REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

DEUTSCHE KNOWLEDGE SERVICES PTE., LTD.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 11491

Members:

MANAHAN, *Chairperson,*
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:

JUN 27 2024
4:04 p.m.

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RESOLUTION

The Tax Court is a court of special jurisdiction. As such, it can take cognizance only of such matters as are clearly within its jurisdiction.[1] In this regard, our jurisdiction over refund cases is found in Section 7(a)(1) and (2) of Republic Act (RA) No. 1125,[2] as amended by RA No. 9282, which provides:

> 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

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1 See *Commissioner of Internal Revenue v. Court of Tax Appeals – Third Division, et al.*, G.R. No. 239464, May 10, 2021, citing *Commissioner of Internal Revenue v. Villa*, G.R. No. L-23988, January 2, 1968.

2 An Act Creating the Court of Tax Appeals

arising under the National Internal Revenue Code 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;

...

Section 3(a)(1) and (2), Rule 4 of the Revised Rules of the Court of Tax Appeals[3] clarified that the Court of Tax Appeals (CTA) in Division has jurisdiction over the decision or inaction of respondent, involving refund of internal revenue taxes, among others.[4] Before the CTA in Division may exercise its jurisdiction over unutilized input VAT refund cases, Section 112(C) of NIRC, as amended by RA No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion Law (TRAIN) must be strictly observed, which reads as follows:

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.

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3 A.M. 05-11-07-CTA.

4 SEC. 3. *Cases within the jurisdiction of the Court in Divisions.* - The Court in Divisions shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal the following:

(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 Code 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 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: ...

> **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.[5]

Relevantly, *Energy Development Corporation v. Commissioner of Internal Revenue (EDC)*[6] held that "the recent amendment (TRAIN) to Section 112 (C) finally removed the confusion on the reckoning period for judicial claims by legislating a singular action for the CIR to decide on the administrative claim for input VAT tax credit or refund *within* a period of ninety (90) days."

EDC ordained that respondent is obligated by law to act on the refund claimant's administrative claim for input VAT refund *within* (90) days from the date of submission of the official receipts or invoices and other documents in support of the application. If said action constitutes a denial of such claim, it must be communicated in writing to, and received by the refund claimant within said period. Revenue Memorandum Circular No. 17-2018[7] is explicit:

> I. Claims for value-added tax (VAT) refund:
>
> A. General Policies
>
> ...
>
> 5. ...
>
> **Should the claim be for denial, such fact should be communicated in writing to the taxpayer within the 90-day period.** The denial letter shall be signed by the Commissioner of Internal Revenue (CIR)/Deputy Commissioner - Operations Group (DCIR - OG)/ Assistant Commissioner (ACIR)/Regional Director, as the case may be.[8]

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5 Boldfacing supplied.
6 G.R. No. 203367, March 17, 2021. Italics supplied.
7 SUBJECT: 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 Tax Reform for Acceleration and Inclusion (TRAIN).
8 Boldfacing supplied.

As it stands, the Bureau of Internal Revenue (BIR) has ninety (90) days from date of submission of complete supporting documents, to decide on the claimant's administrative claim for input VAT refund. Supporting documents are deemed complete upon the filing the refund claimant's administrative claim for input VAT refund.[9] In turn, there are two (2) ways by which a claimant may invoke the CTA in Division's jurisdiction: *first,* through a Petition for Review, filed within thirty (30) days from the receipt of the BIR's adverse decision rendered within said ninety (90)-day period; ***or*** *second,* through a Petition for Review, filed within thirty (30) days, after the lapse of such ninety (90)-day period, whichever comes earlier. In other words, save for the reduction of the BIR's period to act on an administrative claim for input VAT refund, *i.e.,* from 120 to 90 days, *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[10] remains good case-law to date:

> **The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day [now 90-day] period, whichever is sooner.**
>
> Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, any claim filed in a period less than or beyond the 120+30 [now 90+30] days provided by the NIRC is outside the jurisdiction of the CTA.[11]

As alleged in its Petition for Review, on December 28, 2023, petitioner filed with the BIR VAT Credit Audit Division (BIR-VCAD), its administrative claim for input VAT refund covering the fourth quarter of Calendar Year 2021.[12] On even date, petitioner submitted the required and pertinent documents in support thereof.[13] Counting ninety (90) days from December 28, 2023, the BIR-VCAD had until March 27, 2024 to decide on said administrative claim. There being no[14] adverse decision received by petitioner from the BIR-VCAD as of March 27, 2024, its administrative claim is deemed denied by law. Counting another thirty (30) days from March 27, 2024, petitioner had

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9 See *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. Commissioner of Internal Revenue,* G.R. No. 244154, July 15, 2020. Beginning June 11, 2014, or upon effectivity of RMC No. 54-2014, the documents are deemed complete upon filing of the claimant's administrative claim for input VAT refund.

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

11 Boldfacing supplied.

12 Par. 11, Petition for Review in CTA Case No. 11491. Docket, unpaginated.

13 *Ibid.*

14 According to petitioner, on April 5, 2024, it received a Letter dated March 4, 2024, denying its administrative claim for input VAT refund subject of this case. See par. 14, Petition for Review in CTA Case No. 11491. *Ibid.*

until April 26, 2024 to seek judicial redress. *Ergo*, the belated[15] filing of the Petition for Review on May 6, 2024 robbed us of jurisdiction over CTA Case No. 11491.

In conclusion, it has been pronounced that the party who intends to appeal must comply with the procedures and rules governing appeals; otherwise, the right of appeal may be lost or squandered.[16] Petitioner turned deaf to this injunction.

WHEREFORE, CTA Case No. 11491 is **DISMISSED**, for lack of jurisdiction.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

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15 Page 1, Petition for Review in CTA Case No. 11491. Docket, unpaginated.

16 See *Herarc Realty Corporation v. The Provincial Treasurer of Batangas*, G.R. No. 210736, September 5, 2018.