REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Second Division

ONG KIN KING & CO., INC., *Petitioner,*	**CTA CASE NO. 10362**
	Members:
-versus-	**RINGPIS-LIBAN,** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 0 5 2024

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8:50 am

DECISION

MODESTO-SAN PEDRO, J.:

The Case

The Amended Petition for Review seeks the refund of the total amount of One Hundred Million Thirty Nine Thousand Seventy One Pesos and 82/100 (Php100,039,071.82), allegedly representing the taxes and interests erroneously and/or illegally collected by respondent, which was supposedly paid by petitioner on October 4, 2018 under duress and without any assessment, in clear contravention of *Revenue Regulation No.* ("*RR*") *12-99, as amended by RR 18-2013 and RR 7-2018*, implementing *Section 228 of the National Internal Revenue Code of 1997, as amended* ("*NIRC*").[1]

The Parties

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines. It has principal office address at 28-30 Plaridel Street, Ermita, Cebu City.[2] Petitioner is registered with the Bureau of Internal

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[1] See Statement of the Case, Pre-Trial Order, *Rollo* Vol. II, p. 624.
[2] Exhibit "P-52", *Rollo* Vol. I, pp. 435-448.

Revenue ("BIR") under Taxpayer Identification Number ("TIN") 001-228-315-000.[3]

Meanwhile, respondent is the duly appointed Commissioner of Internal Revenue ("CIR") mandated by law to enforce and implement the *NIRC* and related statutes, including, among others, the power to refund taxes erroneously and/or illegally collected, received or imposed without authority pursuant to *Section 204 (C) of the NIRC, in relation to Section 229 of the NIRC*. He holds office at the BIR National Office Building, Diliman, Quezon City.[4]

The Facts

During 2018, petitioner was subjected to surveillance by BIR Revenue Region Office No. XIII, as shown by various Mission Orders issued by Regional Director Eduardo L. Pagulayan, Jr., dated July 11, 2018.[5]

On the same date, petitioner received Letters of Authority ("LOA") bearing the numbers SN: eLA 201500022368/LOA-082-2018-00000059 and SN: eLA 201500022369/LOA-082-2018-00000058 for the conduct of tax audit covering taxable years 2016 and 2017, respectively. These LOAs were all issued by the Regional Director on the same date that petitioner received them.[6]

Petitioner then received the first set of Closure Orders on July 17, 2018. Pursuant to such, respondent closed petitioner's warehouse and sealed all of its Point of Sale ("POS") machines.[7] On July 18, 2018, petitioner received a Letter from the Regional Director informing petitioner of its violations, to wit:[8]

1. Use of unregistered invoices and supplemental receipts in violation of *Section 238 of the NIRC*;

2. Failure to register warehouses in violation of *Sections 236 and 258 of the NIRC*;

3. Failure to maintain a record in the warehouse in violation of *RR 5-94*;

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3 See Memorandum (For Petitioner), *Rollo* Vol. II, p. 786.
4 See Stipulation of Facts, Pre-Trial Order, *id.* at 625.
5 Exhibits "P-6 to P-16", *Rollo* Vol. I, pp. 69-79.
6 Exhibits "P-17 to P-18", *id.* at 80-85.
7 Exhibits "P-19 to P-20", *id.* at 86-87; See Memorandum (For Petitioner), *Rollo* Vol. II, p. 787.
8 Exhibit "P-21", *Rollo* Vol. I, pp. 88-91.

4. Failure to register Grill and Sizzling Restaurants, a separate or distinct establishment from its Retail/Convenience Store in violation of *Sections 236 and 258 of the NIRC*; and

5. Failure to notify the Revenue District Officer regarding the transfer/repair/upgrading/status of Cash Register Machines ("CRM")/POS or similar devices in a place other than specified in the permit and use of unregistered CRM/POS machines in violation of *RR 11-2004*.

On July 23, 2018, petitioner wrote a Letter to the Regional Director addressing each of the violations set forth in the Letter, dated July 18, 2018.[9] Petitioner then sent another Letter to Revenue District Officer Emir Abutazil of Revenue District Office No. ("RDO") 81 on August 8, 2018, inquiring as to when the Closure Order will be lifted.[10]

On August 10, 2018, the Revenue District Officer replied that his office has no jurisdiction over petitioner but said that since it was Revenue Region Office No. XIII which issued the Closure Orders, the Revenue District Officer would elevate petitioner's concern to such office.[11]

On August 14, 2018, petitioner then sent a Letter to the Regional Director following up its request to have the Closure Orders lifted.[12]

Through a Letter, dated August 23, 2018, the Regional Director replied that the Closure Orders cannot be lifted unless petitioner fully submits the following documents/information previously required from petitioner:[13]

1. List of cancelled checks that were issued by petitioner with accompanying set of check images;

2. List of checks that were issued to petitioner by its customers for years 2016 and 2017 and the 1st semester of 2018 with accompanying set of check images;

3. Bank statements for years 2016 and 2017 and the 1st semester of 2018 of all the banks that petitioner has an account (with accompanying set of images of cleared checks);

4. Inventory book of all warehouses of petitioner for years 2016 and 2017 and the 1st semester of 2018;

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9 Exhibit "P-22", *id.* at 92-94.
10 Exhibit "P-23", *id.* at 95.
11 Exhibit "P-24", *id.* at 96.
12 Exhibit "P-25", *id.* at 97-99.
13 Exhibit "P-26", *id.* at 100-101.

5. Sales invoices and electronic sales journal generated from all the CRM/POS of petitioner for years 2016 and 2017 and the 1st semester of 2018;

6. Account for all the issued purchase orders for years 2016 and 2017 and the 1st semester of 2018;

7. Account all unregistered invoices and supplemental receipts of petitioner for years 2016 and 2017 and the 1st semester of 2018; and

8. Account POS/CRM of petitioner.

On September 3, 2018, petitioner filed a Request for Reconsideration of the Regional Director's denial of its request to have the Closure Orders lifted.[14]

Petitioner then received, on September 13, 2018, a new set of Closure Orders which were signed by Deputy Commissioner Arnel SD. Guballa. Through such Closure Orders, petitioner's main store and all of its branches were closed by respondent.[15]

In response to such Closure Orders, petitioner, in a Letter, dated September 13, 2018, wrote to the CIR himself, Deputy Commissioner Guballa, Regional Director Pagulayan, and Revenue District Officer Maglangit S. Decampong of RDO 82. In said Letter, petitioner questioned the propriety of such Closure Orders and requested respondent to lift the same.[16]

On October 3, 2018, petitioner once more wrote Regional Director Pagulayan a Letter requesting for the immediate lifting of the Closure Orders and offered One Hundred Million Pesos (Php100,000,000.00) as deposit without prejudice to the results of the ongoing tax investigations against petitioner's 2014, 2015, 2016, and 2017 Financial Statements and accounting records, with said amount offered to be applied to any deficiency tax assessment found during the tax investigation.[17] Petitioner alleged that it was constrained to make the above offer "due to the pressure and 'arm-twisting' made by the [O]ffice of the Regional Director of BIR [Revenue] Region No. [XIII] in closing [p]etitioner's establishments without legal basis."[18]

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14 Exhibit "P-27", *id.* at 102-106.
15 Exhibits "P-28 to P-48", *id.* at 107-127; See Memorandum (For Petitioner), *Rollo* Vol. II, p. 789.
16 Exhibit "P-49", *Rollo* Vol. I, pp. 128-137.
17 Exhibit "P-50", *id.* at 138-139.
18 See Memorandum (For Petitioner), *Rollo* Vol. II, p. 789.

On October 3, 2018, petitioner obtained a loan from Metropolitan Bank & Trust Company for One Hundred Million Pesos (Php100,000,000.00) with an alleged purpose of "Development of Commercial Property".[19] However, in its Memorandum (For Petitioner), petitioner claims that the loan was rather hastily secured on October 4, 2018 after it "was directed by the BIR [Revenue Region Office No. XIII] to immediately pay, without any assessment issued but as a condition for the lifting of the [C]losure Orders, the total amount of ONE HUNDRED MILLION THIRTY NINE THOUSAND SEVENTY ONE PESOS AND [82/100 PESOS] (Php100,039,071.82)."[20]

On October 4, 2018, through four BIR Forms No. 0605 signed by Regional Director Pagulayan, petitioner paid the amount of One Hundred Million Thirty Nine Thousand Seventy One Pesos and 82/100 (Php100,039,071.82) allegedly representing value added tax ("VAT") payments for 12/31/2014, 12/31/2015, 12/31/2016, and 12/31/2017.[21]

Upon payment of the amount, petitioner alleged that it was allowed by the BIR to continue its operations.[22]

As the two-year period to file a claim for refund neared its expiration and since petitioner feared that respondent was simply employing dilatory tactics meant to frustrate its recovery of the payments it made, petitioner then filed an Urgent Request for Tax Refund, dated July 8, 2020, and filed the same before the Office of the Commissioner of Internal Revenue on July 16, 2020.[23]

Petitioner did not receive any communication or reply from respondent. As such, on October 1, 2020, before the expiration of the two-year period after the payment of One Hundred Million Thirty Nine Thousand Seventy One Pesos and 82/100 (Php100,039,071.82), petitioner filed the instant Petition.[24]

On October 1, 2021, respondent issued a Formal Letter of Demand ("FLD") and Final Assessment Notices ("FAN") finding petitioner liable for deficiency income tax, VAT, improperly accumulated earnings tax, and other penalties for taxable years 2015[25] and 2016.[26]

On October 28, 2020, petitioner filed a Motion to Admit Attached Amended Petition for Review as it sought to amend certain allegations on the Petition for Review it filed before this Court.[27]

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[19] Exhibits "P-51", *Rollo* Vol. I, pp. 140-142.
[20] See Memorandum (For Petitioner), *Rollo* Vol. II, p. 791.
[21] Exhibits "P-2" to "P-5A", *Rollo* Vol. I, pp. 61-67.
[22] See Memorandum (For Petitioner), *Rollo* Vol. II, p. 792.
[23] Exhibits "P-1", *Rollo* Vol. 1, pp. 37-60; See Memorandum (For Petitioner), *Rollo* Vol. II, p. 792.
[24] See Memorandum (For Petitioner), *id.* at 792; *Rollo* Vol. I, pp. 7-146.
[25] BIR Records, pp. 91-108.
[26] *Id.* at 48-63.
[27] *Rollo* Vol. I, pp. 151-467.

On December 3, 2020, summons were issued to respondent requiring him to file an Answer to the Amended Petition for Review.[28] Respondent filed his Answer on January 20, 2021.[29]

After a full-blown-trial, on November 8, 2023, petitioner filed its Memorandum (For Petitioner).[30] Meanwhile, respondent manifested on November 17, 2023 that he would no longer file a Memorandum and instead adopt the arguments stated in his Answer.[31] Thus, in a Resolution, dated December 5, 2023, the instant case was submitted for Decision.[32]

Hence, this Decision.

The Issue

> Whether or not there are legal and factual bases for the refund of the total amount of One Hundred Million Thirty Nine Thousand Seventy One Pesos and 82/100 (Php100,039,071.82) allegedly representing taxes and interests erroneously and/or illegally collected by respondent and paid by petitioner on October 4, 2018.[33]

Arguments of the Parties

Petitioner's Arguments[34]

Petitioner avers that the collection of the taxes and interests by respondent was arbitrary, without legal authority, and against due process of law. The collection of the taxes and interests by respondent without any valid assessment priorly made is contrary to law and deprives petitioner of its guaranteed right to due process. To effect the unlawful collection of said taxes and interests, respondent committed several violations against *Revenue Memorandum Order No. ("RMO") 3-2009*;

Petitioner made the payment under duress; and

Prescription has already set in against the assessment of the taxes for the taxable year 2016

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[28] *Id.* at 482.
[29] *Rollo* Vols. I-II, pp. 491-511.
[30] *Rollo* Vol. II, pp. 783-819.
[31] *Id.* at 820-823.
[32] *Id.*
[33] See Issue, Pre-Trial Order, *id.* at 625.
[34] See Memorandum (For Petitioner), *id.* at 793-812.

Respondent's Arguments[35]

Respondent, meanwhile argues that the conduct of the surveillance activities authorized under the Mission Orders issued under *RMO 3-2009* is valid. Based on the findings of the revenue officers assigned in this case, petitioner committed violations that warrant the closure of the establishment such as: a) failure to issue receipts or invoices; b) failure to register warehouse; c) failure to register grill and sizzling restaurants, a separate or distinct establishments from retail/convenience store; and d) failure to notify respondent of the transfer/repair/upgrading/status of CRM/POS Machines;

Petitioner was not placed under duress. Respondent did not coerce petitioner to pay the subject amount. Instead, it was petitioner who offered to pay so that the Closure Orders can be lifted. Thus, the payment made by petitioner was pursuant to the Closure Orders issued by respondent. This is primarily for the violations committed under the Mission Orders issued under *Section 115 of the NIRC*; and

Prescription has not yet set in against the assessment of taxes for taxable year 2016. Such claim of prescription by petitioner is premature considering that petitioner has not yet received any assessment notices to support its claim. It must be noted that there are exceptions to the three (3) year period of limitation of assessment and collection of taxes. Claims for refund are construed *strictissimi juris*. This is so because exemptions from taxations are highly disfavored in law and he who claims exemption must be able to justify his claim by the clearest grant of organic or statutory law.

The Ruling of the Court

The instant Petition lacks merit.

The Court has jurisdiction over the instant claim for refund.

The provisions that govern the present claim for refund of alleged erroneously paid taxes are *Sections 204 (c) and 229 of the NIRC,* prior to the amendments introduced by the Ease of Paying Taxes Act ("EOPTA") or *Republic Act No. ("RA") 11976,* which read:

> *SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. - The Commissioner may*
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> . . . .

[35] See Answer, Records, Vol. II, pp. 498-509.

(c) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

. . . .

SEC. 229. Recovery of Tax Erroneously or Illegally Collected. - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been 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, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.
(Italics, Ours.)

In *CBK Power Company Limited v. Commissioner of Internal Revenue*,[36] the Supreme Court held:

Sections 204 and 229 of the NIRC pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner.

Following this, in order for this Court to obtain jurisdiction over the instant case, both the administrative and judicial claims for refund should have been filed within two years from the date of payment of the alleged erroneously paid taxes. Moreover, the filing of the administrative claim for refund should precede the filing of the judicial claim for refund.

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[36] G.R. Nos. 193383-84, 14 January 2015.

Petitioner paid the amount of One Hundred Million Thirty Nine Thousand Seventy One Pesos and 82/100 (Php100,039,071.82) allegedly representing VAT payments for 12/31/2014, 12/31/2015, 12/31/2016 and 12/31/2017, on October 4, 2018,[37] which it now seeks to be refunded based on the notion that such payments were erroneously paid. Accordingly, petitioner had until October 4, 2020, to file the administrative claim for refund before respondent and the judicial claim before this Court in order to comply with the deadlines set forth under *Sections 204 (c) and 229 of the NIRC.*

Petitioner filed an Urgent Request for Tax Refund, dated July 8, 2020, (*i.e.,* administrative claim) before the Office of the Commissioner of Internal Revenue on July 16, 2020.[38] On the other hand, petitioner filed its judicial claim for refund on October 1, 2020, before this Court.[39]

Thus, petitioner complied with the jurisdictional deadlines required under *Sections 204 (c) and 229 of the NIRC.* This Court can take cognizance of the instant refund claim.

With the issue of jurisdiction settled, We shall now proceed to determine whether petitioner is entitled to the reliefs sought.

Petitioner failed to prove that the payments it made were erroneous.

For petitioner's claim to prosper, it must prove that the government, through respondent, illegally collected the subject taxes. The long-settled rule is that the burden lies on the taxpayer to show strict compliance with the conditions for the grant of the tax refund or credit.[40]

Unfortunately, petitioner failed to discharge this burden.

In the case at bar, petitioner admitted that it was the one who offered to Regional Director Pagulayan One Hundred Million Pesos (Php100,000,000.00) as deposit in exchange for the immediate lifting of the Closure Orders. Such offer, however, was conditioned on respondent continuing the ongoing tax investigations against petitioner's 2014, 2015, 2016, and 2017 Financial Statements and accounting records and the amount offered being applied to any deficiency tax assessment found during the tax investigation.[41] Petitioner insisted that it was constrained to make the above

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[37] Exhibits "P-2" to "P-5A", *Rollo* Vol. I, pp. 61-67.
[38] Exhibits "P-1", *id.* at pp. 37-60; See Memorandum (For Petitioner), *Rollo* Vol. II, p. 792.
[39] See Memorandum (For Petitioner), *Rollo* Vol. II, p. 792; *Rollo* Vol. I, pp. 7-146.
[40] *CBK Power Company Limited vs. Commissioner of Internal Revenue*, G.R. Nos. 198729-30, 15 January 2014.
[41] Exhibit "P-50", *Rollo* Vol. I, pp. 138-139.

offer "due to the pressure and 'arm-twisting' made by the [O]ffice of the Regional Director of BIR [Revenue] Region No. [XIII] in closing [p]etitioner's establishments without legal basis."[42] And when respondent failed to timely issue a deficiency tax assessment on petitioner's 2014, 2015, 2016, and 2017 Financial Statements and accounting records nearing the expiration of the two-year period provided under *Sections 204 (c) and 229 of the NIRC*, it had no recourse but to apply for a refund of the amount it offered and paid.

From petitioner's own admission, this Court finds that no tax has been erroneously paid.

First, the Court does not find that petitioner was forced to make an offer of deposit of money and, in effect, was subsequently coerced to pay the same to respondent, in exchange for the immediate lifting of the Closure Orders issued by respondent. Petitioner had other legal remedies available that could have lifted the Closure Orders without even offering, or paying, respondent any amount. The appellate jurisdiction of the Court of Tax Appeals is not limited to cases involving decisions or inactions of the CIR on matters relating to assessments or refunds but also includes other cases arising from the *NIRC* or related laws administered by the BIR, after all.[43] Pertinent to this case, it includes determining the legality or validity of Closure Orders. Closure Orders are encompassed within the CIR's power to determine tax compliance by taxpayers as provided under *Section 5 of the NIRC in relation to Section 115 of the NIRC*, as these are covered by the term "other matters" arising under the *NIRC*. They consequently fall under the Court's exclusive appellate jurisdiction.

As there was an adequate legal remedy to question the validity of the Closure Orders, which likewise include the power to have such Closure Orders lifted, petitioner cannot insist that it was compelled to make an offer of deposit, and subsequently forced to pay, amounts to the BIR just to have the Closure Orders issued against it lifted. The fact that the Closure Orders were not immediately lifted is solely due to petitioner's own fault of not instantly appealing such Closure Orders before this Court. Petitioner received the first set of Closure Orders as early as July 17, 2018.[44] The validity and legality of these Closure Orders could have been tested before this Court, especially since petitioner alleges that these Closure Orders were allegedly violative of due process, which could have resulted in the same being lifted outright. Instead, however, petitioner opted to keep the issue at the administrative level and proceeded to offer and pay the subject amount in order that the Closure Orders issued against it can be lifted.

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[42] See Memorandum (For Petitioner), *Rollo* Vol. II, p. 789.
[43] *Commissioner of Internal Revenue vs. Lancaster Philippines, Inc.*, G.R. No. 183408, 12 July 2017.
[44] Exhibits "P-19 to P-20", *Rollo* Vol. I, pp. 86-87; See Memorandum (For Petitioner), *Rollo* Vol. II, p. 787.

Second, the payment made by petitioner on October 4, 2018, cannot subsequently be considered as erroneous and respondent's collection of said payment cannot be considered illegal. For a claim for refund under *Sections 204 (c) and 229 of the NIRC* to prosper, the payment of taxes should have been outright erroneous or illegal at the time of payment. Considering that it was the one who offered to deposit money and that it subsequently paid the subject amount to the BIR in exchange for the lifting of the Closure Orders, petitioner cannot later on claim inequity before this Court and insist that the payment it made was erroneous simply because no assessment had been issued at the time.

Petitioner offered and paid the amount fully aware that no full assessment had been issued against it yet, after all. It cannot cause or produce an irregularity and then be allowed to weaponize said irregularity. The move smacks of the "gamesmanship" struck down by the Supreme Court in *Commissioner of Internal Revenue v. Toledo Power Company*,[45] where if the taxpayer loses, "it could fare no worse as it already paid the amount. If it wins, it gets back the amount which it had already negotiated successfully with the government. Given these odds, [the taxpayer] remains to be the winner that takes it all. In contrast, the government is left holding an empty bag all by its lonesome."

Third, respondent timely issued the FLD/FAN for taxable years 2015[46] and 2016[47] under the relevant provision of the *NIRC*. Under *Section 222* of said law, in case of a false or fraudulent return with intent to evade tax, respondent has 10 years from the discovery of said falsity or fraud within which to assess the taxpayer. This serves as an exception to the usual three years to assess provided by *Section 203 of the NIRC*.

Respondent certainly had reason to consider petitioner's case as involving falsity or fraud with intent to evade tax, given the found violations upon which the Closure Orders were based. He thus had reason to find the 10-year applicable here. As petitioner did *not* pursue or maintain a protest against the Closure Orders, as discussed above, the Court must rely on respondent's findings regarding the violations and concomitantly agree that the 10-year period is applicable. And since respondent issued the FLD/FAN on October 1, 2021, these were issued within 10 years from July of 2018, when the violations were discovered, and were thus issued on time.

The above also shows that the payment was not illegal or erroneous even when petitioner's conditions for such are considered. The audit did, indeed, continue, eventually producing a timely-issued assessment. The conditions were met, so the payment was not erroneous.

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[45] G.R. No. 259309, 13 February 2023.
[46] BIR Records, pp. 91-108.
[47] *Id.* at 48-63.

Fourth, the two-year period for filing a claim for refund is not relevant to the propriety of a payment, collection, or assessment. The period governs claims for refund *only*. It cannot replace the relevant periods provided by *Sections 203 and 222 of the NIRC*. The fact that the assessment had yet to be issued when the two-year period here was nearing expiration is thus of no moment.

Neither can the conditional nature of petitioner's payment make the two-year period applicable. No such two-year period was specified in petitioner's conditions. As such, the Court sees no reason to treat the two-year period as capable of rendering the payment erroneous or illegal.

Following the above discussions, it stands clear that petitioner failed to prove before this Court that the amount sought to be refunded was erroneously paid. Thus, the instant claim for refund must necessarily fail.

On a final note, actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption. The law is consequently not only construed *strictissimi juris* against the taxpayer; the pieces of evidence presented entitling a taxpayer to an exemption are also *strictissimi* scrutinized and must be duly proven.[48] The burden is on the taxpayer to show that it has strictly complied with the conditions for the grant of the tax refund or credit. And as petitioner failed to achieve such here, the refund it seeks cannot be granted.

ACCORDINGLY, the Petition for Review filed by petitioner **ONG KIN KING & CO., INC.** is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

[48] *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018, citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
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