2) of the CTA Law*, meanwhile, deals with cases filed before the CTA from inactions of the CIR in general, making it a general law. The former must therefore prevail over the latter.

Even assuming *arguendo* that the *CTA Law* is the special law, the position is still untenable. *Bank of Commerce v. Planters Development Bank*,[33] as later quoted by *First Philippine Holdings Corporation v. Securities and Exchange Commission*,[34] is instructive here:

> An implied repeal transpires when a substantial conflict exists between the new and the prior laws. In the absence of an express repeal, a subsequent law cannot be construed as repealing a prior law unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and the old laws. Repeal by implication is not favored, *unless manifestly intended by the legislature*, or unless it is convincingly and unambiguously demonstrated, that the laws or orders are clearly repugnant and patently inconsistent with one another so that they cannot co-exist; *the legislature is presumed to know the existing law and would express a repeal if one is intended.*
> (Italics supplied.)

From the above, later laws generally cannot be considered impliedly repealing a prior law. An exception exists, however, when such repeal is "manifestly intended by the legislature." As discussed above, the drafters of *TRAIN* intended to remove the "deemed denied" provision from *Section 112(c) of the NIRC*. It thus falls under the identified exception. Consequently, the "deemed denied" provision of *Section 7(a)(2) of the CTA Law* must be deemed to have been repealed during the effectivity of *TRAIN*, at least for cases involving *Section 112(c) of the NIRC*.

In brief, then, the comments of those involved in the drafting and implementation of *TRAIN* show that said bill did, indeed, remove the "deemed denied" provision from *Section 112(c) of the NIRC* and that said removal was intentional and deliberate.

Raising an appeal within 30 days from receipt of denial was the only option under TRAIN, so petitioner's Petition for Review was not filed late

To review the discussions so far, We have established the following:

1) There is no Supreme Court jurisprudence directly addressing the lack of any reference to the CIR's inaction in *Section 112(c) of the NIRC* as amended by *TRAIN*, or approving the application of older jurisprudence to said provision, constraining any present interpretation of said

[33] G.R. Nos. 154470-71 & 154589-90, September 24, 2012.
[34] G.R. No. 206673, July 28, 2020.

law to use only the letter of the law and the intentions behind it;

2) Statutory construction requires that We take the removal of the "deemed denied" provision as an actual change to the law; and

3) Based on the statements of some of those who contributed to drafting and implementing *TRAIN*, the bill *deliberately removed* the "deemed denied" provision.

These three conclusions, taken together, make it clear that the option to file a judicial claim within 30 days after the expiration of the 90-day period was *not* available to taxpayers from the effectivity of *TRAIN* to the promulgation of *EOPTA*.[35]

Considering that taxpayers could *not* raise appeals within 30 days from the lapse of the 90-day period, the only valid option was to raise such an appeal within 30 days from receipt of the decision, whether or not the decision was received within the 90-day period, as observed by Atty. Payapag.

The Court *En Banc* thus finds that the Court in Division erred when it found that petitioner filed its Petition for Review late. Such finding was based on the idea that a taxpayer could, indeed *had to*, file a judicial appeal within 30 days from the lapse of the 90-day period. As already discussed, this is incorrect. Petitioner's only choice was to file the Petition within 30 days from receipt of the denial, which is exactly what it did.

To recall, petitioner received the denial of its administrative claim on January 14, 2020. Counting 30 days from said date, petitioner had until February 13, 2020, within which to file a judicial appeal. It filed its Petition for Review on that exact date. It consequently filed its Petition on time, and the Court in Division properly acquired jurisdiction over its case. The dismissal of the case is thus an error and must be set aside.

ACCORDINGLY, the instant *Petition for Review*, filed on April 17, 2024, is hereby **GRANTED**. The Decision, dated October 5, 2023, and Resolution, dated March 7, 2024, are **REVERSED AND SET ASIDE**. This case is **REMANDED** to the Court in Division for a ruling on the merits.

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[35] That *EOPTA* reinstated the right to raise a judicial claim from the inaction of the CIR, modified into a 90+30-day period, is not relevant to the present ruling but can be concluded from (i) the law's reintroduction of the phrases on the CIR's inaction that were removed by *TRAIN*; and (ii) the decision to bring back the "deemed denied" provision by the members of the Technical Working Group for *EOPTA*, as seen in the transcript discussed.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Ma. Belen S.L.
With due respect, please see Dissenting Opinion.
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
With due respect, I maintain my vote for the Court in Division Decision dated October 5, 2023.
CATHERINE T. MANAHAN
Associate Justice

With Concurring and Dissenting Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
With due respect, I maintain my position in the Assailed Decision of the Court in Division dated October 5, 2023.
MARIAN IVY F. REYES-FAJARDO
Associate Justice

With Separate Concurring Opinion
LANEE S. CUI-DAVID
Associate Justice

With due respect, I join Justice Liban's Dissenting Opinion.
CORAZON G. FERRER-FLORES
Associate Justice

With due respect, please see my Separate Concurring Opinion.
HENRY S. ANGELES
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

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2900
(CTA CASE NO. 10258)

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

Promulgated:
AUG 07 2025 3:40

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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 Special First 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

[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.

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

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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.

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.

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.

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

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ, Petitioner,	**CTA EB No. 2900** (CTA Case No. 10258)
	Present:
- versus -	**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: AUG 07 2025 3:47

x - x

CONCURRING AND DISSENTING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Maria Rowena Modesto-San Pedro, in granting petitioner CITCO International Support Services Limited – Philippine ROHQ's (**petitioner**'s/**CITCO**'s) Petition for Review filed on 17 April 2024[1] and reversing the assailed Decision dated 05 October 2023[2] and Resolution dated 07 March 2024[3] both issued by this Court's Special First Division. However, with due respect, a remand of the case to the said Division for a ruling on the merits may not be proper.

I, respectfully, essay my reasons below.

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[1] *Rollo*. pp. 14-41.
[2] Id.. pp. 50-58.
[3] Id.. pp. 65-68.

At the onset, I must emphasize that the prevailing doctrine of "deemed denial" still holds and has not been abrogated, contrary to 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**

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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.

> **to act thereon**. A Division of the CTA shall hear the appeal: *Provided, 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 the 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.

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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.

I, respectfully, submit that it does *not*.

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 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.

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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 30 September 2019.[12] Under Section 112(C) of the NIRC of 1997, as amended, the CIR or his or her authorized representative had 90 days, or until 29 December 2019, to act upon the said claim. Petitioner alleges that it received the Bureau of Internal Revenue's (**BIR**'s) Letter dated 05 December 2019[13] (**denial letter**) entirely denying petitioner's administrative claim on 14 January 2020.[14] On this basis, this Court's Special First Division, after conducting a full-blown trial, held that the denial letter was issued beyond the 90-day period, and that the 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 Decision), 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[15], 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.[16]

In the present case, the denial letter, which contains Assistant Commissioner (**ACIR**) Maria Luisa I. Belen's (**Belen**'s) full denial of petitioner's administrative claim for refund, was issued on 05 December 2019, ***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, received by petitioner on 14 January 2020**. As such, the reckoning

[12] Exhibits "P-38" and "P-39". Division Docket, Volume II, pp. 259-272.

[13] Exhibit "P-41", id., pp. 275-276.

[14] Par. II.c, Stipulation of Facts, Joint Stipulation of Facts and Issue (JSFI), id., Volume I, p. 306.

[15] 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).

[16] ...

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)

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.*, 14 January 2020.

Moreover, in the seminal case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[17] (**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:[18]

> ...
> 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.
> ...

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[17] G.R. No. 184823, 06 October 2010: Emphasis and underscoring supplied.

[18] 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.

SEN. RECTO: Mr. Chairman, the version has the solution.

CHAIRPERSON ANGARA: Yeah. Yes. What is that, Your Honor?

SEN. RECTO: It says here . . .

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 it remained unacted upon, 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 (by ACIR-AS Belen, the CIR's authorized representative) was issued on 05 December 2019 (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 and not from the expiration of the 90-day period.

Resultantly, the Petition for Review before this Court's Special First Division, having been filed on 13 February 2020[19] and well within the 30-day reglementary period reckoned from 14 January 2020, was *timely* filed.

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.[20] 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[21], 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.

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19 Division Docket, Volume I, p. 6.
20 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.
21 See *Nestle Philippines, Inc., et al. v. Uniwide Sales, Inc., et al.*, G.R. No. 174674 (Resolution), 20 October 2010.

The following disquisition likewise finds support in the subsequent amendments to the NIRC of 1997 brought by RA 11976[22] (which took effect on 22 January 2024[23]) or the Ease of Paying Taxes (**EOPT**) and RA 12066[24] (which was signed on 08 November 2024[25]) or the Corporate Recovery and Tax 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>**	... **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.

22 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.

23 Revenue Memorandum Circular (RMC) No. 3-2024, 10 January 2024.

24 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.

25 Available at <https://www.officialgazette.gov.ph/2024/11/08/republic-act-no-12066/> (last accessed on 30 July 2025).

the legal and factual basis for the denial within the ninety (90)-day period.[26]	**Should the Commissioner find that the grant of refund is not proper, the Commissioner must, within the ninety (90)-day period, *communicate in writing* to the taxpayer, the legal and factual basis for the denial,** including the deficiencies of the VAT refund claim.[27]

As can be gleaned from the above, what is required under TRAIN and EOPT is for respondent to **state** in writing the legal and factual basis for the denial. However, neither law expressly mandates that this written denial be communicated to the taxpayer within the statutory period for action. The focus is on the sufficiency and form of the denial, not the timing of its communication to the taxpayer.

In contrast, CREATE MORE ushers in a more exacting standard — not only must the denial be reduced in writing and that it should state the legal and factual basis, *but* it must also be **communicated** to the taxpayer within the 90-day period. Under the settled rule of statutory construction, legislative amendments are presumed to be deliberate and meaningful, not mere semantic exercises.[28] There must have been some purpose in making them and the rational explanation is that notice to the taxpayer of the denial ***now*** forms part of the 90-day period to act.

Nonetheless, this legislative innovation finds no application to the instant case. When petitioner received the denial letter, CREATE MORE had not yet taken effect. CREATE MORE may also 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 Special First Division. Accordingly, the *ponencia* correctly granted petitioner's Petition for Review and reversed the assailed Decision.

However, despite the foregoing and with due respect, I am constrained to dissent from the *ponencia* insofar as it orders the remand of the case to this Court's Special First Division.

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26 Italics in the original text, emphasis and underscoring supplied.
27 Emphasis and underscoring supplied, italics in the original text and supplied.
28 See *Tan Kim Kee v. The Court of Tax Appeals, et al.*, G.R. No. L-18080, 22 April 1963.

In numerous decided cases by no less than the Supreme Court, remand is avoided in the following instances: *(a)* where the ends of justice would not be subserved by a remand; or *(b)* where public interest demands an early disposition of the case; or *(c)* <u>where the trial court had already received all the evidence presented by both parties, and the court is in a position, based upon said evidence, to decide the case on its merits</u>.[29] Under these circumstances, the remand of the case to the lower court (which here may be the Court's Special First Division) is no longer necessary.

As a rule, remand is necessary *only* when there has been no trial on the merits.[30] Trial on the merits is a trial where the parties had the opportunity to present their evidence, which was duly examined and considered by the court in resolving the issues presented before it.[31]

As the records bear, the parties here have already fully presented their evidence and these have already been attached to records of the case (transmitted to the Court *En Banc*).[32] Thus, the Court *En Banc* has all the evidence necessary to place it in a position to determine the refundable or creditable amount due to petitioner, if any, for the 3rd and 4th quarters of calendar year (**CY**) 2017.

Furthermore, it also bears noting that since the instant petition was filed under Rule 43 of the Rules of Court, in relation to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), *We* have the authority to resolve questions of fact or mixed questions of fact and of law and make the necessary factual findings.

More importantly, a remand to the Court's Special First Division, notwithstanding that *no* new evidence is anticipated, will only delay the disposition of the case. Certainly, Section 16, Article III of the 1987 Constitution guarantees the right of the people to a speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies.[33] Thus, a remand to this Court's Special First Division will run counter to this Constitutional guarantee.

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29 *Sioland Development Corporation. v. Fair Distribution Center Corporation*. G.R. No. 199539, 09 August 2023; *Annabelle Dela Peña, et al. v. The Court of Appeals, et al.*, G.R. No. 177828, 13 February 2009; *Rizza Lao @ Nerissa Laping v. People of the Philippines*, G.R. No. 159404, 27 June 2008.

30 *Sioland Development Corporation. v. Fair Distribution Center Corporation*, supra, citing *Spouses Gregorio C. Morales, et al. v. Court of Appeals, et al.*, G.R. No. 126196, 28 January 1998.

31 Id.

32 *Rollo*, pp. 51-53.

33 *Power Sector Assets and Liabilities Management (PSALM) Corporation v. Commission on Audit*, G.R. No. 247924, 16 November 2021.

With the foregoing, I vote to: (**i**) **GRANT** the Petition for Review filed by petitioner CITCO International Support Services Limited – Philippine ROHQ on 17 April 2024; (**ii**) **REVERSE** and **SET ASIDE** the Decision dated 05 October 2023 and Resolution dated 07 March 2024 both issued by the Court of Tax Appeals Special First Division in CTA Case No. 10258; and (**iii**) **PROCEED** with the proper determination of the refundable or creditable amount due to petitioner CITCO International Support Services Limited – Philippine ROHQ, if any.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* No. 2900
(CTA Case No. 10258)

Members:

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

Promulgated:
AUG 07 2025 3:15 pm

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SEPARATE CONCURRING OPINION

CUI-DAVID, J.:

I concur with the granting of petitioner's *Petition for Review*. I agree with the conclusion that the Court in Division erred in dismissing the *Petition for Review* filed before it in CTA Case No. 10258. Accordingly, the remand of the case to the Court in Division is proper.

However, I write this separate concurring opinion to express a different view regarding how jurisdiction over petitions for review involving claims for refund of input value-added tax (**VAT**) attributable to zero-rated sales under Section 112(A) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, may be determined by the Court.

A summarized timeline of the case is presented below:

Date	**Details**
September 30, 2019	Petitioner filed its administrative claim for VAT refund with the BIR VAT Credit Audit Division
December 29, 2019	Expiration of the 90-day period for the BIR to decide
January 14, 2020	Petitioner received the decision of the BIR denying the claim for refund
February 13, 2020	Petitioner filed its Petition for Review before the Court in Division

As the records show, the *Petition for Review* was filed on February 13, 2020, beyond the 90+30-day period. The 90-day period for respondent to act on the refund claim expired on **December 29, 2019**. However, petitioner neither received a decision on the claim by that date nor filed a *Petition for Review* within the subsequent 30-day period, which ended on January 28, 2020. Consequently, the Court in Division dismissed the *Petition for Review* for lack of jurisdiction, as it was filed on February 13, 2020, or **16 days beyond the 30-day window following the expiration of the 90-day period**.

I agree with the *ponencia* that the dismissal should be reversed. I discuss why.

Section 112 (C) of the NIRC of 1997, as amended, governs the filing of a judicial claim for refund or tax credit of input VAT.

Before the enactment of TRAIN Law, Section 112(C) of the NIRC of 1997 reads:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* — x x x
>
> (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 Subsection (A).
>
> In case of full or partial denial of the claim for tax refund or tax credit, **<u>or the failure on the part of the Commissioner to act on the application within the period prescribed above</u>**, the taxpayer affected may,

W

> 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]*

In construing the afore-quoted provision, the Supreme Court , in *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue (Taihei),*[1] opined that the taxpayer can file an appeal in one of **two (2) ways**: (1) file the judicial claim within 30 days after the Commissioner denies the claim within the 120-day period, **OR** (2) file the judicial claim within 30 days from the expiration of the 120-day period if the Commissioner does not act within the 120 days.

In other words, a taxpayer whose claim for VAT refund is either denied or left unresolved by the Commissioner of Internal Revenue (CIR) may pursue judicial remedies under either of the **two (2) scenarios**:

1. If the CIR issues a decision within 120 days denying the claim, the taxpayer has 30 days from receipt of the decision to file a judicial claim with the CTA; or

2. If the CIR fails to act within the 120-day period, such inaction is deemed a denial, and the taxpayer must file a judicial claim within 30 days from the expiration of the 120-day period.

In Taihei, taxpayers were reminded that once the 120-day period lapses without any action from the Commissioner of Internal Revenue (CIR), they should no longer wait for a decision. The CIR's inaction within this period is deemed a denial of the administrative claim for refund. If the taxpayer fails to file a timely appeal, this "deemed denial" becomes final and unappealable.[2] Thus, the taxpayer **must** file an appeal within thirty (30) days from the lapse of the 120-day waiting period.[3]

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1 G.R. No. 258791, December 7, 2022 [Per J. Lazaro-Javier, Second Division].

2 *Id.*

3 *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue,* G.R. No. 258791, December 7, 2022 [Per J. Lazaro-Javier, Second Division], citing *Rohm Apollo Semiconductor Phils. v. Commissioner of Internal Revenue* G.R. No. 168950, January 14, 2015 [Per C.J. Sereno, First Division].

In the case of *Silicon Philippines, Inc. v. Commissioner of Internal Revenue* (*Silicon*) cited in the *Taihei* case, the Supreme Court emphasized that the judicial claim for refund must be filed within thirty (30) days after the receipt of the CIR's decision/ruling **OR** after the expiration of the 120-day period, **"whichever is sooner**."[4]

After the enactment of the TRAIN Law, Section 112(C) of the NIRC was amended to read as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* — x x x
>
> (C) *Period within which 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 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 ninety (90) days period shall be punishable under Section 269 of this Code." *[Emphasis supplied]*

By way of comparison, the phraseology of Section 112(C) of the NIRC of 1997, as amended, **before** and **after** the effectivity of TRAIN Law, are presented below:

Before TRAIN Law	After TRAIN Law
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**	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**

[4] *Id.*, citing *Silicon Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 182737, March 2, 2016 [Per C.J. Sereno, First Division].

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<u>the expiration of the one hundred twenty day-period,</u> appeal the decision or the unacted claim with the Court of Tax Appeals.	**<u>act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.</u>**

With the enactment of the TRAIN Law, Section 112(C) was amended to shorten the CIR's period to act on the claim for refund from 120 days to 90 days. Notably, the amended provision no longer includes specific phrases recognizing the CIR's inaction as a "deemed denial" that could be appealed within a 30-day period, such as "*or the failure on the part of the Commissioner to act on the application within the period prescribed above*" and "*or after the expiration of the one hundred twenty day-period.*" The deletion of these phrases suggests a departure from the previous "deemed denial" doctrine.

Instead, the amended Section 112(C) appears to contemplate that the judicial recourse or appeal to the CTA, pursuant to the TRAIN Law, can be made under **only <u>one</u> scenario:** within 30 days after the **receipt** of the CIR's decision/ruling denying the refund claim – whether the receipt was before or after the lapse of the 90-day waiting period.

The implementing rules support this reading. Section 4.112-1(d) of Revenue Regulations (**RR**) No. 16-2005,[5] as amended by RR No. 26-2018,[6] explicitly provides that a taxpayer may appeal to the CTA within 30 days from **receipt** of the decision denying the refund claim. The regulation also allows **the BIR to continue processing claims beyond the 90-day period,** implicitly recognizing that a decision may be rendered even after the lapse of said period. The pertinent provision of Section 4.112-1(d) states:

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

[5] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

[6] SUBJECT: 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.

> 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.
>
> In case of full or partial denial of the claim for tax refund, **the taxpayer affected, may, within <u>thirty (30) days from the *receipt* of the decision</u> 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. Provided, further, That, **in the event that the 90-day period has lapsed without having the refund released to the taxpayer-claimant, <u>the VAT refund claim may still continue to be processed administratively</u>.** 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. x x x" *[Emphasis supplied]*

The Court must therefore recognize that a judicial claim filed within 30 days from receipt of a denial—regardless of whether the decision was rendered before or after the lapse of the 90-day period—is valid. To underscore, the inaction of the BIR should not prejudice the taxpayer with the loss of one of its judicial remedies. It is the BIR and its officers which are penalized for their inaction, and not the taxpayer.

Accordingly, when petitioner received the CIR's decision on January 14, 2020 and filed its *Petition for Review* on February 13, 2020, the *Petition* was filed within the 30-day window and was therefore timely. **The Court in Division should have exercised jurisdiction over the *Petition* <u>as correctly ruled by the *ponencia*.</u>**

However, while I concur with the result reached by the **ponencia**, I respectfully disagree with her view that, under the TRAIN Law, a taxpayer may no longer file a Petition for Review with the CTA based on the CIR's **inaction** after the 90-day period.

Despite the amendments introduced by the TRAIN Law, the CTA's appellate jurisdiction over the CIR's inaction remains valid under Section 7(a)(2), in relation to Section 11 of RA No.

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1125,[7] as amended by RA No. 9282.[8] These provisions expressly grant the CTA jurisdiction not only over decisions of the CIR but also over his **inaction** in refund claims where the law prescribes a specific period for action.

Moreover, Section 86 of the TRAIN Law,[9] the repealing clause, which provides a comprehensive lists of laws repealed by the enactment, does not include RA No. 1125 or RA No. 9282. The mere silence of the TRAIN Law on the CIR's **inaction** does not amount to an implied repeal of Section 7(a)(2) of RA No. 1125, as amended.

It has been consistently held that "on the presumption that whenever the legislature enacts a provision it has in mind the previous statutes relating to the same subject matter, it is held that *in the absence of any* ***express repeal or amendment*** therein, the new provision was enacted in accord with the legislative policy embodied in those prior statutes, and they all should be construed together.[10]

Applying the foregoing, it must be presumed that in enacting the TRAIN Law, Congress was aware of the provisions of RA No. 9282 concerning the CTA's jurisdiction to review the CIR's **inaction** in cases involving disputed assessments, **refunds,** or other matters arising under the National Internal Revenue Code (NIRC). In the absence of an express repeal, the TRAIN Law must be interpreted as consistent with the legislative policy embodied in those prior statutes.

Section 7(a)(2) and Section 11 of RA No. 1125, as amended by RA No. 9282, which remain unrepealed by the TRAIN Law, are quoted as follows:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise:**
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided:**
>
> xxx xxx xxx

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[7] AN ACT CREATING THE COURT OF TAX APPEALS

[8] 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 OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

[9] SECTION 86. Repealing Clause. — The following laws or provisions of laws are hereby repealed, and the persons and/or transactions affected herein are made subject to the VAT provision of Title IV of the NIRC, as amended: ...Tax Reform for Acceleration and Inclusion (TRAIN), Republic Act No. 10963, December 19, 2017.

[10] *Garcia v. Tolentino*, G.R. Nos. 153810 & 167297, August 12, 2015 [Per J. Jardeleza, Third Division].

> (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**;
>
> xxx xxx xxx
>
> 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...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: xxx *[Emphasis supplied]*

This jurisdictional framework is echoed in Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), which reiterates the CTA's authority to review CIR's **inaction** where a specific period for action is provided by law, *viz.*:

> **RULE 4**
> Jurisdiction of the Court
>
> xxx xxx xxx
>
> SECTION 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> 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 relation 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 or other applicable law provides a specific period for action**: ...

Indeed, despite the amendments introduced by the TRAIN Law, the CTA retains its appellate jurisdiction over the **inaction** of the CIR. Regarding the **decision** of the CIR, it is not required that it be received within the 90-day period. A judicial claim filed within 30 days from receipt of a decision rendered beyond the 90-day period remains valid.

Taxpayer should not be penalized for relying on the provisions of the law that establish and expand the jurisdiction of the very court to which they seek recourse.

In summary, under Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law, and Sections 7(a)(2) and 11 of RA No. 1125, as amended by RA No. 9282, and reiterated in the RRCTA, a taxpayer adversely affected by a decision, ruling or inaction of the CIR may appeal to the CTA as follows:

1. **If the CIR denies the claim within the 90-day period**, the affected taxpayer may appeal to the CTA within 30 days from receipt of the decision denying the claim.

2. **If the CIR fails to act within the 90-day period**, the affected taxpayer may, under Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, treat the inaction as a denial and may appeal to the CTA within 30 days from the lapse of the 90-day "specific period of action."

3. **If the taxpayer chooses to wait and receives a denial after the 90-day period**, the affected taxpayer may still appeal to the CTA within 30 days from receipt of the decision, pursuant to Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law.

These remedies are not inconsistent or irreconcilable. The TRAIN Law's amendment of Section 112(C) of the NIRC does not repeal Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, particularly with respect to claims for refund of input VAT attributable to zero-rated sales.

As a rule of statutory construction, courts must strive to harmonize laws so that each may be given effect. **Repeals by**

implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume.[11] In order that one law may operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act. Merely because a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the latter, since the new law may be cumulative or a continuation of the old one.[12]

All told, I vote to grant the *Petition for Review* and remand the case to the Court in Division.

LANEE S. CUI-DAVID
Associate Justice

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11 *Philippine International Trading Corporation v. Commission on Audit*, G.R. No. 183517, June 22, 2010 [Per J. Perez, *En Banc*], citing *Recana, Jr. v. Court of Appeals*, G.R. No. 123850, January 5, 2001 [Per J. Quisimbing, Second Division] & *Republic v. Marcopper Mining Corporation*, G.R. No. 137174, July 10, 2000 [Per J. Gonzaga-Reyes, Third Division].

12 *Valera v. Tuason, Jr.*, G.R. No. L-1276, April 30, 1948 [Per J. Tuason, Second Division].

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

CITCO INTERNATIONAL SUPPORT SERVICES LIMITED - PHILIPPINE ROHQ	**CTA EB Case No. 2900**
	CTA Case No. 10258
Petitioner,	Members:
- *versus* -	**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: AUG 07 2025 3:15

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SEPARATE CONCURRING OPINION

ANGELES, *J.*:

I register my concurrence in the result of granting the present appeal before this Court, and thereby remanding the case to the Court in Division for its proper ruling on the merits. Indeed, the Court *a quo* erred in concluding that the previous *Petition for Review* before it was belatedly filed for failure of herein petitioner to immediately elevate the inaction of the CIR on its previous administrative claim for refund. I agree that the petitioner was able to duly and timely file its *Petition* before the Court in Division, enabling the latter to acquire jurisdiction over the same.

Nevertheless, with due respect, I am constrained to submit my reservations as regards the pronouncements of the *ponencia*, which provide that:

> *TRAIN's* removal of the relevant phrases must be consequently be construed as the explicit removal of said option.

> 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.**[1]
>
> xxx xxx xxx
>
> The Court *En Banc* thus finds that the Court in Division erred when it found that petitioner filed its Petition for Review late. Such finding was based on the idea that a taxpayer could, indeed *had to*, file a judicial appeal within 30 days from the lapse of the 90-day period. As already discussed, this is incorrect. **Petitioner's *only* choice was to file the Petition 30 days from receipt of the denial**, which is exactly what it did.[2] *(Emphases and italics supplied)*

In sum, the *ponencia* takes the position that the <u>lone</u> course of action available to a claimant before it may appeal its administrative claim for refund to the Court of Tax Appeals (CTA) is by awaiting the decision of the Bureau of Internal Revenue (BIR) on the matter. Without such a decision, such claimant may not resort to its judicial remedy.

As narrated by the *ponencia*, the petitioner filed its administrative claim before the BIR VAT Credit Audit Division through an Application for Tax Credit/Refunds on September 30, 2019. The BIR then had ninety (90) days or until December 29, 2019 to act on the matter. Consequently, it was only on January 14, 2020, when the petitioner received a Letter dated December 5, 2019 from the BIR entirely denying its administrative claim. As the *Petition for Review* was filed before the Court in Division on February 13, 2020 (or within 30 days from receipt of the BIR's Letter), the *ponencia* correctly held that the same was timely filed.

However, a clear and harmonious reading of prevailing laws and rules provide that a claimant is not limited to waiting a decision from the BIR before it can proceed to elevate the matter to the CTA. It may immediately resort to the judicial remedy of appeal, when the period allotted for the BIR to act on the administrative claim for refund lapses without any action.

Respectfully, I submit hereunder the considerations that impel this separate concurring opinion.

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[1] Draft Decision, p. 8.
[2] Draft Decision, p. 22.

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

Section 112(D) of the Tax Code, **prior** to the effectivity of the Tax Reform for Acceleration and Inclusion (TRAIN) Law, read, as follows:

> SECTION 112. *Refunds or Tax Credits of Input Tax.* —
>
> xxx xxx xxx
>
> (D) *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) and (B) hereof.
>
> **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 and underscoring supplied)*

After the TRAIN Law took effect on January 01, 2018, 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.
>
> **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 and underscoring supplied)*

As may 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 Commissioner of Internal Revenue's (CIR) failure to act on the refund claim within the prescribed period.**

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 through a written decision.

<u>**However**</u>, it cannot be disregarded that, 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.*, ninety (90) days).

Thus, while it is true that Section 112(C) of the Tax Code, as amended by the TRAIN Law, provides only a single scenario when an appeal in an 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). Applying the TRAIN Law and CTA Law together, **the taxpayer may avail of an appeal to the CTA <u>either</u> from the <u>decision</u> of the CIR or his <u>inaction.</u>**

The question now is whether the taxpayer may still 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 ninety (90)-day period; or is the taxpayer constrained to appeal the CIR's inaction within thirty (30) days from the lapse of the ninety (90)-day period, despite the subsequent issuance of a decision of the CIR, pursuant to the "whichever is sooner" rule.

It is my most humble opinion that in order to give full effect to the above-cited provisions of the TRAIN Law and the CTA Law, and to allow both laws to stand in harmony, We must recognize the **taxpayer's option to appeal <u>either</u> the decision of the CIR or his inaction**, <u>regardless of whichever is sooner</u>.

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"Whichever is sooner" rule does not apply in light of the TRAIN Law amendments

Additionally, I am aware that in *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*,[3] among other cases, the Supreme Court 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 one hundred twenty (120)-day period, whichever is sooner.

A careful examination of this case, however, shows that **the "whichever is sooner" rule 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 ruling was drawn relating the mandatory and jurisdictional nature of the one hundred twenty plus thirty (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 the Tax Code.

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 I agree that the appeal 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, I am not convinced that the lapse of the ninety plus thirty (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 ninety plus thirty (90+30)-day period.

It cannot be concluded 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. Hence, the appeal within thirty (30) days from the CIR's inaction under the CTA Law,

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[3] G.R. No. 182737, March 02, 2016.

should be treated as a permissive remedy, not a restrictive one.

Here, it bears emphasis that petitioner elected to pursue its judicial remedy by invoking Section 112(C) of the Tax Code, as amended by the TRAIN Law, by filing a *Petition for Review* assailing the CIR's decision on its refund claim, which was received on **January 14, 2020**. Guided by the foregoing discussion, petitioner had thirty (30) days from receipt of said decision or until **February 13, 2020**— to elevate the matter to this Court. As the *Petition* was filed before the Court in Division on even date, it was well within the prescribed period.

Clearly, the fact that petitioner did not appeal the inaction of the CIR within thirty (30) days from the lapse of the ninety (90)-day period on December 29, 2019, or until January 28, 2020, did not bar its right to appeal the CIR's decision subsequently received on January 14, 2020.

In light of the foregoing, I agree with the result of GRANTING the present *Petition for Review* before this Court, upholding the jurisdiction of the Court *a quo* over the case, and accordingly REMAND the same for the determination on the merits.

HENRY S. ANGELES
Associate Justice