REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

CARMEN COPPER CORPORATION, Petitioner,	**CTA CASE NO. 8873**
- versus -	Members: **CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: DEC 1 6 2016 4:00 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

THE CASE

This Petition for Review filed by Carmen Copper Corporation seeks the refund or issuance of a tax credit certificate in the amount of Seventy Million Six Hundred Seventy-Three Thousand Five Hundred Forty-Eight Pesos and 44/100 (₱70,673,548.44), allegedly representing excess and unutilized input value-added tax (VAT) on its importations of capital goods which are directly attributable to its zero-rated sales for taxable year (TY) 2011.

THE FACTS

Petitioner Carmen Copper Corporation is a corporation duly organized and existing under the laws of the Philippines with Securities and Exchange Commission (SEC) Registration No. CS200414509, and with office address at the 9th Floor, Quad Alpha Centrum Building, 125 Pioneer Street, Mandaluyong City. It is engaged in the business of mining ores and other mineral resources.[1] Petitioner is also a duly registered VAT enterprise with Certificate of Registration No. 8RC0000048993 dated April 4, 2014.[2] Petitioner is likewise registered with the Board of Investments (BOI) pursuant to Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1997, as a new producer of copper concentrate with non-pioneer status.[3]

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), empowered to perform the duties of the said office, including, among others, the power to decide, approve, and grant refunds or tax credits of erroneously or excessively paid taxes as provided by law. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

Petitioner filed its Quarterly VAT Returns for taxable year 2011 on the following dates:

Quarter (TY 2011)	**Date of Filing of Original Return**	**Date of Filing of Amended Return**
First	May 4, 2011[4]	April 20, 2012[5]
Second	July 25, 2011[6]	May 3, 2012[7]
Third	October 25, 2011[8]	May 4, 2012[9]
Fourth	January 25, 2012[10]	May 7, 2012[11]

Thereafter, petitioner filed with the BIR Large Taxpayers Service – Excise Tax Division administrative claims for refund of its excess and unutilized input VAT payments for the first to fourth quarters of TY 2011, as follows:[12] gr

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[1] Par. 5, Joint Stipulation of Facts and Issues (JSFI), docket, vol. II, p. 582; Exhibit "P-2".
[2] Par. 6, JSFI, docket, vol. II, p. 582.
[3] Par. 7, JSFI, docket, vol. II, p. 582; Exhibit "P-3".
[4] Exhibit "P-6".
[5] Exhibit "P-7".
[6] Exhibit "P-8".
[7] Exhibit "P-9".
[8] Exhibit "P-10".
[9] Exhibit "P-11".
[10] Exhibit "P-12".
[11] Exhibit "P-13".
[12] Par. 8, JSFI, docket, vol. II, p. 582.

Period (TY 2011)	Date of Filing Administrative Claim for Refund	Amount of Claim
First Quarter	November 19, 2012[13]	₱ 43,195,247.76
Second Quarter	December 5, 2012[14]	₱ 51,958,347.12
Third Quarter	December 13, 2012[15]	₱ 42,784,743.40
Fourth Quarter	December 13, 2012[16]	₱ 49,408,165.66
Total		**₱187,346,503.94**

On May 23, 2013, petitioner received a letter dated April 1, 2013 from respondent partially denying its claim for refund of its VAT payments for taxable year 2011. In the said letter, respondent, through OIC-Assistant Commissioner of BIR Large Taxpayers Service Alfredo V. Misajon, informed petitioner that only the amount of ₱114,709,091.64 was recommended for the issuance of tax credit certificate, computed as follows:[17]

Unutilized input tax per VAT return		₱ 191,048,446.00
Less input tax applied to output tax		(3,701,942.02)
Claim for TCC		187,346,503.98
Less disallowed input tax		
Non-compliance with invoicing requirements	₱ 1,836,165.30	
No supporting documents	128,698.60	
Current portion of amortized/deferred IT on Capital Goods	₱70,673,548.44	72,637,412.34
Net allowable for TCC		**₱114,709,091.64**

In view of the partial denial of its administrative claims for refund, petitioner filed a letter-request with the BIR Large Taxpayers Service on May 30, 2013, requesting the reconsideration of the disallowance of the input VAT amounting to ₱72,637,412.34.[18]

On July 18, 2014, respondent issued a letter denying petitioner's letter-request for reconsideration for lack of legal basis.[19]

[13] Exhibit "P-25".
[14] Exhibit "P-26".
[15] Exhibit "P-27".
[16] Exhibit "P-28".
[17] Exhibit "P-29".
[18] Exhibit "P-30".
[19] Exhibit "P-31".

Petitioner then filed the instant Petition for Review[20] before this Court on August 18, 2014.

In his Answer[21] filed on September 11, 2014, respondent interposed the following Special and Affirmative Defenses:

"SPECIAL AND AFFIRMATIVE DEFENSES

4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau.

5. The amount of P70,673,548.44 representing alleged excess and unapplied input VAT from petitioner's importations of capital goods which are directly attributable to its zero-rated sales for the taxable year 2011 was not properly documented.

6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit.

7. Petitioner must show that it has complied with the provisions of Section 112 of the NIRC of 1997 on the prescriptive period for claiming tax refund/credit.

8. Petitioner must prove that it paid the alleged VAT input taxes for the periods stated.

9. Petitioner must prove that its sale of services is subject to VAT at zero percent (0%).

10. Petitioner must prove that its alleged unutilized input VAT has not been applied against any output tax liabilities both in the current or succeeding year. *je*

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[20] Docket, vol. I, pp. 6-17.
[21] Docket, vol. I, pp. 181-185.

11. Section 113 of the Tax Code provides:

'SEC. 113. Invoicing and Accounting Requirements for VAT-registered Persons. –

(A) Invoicing Requirements. – A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

1. A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN).

xxx'

Likewise, Section 4.108-1 of Revenue Regulations No. 7-95 provides:

'SEC. 4.108-1. Invoicing Requirements. – All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:

1. the name, TIN, and address of seller;
2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the word 'zero-rated' imprinted on the invoice covering zero-rated sales, and;
6. the invoice value or consideration.

xxx xxx xxx

12. The input taxes claimed on the amortized input tax attributable to purchases/importations of capital goods exceeding P1,000,000.00 in the total amount of P70,673,548.44 was disallowed in accordance with the provisions of Section 112 of the NIRC of 1997 which provides, thus:

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: *Provided, however*, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further*, That where the taxpayer is engaged in zero-rate or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales; *Provided, finally*, That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.

13. The claimant has the burden of proof to establish the factual basis of his claim for tax credit or refund. After all tax refunds, like tax exemptions, are construed strictly against the taxpayer **(Citibank N.A. vs. Court of Appeals and Commissioner of internal Revenue, 280 SCRA 459; Commissioner of Internal Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 332, both cited in Benguet Corporation vs. Commissioner of Internal Revenue, CTA Case No. 5392 promulgated October 30,1998)**.

14. Partaking of the nature of exemptions, claims for refund are strictly construed against the claimant and cannot be allowed unless granted in the most explicit and categorical language **(Sps. Aguilar vs. Commissioner of Internal Revenue, et al, CA G.R.SP No. 16432, March 30, 1999)**. Being in the nature of tax exemptions, these claims are regarded as in derogation of sovereign authority and to be construed strictissimi juris against the claimant and liberally in favor of the taxing authority **(Commissioner of Internal Revenue vs. Procter and Gamble Philippines Manufacturing Corporation, 204 SCRA 377)**.

15. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95*) and such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211*)."

A pre-trial conference was scheduled on October 23, 2014.[22] Subsequently, respondent's Pre-Trial Brief[23] was filed on September, 25, 2014; while petitioner's Pre-Trial Brief[24] was filed on October 20, 2014.

[22] Notice of Pre-Trial Conference, docket, vol. I, p. 187.
[23] Docket, vol. I, pp. 188-191.
[24] Docket, vol. I, pp. 376-398.

The parties filed their Joint Stipulation of Facts and Issues[25] on November 12, 2014. The Court then issued the Pre-Trial Order[26] on November 17, 2014, which terminated the pre-trial.

On December 1, 2014, upon motion[27] of petitioner, the Court commissioned Mr. Joseph Cedric V. Calica as the Independent Certified Public Accountant for this case.[28]

In support of its claim, petitioner presented the following witnesses: Mr. Jesus Caparida[29], petitioner's Comptroller; Mr. Joseph Cedric V. Calica[30], the Court-commissioned Independent Certified Public Accountant; and Mr. Adrian Paulino S. Ramos[31], petitioner's Executive Vice President.

Petitioner also presented and formally offered pieces of documentary evidence. It filed its Formal Offer of Evidence[32] on March 16, 2015.

In a Resolution[33] dated June 24, 2015, the Court admitted petitioner's Exhibits "P-2", "P-3", "P-4", "P-5", "P-6", "P-6-a", "P-7", "P-7-a", "P-8", "P-8-a", "P-9", "P-9-a", "P-10", "P-10-a", "P-11", "P-11-a", "P-12", "P-12-a", "P-13", "P-13-a", "P-16", "P-16-a", "P-24", "P-24-a", "P-25", "P-25-a", "P-25-b", "P-26", "P-26-a", "P-26-b", "P-27", "P-27-a", "P-27-b", "P-28", "P-28-a", "P-28-b", "P-29", "P-29-a", "P-29-b", "P-30", "P-31", "P-32", "P-33", "P-33-a", "P-34", "P-34-a", "P-35", "P-35-a", "P-36", "P-36-a", "P-45", "P-46", "P-47", "P-47-1" to "P-47-74", "P-48", "P-48-1" to "P-48-435", "P-48-437" to "P-48-495", "P-49", "P49-1" to "P-49-342", "P-50", "P-50-1" to "P-50-188", "P-51", "P-51-1" to "P-51-335", "P-52", "P-53", "P-53-1" to "P-53-106", "P-54", "P-54-1", "P-54-2", "P-55-1" to "P-55-41" with sub-markings, "P-56-1" to "P-56-24" with sub-markings, "P-57-1" to "P-57-30" with sub-markings, "P-58-1" to "P-58-19" with sub-markings, "P-59-1" to "P-59-25" with sub-

[25] Docket, vol. II, pp. 581-584.
[26] Docket, vol. II, pp. 586-595.
[27] Motion to Commission Independent Certified Public Accountant, docket, vol. II, pp. 596-599.
[28] Docket, vol. II, pp. 758-759.
[29] Exhibit "P-33", Amended Judicial Affidavit of Mr. Jesus B. Caparida, docket, vol. II, pp. 616-627; Minutes of the Hearing dated December 1, 2014, docket, vol. II, pp. 754-755.
[30] Exhibit "P-35", Judicial Affidavit of Mr. Joseph Cedric V. Calica, docket, vol. II, pp. 762-778; Minutes of the Hearing dated February 18, 2015, docket, vol. II, p. 779.
[31] Exhibit "P-34", Judicial Affidavit of Mr. Adrian Paulino S. Ramos, docket, vol. I, pp. 193-201; Minutes of the Hearing dated February 18, 2015, docket, vol. II, p. 779.
[32] Docket, vol. II, pp. 786-825.
[33] Docket, vol. II, pp. 842-844.

markings, "P-60", "P-62", "P-63", "P-64", "P-65", "P-66", "P-67", "P-68", "P-69", "P-70", "P-71", "P-72", "P-73", "P-74", "P-76", "P-77", "P-78", "P-79", "P-80", "P-81", "P-82", "P-83", "P-84", "P-85", "P-86", "P-87", "P-88", "P-89", "P-90", "P-91", "P-92", "P-93", "P-94", and "P-95". However, the Court denied the admission of Exhibits "P-1", "P-14", "P-14-a", "P-15", "P-15-a", "P-17", "P-17-a", "P-18", "P-18-a", "P-19", "P-19-a", "P20", "P-20-a", "P-21", "P-21-a", "P-22", "P-22-a", "P23", "P-23-a" "P-61-1" to "P-61-10" with sub-markings, and "P-75" for failure of the actual exhibits to correspond to the description in the Formal Offer of Evidence; and Exhibit "P-48-436" for not being found in the records.

Petitioner filed a Motion for Reconsideration (Re: Resolution dated 24 June 2015)[34] on July 14, 2015, requesting the admission of Exhibits "P-61-1" to "P-61-10" with sub-markings and "P-75".

Respondent filed a Request for Admission on July 20, 2015, requesting petitioner to admit, by sworn statement, the receipt on August 13, 2014 of the attached letter of the BIR denying its motion for reconsideration of the disallowed portion of its claim for refund.

In the Resolution[35] dated September 28, 2015, the Court granted petitioner's Motion for Reconsideration and admitted Exhibits "P-61-1" to "P-61-10" with sub-markings and "P-75". Meanwhile, in the same Resolution, the Court denied respondent's Request for Admission.

During the hearing on November 16, 2015, counsel for respondent manifested that she has no witness to present.[36] The parties were then ordered to file their memoranda.

Respondent filed his Memorandum[37] on December 7, 2015; while petitioner filed its Memorandum[38] on January 15, 2016. The case was declared submitted for decision in the Resolution[39] dated January 21, 2016. gr

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[34] Docket, vol. II, pp. 845-849.
[35] Docket, vol. II, pp. 890-893.
[36] Minute of the Hearing dated November 16, 2015, docket, vol. II. p. 894.
[37] Docket, vol. II, pp. 897-903.
[38] Docket, vol. II, pp. 918-943.
[39] Docket, vol. II, p. 944.

THE ISSUES

The parties submitted the following issues[40] for this Court's disposition:

1. Whether or not Petitioner, based on its sales and the manner by which it is paid for such sales, qualifies as a zero-rated VAT entity pursuant to Section 106(A)(2) of the Tax Code.

2. Whether or not Petitioner is allegedly entitled to a refund or issuance of tax credit certificates for excess and unutilized input VAT payments in the amount of Php70,673,548.44 for TY 2011 on importations of capital goods which are allegedly directly attributable to its zero-rated sales for the same period.

3. Whether or not this Honorable Court has jurisdiction to hear this case.

The foregoing issues may be summarized as follows:

"Whether or not petitioner is entitled to a refund of the amount of ₱70,673,548.44, representing its alleged excess and unutilized input VAT on importations of capital goods which are directly attributable to its zero-rated sales for taxable year 2011."

DISCUSSION/RULING

Petitioner argues that it has sufficiently established its entitlement to the refund of excess input VAT for taxable year 2011. Respondent, on the other hand, counters that the Court has no jurisdiction to act on the instant Petition for Review.

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[40] Issues to be Resolved, JSFI, docket, vol. II, p. 583.

The Court shall determine first whether it has jurisdiction to entertain petitioner's claim for refund or issuance of tax credit certificate.

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a Court to act on a given controversy, and is conferred only by law and not by the consent or waiver upon a Court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the Court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties. If the Court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The Court could not decide the case on the merits.[41]

The Court of Tax Appeals is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[42] Section 7(a)(1) of Republic Act (RA) No. 1125, as amended by RA No. 9282, 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 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

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[41] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

[42] *Commissioner of Internal Revenue vs. Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.),* G.R. No. 169778, March 12, 2014.

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;"

In relation thereto, Section 3(a)(1) of Rule 4 and Section 3(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals, as amended, state:

"RULE 4
Jurisdiction of the Court

xxx xxx xxx

SEC. 3. *Cases within the jurisdiction of the Court in Division.* – The Court in Division shall exercise:

(a) Exclusive original over or 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."

"RULE 8
Procedure in Civil Cases

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

(a) **A party adversely affected by a decision**, ruling or the inaction **of the Commissioner of Internal Revenue on** disputed assessments or **claims for refund of internal revenue taxes**, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance,

> the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction **may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision** or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes." *(Emphasis supplied)*

Section 112(A) and (C) of the National Internal Revenue Code (NIRC) of 1997, as amended, which provides the basis for administrative and judicial claims for refund or tax credit of unutilized input tax attributable to zero-rated or effectively zero-rated sales, reads:

> "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: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales:

> *Provided, finally,* That for a person making sales that are zero-rated under Section 108 (B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> xxx xxx xxx
>
> (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."

In *Mindanao II Geothermal Partnership vs. Commissioner of Internal Revenue*[43], the Highest Tribunal discussed the prescribed procedure relative to Section 112 of the NIRC of 1997, as amended, thus:

> "We summarize the rules on the determination of **the prescriptive period for filing a tax refund or credit of *unutilized input VAT* as provided in Section 112 of the 1997 Tax Code**, as follows:
>
> (1) An administrative claim must be filed with the CIR within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.

[43] G.R. Nos. 193301 and 194637, March 11, 2013.

(2) The CIR has 120 days from the date of submission of complete documents in support of the administrative claim within which to decide whether to grant a refund or issue a tax credit certificate. The 120-day period may extend beyond the two-year period from the filing of the administrative claim if the claim is filed in the later part of the two-year period. If the 120-day period expires without any decision from the CIR, then the administrative claim may be considered to be denied by inaction.

(3) A judicial claim must be filed with the CTA within 30 days from the receipt of the CIR's decision denying the administrative claim or from the expiration of the 120-day period without any action from the CIR.

(4) All taxpayers, however, can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on 6 October 2010, as an exception to the mandatory and jurisdictional 120+30 day periods."

Based on the foregoing, an administrative claim for refund of unutilized input VAT must be filed with the Commissioner of Internal Revenue within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made. Then from the date of submission of complete documents in support of the administrative claim for refund, the Commissioner of Internal Revenue has a period of 120 days within which to act on a claim for refund or application for issuance of tax credit certificate. Upon denial thereof, or upon expiration of the 120-day period, the taxpayer has a 30-day period within which to appeal said adverse decision or unacted claim before this Court.

The present claim covers the four (4) taxable quarters of calendar year 2011. Counting two years from the close of the subject taxable quarters, petitioner had until the following dates within which to file its administrative claims: *fr*

Quarter (TY 2011)	Close of the Taxable Quarter	Last Day to File Administrative Claim	Date of Filing of Administrative Claim
First	March 31, 2011	March 31, 2013	November 19, 2012[44]
Second	June 30, 2011	June 30, 2013	December 5, 2012[45]
Third	September 30, 2011	September 30, 2013	December 13, 2012[46]
Fourth	December 31, 2011	December 31, 2013	December 13, 2012[47]

As shown above, petitioner filed its administrative claims for refund for the four quarters of taxable year 2011 well within the period prescribed by law.

As to the timeliness of petitioner's judicial claim, Section 112(C) of the NIRC of 1997, as amended, expressly grants the taxpayer a 30-day period to appeal to the Court of Tax Appeals the decision or inaction of the BIR Commissioner.

In the case of *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*[48], the Supreme Court summarized the rules on prescriptive period for the filing of the judicial claim for refund or credit of input VAT, to wit:

"SUMMARY OF RULES ON PRESCRIPTIVE PERIODS FOR CLAIMING REFUND OR CREDIT OF INPUT VAT

The lessons of this case may be summed up as follows:

xxx xxx xxx

B. 120+30 Day Period

1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the

[44] Exhibit "P-25".
[45] Exhibit "P-26".
[46] Exhibit "P-27".
[47] Exhibit "P-28".
[48] G.R. No. 173241, March 25, 2015.

> Commissioner does not act within the 120-day period.
>
> 2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.
>
> 3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. *(Aichi* and *San Roque)*
>
> 4. As an exception to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. *(San Roque)*
>
> 5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. *(San Roque)"*

In this case, respondent partially denied petitioner's administrative claim for refund through a letter dated April 1, 2013[49] which was received by petitioner on May 23, 2013. Counting 30 days therefrom, petitioner had until June 22, 2013 within which to appeal the partial denial of its administrative claim before the Court of Tax Appeals. Since June 22, 2013 fell on a Saturday, petitioner had until June 24, 2013, the next working day, within which to file its judicial claim.

However, instead of filing its judicial claim with this Court, petitioner opted to file a letter-request[50] with the BIR Large Taxpayers Service on May 30, 2013, requesting reconsideration of the disallowance of the input VAT amounting to ₱72,637,412.34. Petitioner only filed the present Petition for Review[51] on August 18, 2014, after it received a letter[52] from respondent on July 18, 2014, denying its letter-request for reconsideration for lack of legal basis. Thus, petitioner's judicial claim was belatedly filed as it was filed 422 days after the lapse of the 30-day period to appeal.

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[49] Exhibit "P-29".
[50] Exhibit "P-30".
[51] Docket, vol. I, pp. 6-17.
[52] Exhibit "P-31".

The Court emphasizes that under Section 112(C) of the NIRC of 1997, as amended, the taxpayer can file an appeal on his administrative claim for refund or credit in one of two ways: (1) **file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period**, or (2) **file the judicial claim within thirty days from the expiration of the 120-day period** if the Commissioner does not act within the 120-day period. This was discussed by the Supreme Court in the case of *Commissioner of Internal Revenue vs. San Roque Power Corporation*[53], to wit:

> "Section 112(C) also expressly grants the taxpayer a 30-day period to appeal to the CTA the decision or inaction of the Commissioner, thus:
>
> > xxx 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 supplied)
>
> This law is clear, plain, and unequivocal. Following the well-settled *verba legis* doctrine, this law should be applied exactly as worded since it is clear, plain, and unequivocal. As this law states, the taxpayer may, if he wishes, appeal the decision of the Commissioner to the CTA within 30 days from receipt of the Commissioner's decision, or if the Commissioner does not act on the taxpayer's claim within the 120-day period, the taxpayer may appeal to the CTA within 30 days from the expiration of the 120-day period."

Based on the foregoing, the 30-day prescriptive period should be reckoned from the date of receipt of the decision denying the administrative claim or after the lapse of the 120-day period. There is nothing in the law which states that the start of the 30-day period can be reckoned from the receipt of the denial of the request for reconsideration on the partial denial of its administrative claim.

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[53] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

Petitioner should have filed its judicial claim after it received the letter partially denying its administrative claim for refund.

Moreover, the Supreme Court has ruled "that the 120/30-day prescriptive periods are mandatory and jurisdictional, and are not mere technical requirements. The Court should not establish the precedent that noncompliance with mandatory and jurisdictional conditions can be excused if the claim is otherwise meritorious, particularly in claims for tax refunds or credit. Such precedent will render meaningless compliance with mandatory and jurisdictional requirements."[54]

Further, the Court has held time and again that taxes are the lifeblood of the government and, consequently, tax laws must be faithfully and strictly implemented as they are not intended to be liberally construed.[55]

Considering that the Petition for Review was filed 422 days after the lapse of the 30-day period to appeal, the Court has no jurisdiction to entertain the same. The CTA can only take cognizance of such matters as are clearly within its statutory authority. And if the Court has no jurisdiction over the nature of the action, its only jurisdiction is to dismiss the case.[56]

WHEREFORE, premises considered, the instant Petition for Review is hereby **DISMISSED** for lack of jurisdiction.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

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[54] *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue,* G.R. No. 173241, March 25, 2015.

[55] *Commissioner of Internal Revenue vs. Dash Engineering Philippines, Inc.,* G.R. No. 184145, December 11, 2013.

[56] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue,* G.R. No. 185666, February 4, 2015.

I CONCUR:

CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest 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's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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