REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

LEPANTO CONSOLIDATED MINING COMPANY,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10079

Members:

DEL ROSARIO, *P.J., Chairperson,*
FABON-VICTORINO, *and*
MANAHAN, *JJ.*

Promulgated:

FEB 12 2020 2:20 pm

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RESOLUTION

On November 7, 2019, the Court dismissed the Petition for Review, filed on May 10, 2019, for lack of jurisdiction.

On November 28, 2019, petitioner filed its *Motion for Reconsideration (of the Honorable Court's Resolution dated 7 November 2019)*, praying that the Resolution dated November 7, 2019 be reversed and set aside.

Petitioner states that its Petition for Review was timely filed under Section 112(C) of the 1997 National Internal Revenue Code (NIRC), as amended by Republic Act No. 10963, otherwise known as the TRAIN Law. Petitioner states that it received a copy of the letter denying its claim for refund on April 10, 2019, thus, the Petition for Review was timely filed on May 10, 2019.

We disagree and reiterate our findings in the assailed Resolution, as follows:

> In this case, petitioner states that it filed its administrative claims on March 28, 2011 and June 30, 2011 with the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (DOF-OSS) for the 1st and 2nd quarters of 2009 and 3rd and 4th quarters of 2009, respectively. Petitioner also

> states that it submitted the complete required documents in support of its applications on the same dates.
>
> Counting 120 days from March 28, 2011 and June 30, 2011, the CIR had until July 26, 2011 and October 28, 2011, respectively within which to act on petitioner's claim for refund. Considering that respondent CIR/DOF-OSS failed to act thereon within the 120-day period, petitioner had thirty (30) days after the lapse of the 120-day period or until August 25, 2011 and November 27, 2011 within which to file its judicial appeals before this Court. It should be noted that a denial of the claim for refund made after the 120+30 day period is not considered in counting the period for judicial appeal. This is because the inaction of the CIR during the 120-day period is "deemed a denial", and without a timely appeal, said inaction which is "deemed a denial" becomes final and unappealable.
>
> Here, petitioner's Petition for Review was filed only on May 10, 2019, clearly, several years after the lapse of the 120+30 day period to file a judicial claim. The receipt of the denial dated February 18, 2019 on April 10, 2019, which is after the 120-day period is inconsequential, even with the effectivity of the TRAIN law. It should be noted that in the instant case, the "deemed a denial" became final long before the TRAIN law became effective on January 1, 2018.

Petitioner's reliance on Revenue Regulations No. 1-2017[1] is misplaced. Nothing therein modified the periods to appeal to the Court of Tax Appeals, as it merely stated the respective jurisdictions of the CTA and the BIR in evaluating claims for refund.

It has been emphasized repeatedly that compliance with the 120+30 day periods prescribed under Section 112(C) of the 1997 NIRC, as amended, is mandatory and jurisdictional. Accordingly, petitioner's belated filing of its judicial claim rendered the Court devoid of jurisdiction over it.

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[1] Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Credit/Refund Filed under Section 112 of the Tax Code, as Amended, Prior to Revenue Memorandum Circular No. 54-2014 dated June 11, 2014.

WHEREFORE, petitioner's *Motion for Reconsideration (of the Honorable Court's Resolution dated 7 November 2019)* is **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice