REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

MTI ADVANCED TEST DEVELOPMENT CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2591
(CTA Case No. 10112)

Present:

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

Promulgated:
FEB 01 2023 2:10pm

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DECISION

DEL ROSARIO, PJ.:

Before this Court is a Petition for Review filed on April 27, 2022 by MTI Advanced Test Development Corporation, praying that the Court *En Banc* set aside the Decision dated October 13, 2021 and the Resolution dated March 22, 2022 promulgated by the Court of Tax Appeals (CTA) Second Division[1] in CTA Case No. 10112, entitled *MTI Advanced Test Development Corporation vs. Commissioner of Internal Revenue,* which dismissed its Petition for Review. Petitioner further prays that judgment be rendered ordering the Commissioner of Internal Revenue to refund or issue a tax credit certificate in its favor the amount of ₱4,228,776.05, covering the period April 1, 2011 to March 31, 2012.

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[1] Composed of Associate Justice Juanito C. Castañeda, Jr., and Associate Justice Jean Marie A. Bacorro-Villena.

The dispositive portions of the assailed Decision and assailed Resolution of the Court in Division are as follows:

<u>October 13, 2021 Decision:</u>

> "**WHEREFORE**, premises considered, the present *Petition for Review* is **DISMISSED** for this Court's lack of jurisdiction.
>
> **SO ORDERED.**"

<u>March 22, 2022 Resolution:</u>

> "**WHEREFORE**, premises considered, petitioner's Motion for Reconsideration (of the Decision dated October 13, 2021) is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE PARTIES

Petitioner MTI Advanced Test Development Corporation is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines.[2] It is registered with the Bureau of Internal Revenue (BIR) as a VAT entity, with address at 3/F BPI-Philam Life, Alabang-Zapote Rd. cor. Acacia Ave., MBP, Alabang, Muntinlupa City.[3] It is also registered with the Board of Investments (BOI) as a *New IT Export Service Firm in the Field of Software Development (Test Programs for Semiconductor Industry)*, under BOI Certificate of Registration No. 2007-109 dated June 28, 2007.[4]

Respondent Commissioner of Internal Revenue (CIR) is the head of the Bureau of Internal Revenue. He is vested with authority to exercise the function of said office, including *inter alia*, the power to refund any internal revenue tax erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, or to refund VAT input taxes attributable to zero-rated revenue. He holds office at the BIR National Office Building, Diliman, Quezon City, Metro Manila. [5]

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[2] Exhibit "ICPA P-102.1" to "ICPA P-102.10".
[3] Exhibit "P-19", *CTA Division Docket*, p. 367.
[4] Exhibit "P-18", *CTA Division Docket*, p. 366.
[5] Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Simplification of Issues (JSFSI), *CTA Division Docket*, p. 227.

THE FACTS

The facts of the case as found by the Court in Division are as follows:

> "On March 20, 2013, petitioner filed a claim for refund, in the amount of ₱4,228,776.05, covering the period from April 1, 2011 to March 31, 2012, with the Department of Finance One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center.
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> The letter dated February 18, 2019 from the Office of OIC-Assistant Commissioner-Assessment Service of the BIR, informing petitioner of the denial of its administrative claim, was sent and received by petitioner, on June 13, 2019.
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> On July 12, 2019, the present *Petition for Review* was filed.
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> Respondent filed his *Answer* on September 12, 2019, interposing the following special and affirmative defenses, to wit: (1) the present petition is filed out of time and thus, the Court has no jurisdiction; and (2) besides lack of jurisdiction, the petition must also be dismissed for failure to comply with documentary requirements for VAT refund.
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> Respondent submitted the *BIR Records* for the case on September 17, 2019.
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> The Pre-Trial Conference was set, and held, on October 10, 2019. On October 3, 2019, the *Pre-Trial Brief (for the petitioner)* was filed; while respondent's *Pre-Trial Brief Ad Cautelam* was submitted on October 7, 2019.
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> On October 23, 2019, the parties submitted their *Joint Stipulation of Facts and Simplification of Issues* (JSFSI). Thereafter, the Pre-Trial Order dated November 7, 2019 was issued, approving and adopting the said JSFSI, and deeming the termination of the pre-trial.
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> As the proceedings ensued, petitioner set forth its documentary and testimonial evidence. Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Beverly Viray, petitioner's Accounting Manager and Treasurer; (2) Ms. Maria Eugene Ibanez, petitioner's Senior Accountant; and (3) Mr. Enrico T. Pizarro, the duly-commissioned Independent Certified Public Accountant (ICPA).
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> The *Report* of the ICPA was submitted on December 18, 2019.
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> On March 2, 2020, the *Formal Offer of Evidence (for the petitioner)* was filed. Respondent, however, failed to comment

> thereon. In the Resolution dated June 22, 2020, the Court admitted petitioner's exhibits, *except* for: (1) Exhibit 'P-5', for failure to present the original for comparison; (2) Exhibits 'ICPA P-121.35.1' and 'ICPA P-130.4', for being unreadable; and (3) Exhibits 'ICPA P-122.80', and 'ICPA P-131.12' to 'ICPA P-131.13', for not being found in the records of the case.
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> Respondent likewise presented his documentary and testimonial evidence. He proffered the testimony of his lone witness, Revenue Officer Dexter Bustillos.
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> On July 24, 2020, respondent filed his *Formal Offer of Evidence Ad Cautelam*. Petitioner posted its *Comment* thereon on July 30, 2020.
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> In the meantime, petitioner filed its *Motion for Partial Reconsideration (of the Resolution dated June 22, 2020)* on July 27, 2020.
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> In the Resolution dated September 28, 2020, the Court resolved to admit all of respondent's exhibits; and granted petitioner's *Motion for Partial Reconsideration (of the Resolution dated June 22, 2020)*, thereby admitting Exhibits 'ICPA P-121.35.1', 'ICPA P-130.4', 'ICPA P-122.80', and 'ICPA P-131.12' to 'ICPA P-131.13'.
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> Respondent filed his *Memorandum* on October 30, 2020; whereas petitioner submitted its *Memorandum* on November 16, 2020.
>
> On November 24, 2020, the present case was considered submitted for decision." (*Citations omitted*)

As aforementioned, on October 13, 2021, the Court in Division rendered the assailed Decision[6] dismissing the Petition for Review in CTA Case No. 10112 for lack of jurisdiction.

On October 29, 2021, petitioner filed a "Motion for Reconsideration (of the Decision dated October 13, 2021)".[7]

On March 22, 2022, the Court in Division issued the assailed Resolution[8] denying petitioner's "Motion for Reconsideration" for lack of merit.

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[6] Annex "B", *CTA En Banc Docket*, pp. 19-31.
[7] *CTA Division Docket*, pp. 457-463.
[8] Annex "C", *CTA En Banc Docket*, pp. 32-40.

On April 12, 2022, petitioner filed a "Motion for Extension of Time to File Petition for Review" before the Court *En Banc*.[9] The same was granted in the Minute Resolution[10] dated April 13, 2022, and petitioner was given until April 29, 2022, within which to file its Petition for Review.

The present "Petition for Review" was filed before the Court *En Banc* on April 27, 2022.[11]

Considering that respondent failed to file his comment/opposition to the Petition for Review within the period given,[12] the present "Petition for Review" was submitted for decision on August 16, 2022.[13]

ISSUE

Culled from the error alleged by petitioner in the present Petition for Review to have been committed by the Court in Division,[14] the Court *En Banc* shall resolve the issue of whether or not the Court in Division erred in ruling that it has no jurisdiction to entertain the Petition for Review in CTA Case No. 10112, for having been filed beyond the 120+30 day period.

RULING OF THE COURT *EN BANC*

The present Petition for Review was filed on time

The Court *En Banc* shall first determine the timeliness of the filing of the present Petition for Review.

Section 3 (b), Rule 8 of the Revised Rules of the Court of Tax Appeals states:

> "**SEC. 3.** *Who may appeal; period to file petition.* – xxx

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[9] *CTA En Banc Docket*, pp. 1-3.
[10] *CTA En Banc Docket*, p. 4.
[11] *CTA En Banc Docket*, pp. 5-18.
[12] Records Verification dated July 19, 2022, *CTA En Banc Docket*, p. 52.
[13] *CTA En Banc Docket*, p. 54.
[14] Petition for Review, *CTA En Banc Docket*, p. 9.

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xxx xxx xxx

> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review." (*Boldfacing supplied*)

Records show that petitioner received the assailed Resolution on March 30, 2022. Petitioner had fifteen (15) days from March 30, 2022 or until April 14, 2022 within which to file the Petition for Review before the Court *En Banc*. With the filing of a "Motion for Extension to File Petition for Review" on April 12, 2022, petitioner was given until April 29, 2022[15] within which to file its Petition for Review. The Petition for Review was timely filed on **April 27, 2022**.[16] Hence, the Court *En Banc* has acquired jurisdiction over the present Petition for Review.

Petitioner's arguments are mere rehash of the arguments presented in its Motion for Reconsideration of the assailed Decision

The Court notes that petitioner's arguments in the present Petition for Review are mere rehash of the arguments in its Motion for Reconsideration filed before the Court in Division which have been adequately passed upon by the Court in Division in the assailed Resolution. Nonetheless, the Court will address petitioner's arguments to put its mind to rest.

Petitioner's judicial claim was filed beyond the 120+30 day period

Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended by Republic Act (RA) No. 9337,

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[15] *Supra* Note 10.
[16] *Supra* Note 11.

provides for the legal basis to claim for refund or issuance of a tax credit certificate of input VAT, including the taxpayer's remedy to appeal to the CTA the adverse decision or the inaction of the CIR, *viz.*:

> "SEC. 112. Refunds or Tax Credits of Input Tax. —
>
> (A) *Zero-Rated or Effectively Zero-Rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: xxx
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> xxx xxx xxx
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> (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) 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.**" (*Boldfacing supplied*)

Section 112(C) of the NIRC of 1997, as amended, speaks of two (2) periods:

(1) the 120-day period, which serves as a waiting period to give time for the CIR to act on the administrative claim for a refund or credit; and,

(2) the 30-day period, which refers to the period for filing a judicial claim with the CTA.[17]

Jurisprudence is replete with cases which hold that the 120+30-day period is mandatory and jurisdictional.[18]

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[17] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

Complementing Section 112 of the NIRC of 1997, as amended, is RA No. 1125, as amended, conferring exclusive appellate jurisdiction to the CTA to review on appeal decision or inaction of the CIR in cases involving refunds of internal revenue taxes, *viz.*:

> "Sec. 7. Jurisdiction. — The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions of 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 or other laws administered by the Bureau of Internal Revenue;
>
> 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;"

RA No. 1125, as amended, categorically states that a party adversely affected by a decision or inaction of the CIR may file an appeal before the CTA within thirty (30) days after the receipt of such decision or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2).[19]

Stated otherwise, the taxpayer may file the appeal within thirty (30) days after the CIR denies the administrative claim within the 120-day waiting period, **or** it may file the appeal within thirty (30) days from the expiration of the 120-day period if there is inaction on the part of the CIR.[20] It bears to emphasize, however, that the judicial claim must be filed within a period of thirty (30) days after the receipt

[18] *Commissioner of Internal Revenue vs. San Roque Power Corporation* (G.R. No. 187485), *Taganito Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 196113) and *Philex Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 197156) February 12, 2013; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.
[19] Sec. 11, RA No. 1125 as amended by RA No. 9282.
[20] *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue,* G.R. No. 168950, January 14, 2015, *citing Commissioner of Internal Revenue vs. San Roque Power Corporation,* G.R. No. 187485, February 12, 2013.

of respondent's decision or ruling or after the expiration of the 120-day period, **whichever is sooner**.[21]

The inaction of the CIR on a claim during the 120-day period is, by express provision of law, "**deemed a denial**" of a claim, and the taxpayer has thirty (30) days from the expiration of the 120-day period to file its judicial claim with the CTA; otherwise, its failure to do so renders the "deemed a denial" decision of the CIR final and unappealable.[22]

When the 120-day period lapses and there is inaction on the part of the CIR, **the taxpayer must no longer wait for the CIR to come up with a decision as the inaction is the decision itself**. By operation of law, the refund claim is deemed denied by the CIR's inaction. Thus, the taxpayer must file an appeal within thirty (30) days from the lapse of the 120-day waiting period. Any judicial claim filed beyond the 120+30-day period provided by the NIRC is outside the jurisdiction of the CTA.

Records disclose the following relevant dates showing the time when the quarterly VAT returns and administrative claim were filed by petitioner, as well as the end of the two (2)-year period to file the administrative claims:

Period (FY ending March 31, 2012)	End of the Quarter	Date Return was filed[23]	End of two (2) year period to file administrative claims	Date of Administrative Claim[24]
1st Quarter	June 30, 2011	July 25, 2012	June 30, 2013	March 20, 2013
2nd Quarter	September 30, 2011	October 25, 2012	September 30, 2013	March 20, 2013
3rd Quarter	December 31, 2011	January 25, 2013	December 31, 2013	March 20, 2013
4th Quarter	March 31, 2012	April 25, 2013	March 31, 2014	March 20, 2013

Based on the illustration above, petitioner had until June 30, 2013, September 30, 2013, December 31, 2013, and March 31, 2014 within which to file its administrative claims for refund for the 1st, 2nd, 3rd, and 4th quarters of Fiscal Year (FY) ending March 31, 2012, respectively, reckoned from the end of each taxable quarter when the sales were made. The filing of petitioner's administrative claim for

[21] *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 02, 2016.
[22] *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. No. 187485, February 12, 2013.
[23] Exhibits "P-14", "P-15", "P-16", and "P-17", respectively, *CTA Division Docket*, pp. 358-365.
[24] Exhibits "P-10", "P-11", "P-12", and "P-13", respectively, *CTA Division Docket*, pp. 354-357.

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refund covering the four (4) quarters of FY ending March 31, 2012 on **March 20, 2013** is within the period prescribed by law.

With respect to the timeliness of the judicial claim, the Court needs to ascertain the expiry of the 120-day period as the said period is crucial in filing an appeal with the CTA. The running of the 120-day period is reckoned from the date of submission of complete documents in support of the application for refund or issuance of tax credit pursuant to the first paragraph of Section 112(C) of the NIRC of 1997, as amended. The taxpayer, however, is not without any limitation as to the period of submission of complete documents in support of its claim. The teachings in *Pilipinas Total Gas, Inc.*[25] is most enlightening, *viz.*:

> "With the amendments only with respect to its place under Section 112, the Court finds that RMC No. 49-2003 should still be observed. Thus, taking the foregoing changes to the law altogether, it becomes apparent that, for purposes of determining when the supporting documents have been completed — it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. **After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing.**
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> **The taxpayer may have also filed the complete documents on the 30th day from filing of his application, pursuant to RMC No. 49-2003.** He may very well have filed his supporting documents on the first day he was notified by the BIR of the lack of the necessary documents. In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his application.
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> Then, except in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms what additional document must be presented in support of a claim for tax credit or refund — it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund. After all, in a claim for tax credit or refund, it is the taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.
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> xxx xxx xxx
>
> Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is

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

> not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.
>
> Moreover, under Section 112(A) of the NIRC, as amended by RA 9337, a taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must be able to submit his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, 'officially received' as provided under RMC No. 49-2003.
>
> **To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120-day period allowed to the CIR begins to run from the date of filing.**" *(Boldfacing and underscoring supplied.)*

In this case, petitioner alleges that it fully complied with all the necessary requirements to substantiate its claim.[26] Considering the aforesaid allegation, and the presumption that the complete documents accompanied the claim (absent any showing that the taxpayer was required to submit or actually submitted additional documents after the filing of the administrative claim), the 120-day period is reckoned from the date of filing of petitioner's administrative claims, *viz.*:

Date of Filing Administrative Claim	End of the 120-day period	End of the 30-day period
March 20, 2013	July 18, 2013	**August 17, 2013**

[26] Par. 15, Petition for Review, *CTA Division Docket*, p. 6.

The 120-day period started to run from the time the administrative claim was filed. Due to respondent's inaction within the 120-day period, there is a "deemed denial decision". Petitioner should have appealed the "deemed denial decision" by filing its Petition for Review before the Court in Division not later than **August 17, 2013**. The filing of the Petition for Review on **July 12, 2019** before the Court in Division was made beyond the period prescribed by law. **The Court in Division, having no jurisdiction to take cognizance of the Petition for Review in CTA Case No. 10112, correctly dismissed the case.**

Petitioner insists that the Court in Division already acquired jurisdiction over the Petition for Review in CTA Case No. 10112 when it gave due course to the same and allowed the parties to present their respective evidence.

Petitioner's argument is bereft of merit.

The timely filing of an appeal within the thirty (30)-day period from the end of the one hundred twenty (120)-day period before the Court in Division is both mandatory and jurisdictional as laid down by the Supreme Court in *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*,[27] to wit:

> "***The 30-day period to appeal is mandatory and jurisdictional.***
>
> **As a general rule, the 30-day period to appeal is both mandatory and jurisdictional.** The only exception to the general rule is when BIR Ruling No. DA-489-03 was still in force, that is, between 10 December 2003 and 5 October 2010, The BIR Ruling excused premature filing, declaring that the taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review. In *San Roque*, the High Court explained both the general rule and the exception:
>
> > To repeat, a claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. One of the conditions for a judicial claim of refund or credit under the VAT System is with the 120+30 day mandatory and jurisdictional periods. **Thus, strict compliance with the 120+30 day periods is necessary for such a claim to**

[27] *Supra* Note 17.

> **prosper**, whether before, during, or after the effectivity of the *Atlas* doctrine, **except for the period from the issuance of BIR Ruling No. DA-489-03 on 10 December 2003 to 6 October 2010 when the *Aichi* doctrine was adopted, which again reinstated the 120+30 day periods as mandatory and jurisdictional.** (Emphases supplied)

> *San Roque* likewise ruled out the application of the BIR ruling to cases of late filing. **The Court held that the BIR ruling, as an exception to the mandatory and jurisdictional nature of the 120+30 day periods, is limited to premature filing and does not extend to the late filing of a judicial claim.**

> In sum, premature filing is allowed for cases falling during the time when BIR Ruling No. DA-489-03 was in force; **nevertheless, late filing is absolutely prohibited even for cases falling within that period.**" (*Boldfacing supplied and citation omitted*)

Moreover, the right to appeal is a mere statutory privilege that requires strict compliance with the conditions attached by the statute for its exercise.[28]

Revenue Regulation No. 1-2017 did not create an exception to the 120+30-day mandatory and jurisdictional period

Petitioner insists that respondent, by issuing Revenue Regulations (RR) No. 1-2017, created an exception to the 120+30 day period.

Sections 2 and 3 of RR No. 01-2017 state:

> "SECTION 2. Scope. — Pursuant to the provisions of Section 244, in relation to Section 246 and Section 112 of the Tax Code, as amended, these Regulations are issued to give effect to the doctrinal rule laid down in the aforecited Pilipinas Total Gas case and to afford fair and adequate relief to taxpayer-claimants whose claims were 'deemed denied' as a result of the retroactive application of RMC No. 54-2014. For this purpose, and consistent with the judicial 'summation of rules' decreed to be 'made applicable to claims of tax credit/refund filed before June 11,

[28] Resolution, *Hedcor, Inc. vs. Commissioner of Internal Revenue,* G.R. No. 207575, July 15, 2015.

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> 2014,' **such claims filed prior to RMC No. 54-2014 shall continue to be processed administratively**.
>
> SECTION 3. Processing of Administrative Claims. — VAT claims filed and pending prior to the effectivity of RMC 54-2014, the claims solely covered by these Regulations, shall be processed and approved in accordance with the following rules:
>
> 1. The claimant-taxpayer, under Section 112 (A) of the Tax Code, as amended, has two (2) years after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must have submitted his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, 'officially received' as clarified under RMC No. 49-2003.
>
> 2. In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents.
>
> Hence, **pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period**. For this purpose, the result shall be communicated in writing by the concerned revenue official." *(Boldfacing supplied)*

Contrary to petitioner's proposition, the Court *En Banc* finds that RR No. 01-2017 did not create an exception to the 120+30-day mandatory and jurisdictional period. Instead, it was issued "to give effect to the doctrinal rule laid down in *Pilipinas Total Gas, Inc.* and to afford fair and adequate relief to taxpayers whose claims were 'deemed denied' as a result of the retroactive application of RMC No. 54-2014" by providing that claims for tax refund or credit filed before June 11, 2014 shall continue to be processed administratively.

In a nutshell, RR No. 01-2017 merely provided that the BIR shall continue to process administrative claims for input VAT refund filed before June 11, 2014. There is nothing in RR No. 01-2017 which suggests, even remotely, that a decision on the administrative claim for input VAT refund beyond the 120-day period may still be appealed to the CTA.

All told, petitioner failed to show that the Court in Division committed reversible error to warrant a modification, much more reversal, of the assailed Decision and Resolution.

WHEREFORE, in light of the foregoing, the Petition for Review filed by petitioner MTI Advanced Test Development Corporation is hereby **DENIED**, for lack of merit. The assailed Decision dated October 13, 2021 and the assailed Resolution dated March 22, 2022 promulgated by the Court in Division are hereby **AFFIRMED**.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
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