REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

Special Third Division

THERMAPRIME WELL SERVICES INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE, and the BUREAU OF INTERNAL REVENUE.
Respondents.

CTA CASE NO. 8896

Members:

FABON-VICTORINO, and
RINGPIS-LIBAN *JJ.*

Promulgated:

SEP 16 2019
10:40 a.m.

x- -x

RESOLUTION

RINGPIS-LIBAN, ***J.***:

For the Court's resolution is petitioner's **Motion for Reconsideration (Re: Decision dated March 26, 2019)**, filed on April 26, 2019, without respondent's Comment/Opposition per Records Verification Report dated June 3, 2019.

Petitioner seeks reconsideration of this Court's Decision dated March 26, 2019, the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

In the assailed Decision, the Court ruled that it has no jurisdiction to act on petitioner's judicial claim which was belatedly filed.

Petitioner failed to consider the inaction of respondent after the 120-day period. The 120-day period could not have commenced on the day that petitioner filed its last supporting document on April 22, 2014, because to allow such would give the taxpayer unlimited discretion to indefinitely extend the 120-day period by simply filing the required documents piecemeal.

In the instant motion, petitioner contends that the reckoning point of the 120-day period is on April 22, 2014, the alleged last submission of documents in relation to its administrative claim and not the initial filing of its administrative claim on September 24, 2013. Allegedly, the presumption that the complete documents accompanied the administrative claim should only be applied in the event that there is no evidence showing that petitioner made later submissions of documents in support of its administrative claim.

Further, petitioner maintains that the 120-day period only started to run after the request of the BIR for additional documents and petitioner's subsequent submission of additional supporting documents.

As aptly observed by the Court, the rule that the counting of the 120-day period is to begin from the submission of the complete documents cannot be applied in this case since it was only after the lapse of the 120-day period when petitioner started to submit additional supporting documents. The subsequent dates when petitioner submitted the said supporting documents are already way beyond the 120+30 day period prescribed by law.

Moreover, the Court cannot over emphasize the fact that it took petitioner 210 days more after the end of the 120+30 day period before elevating the matter to this Court.

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 compliance 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 prosper.[1]

Accordingly, petitioner's failure to observe the mandatory 120+30 day periods is fatal to its claim and rendered the Court devoid of jurisdiction.

Clearly, the Court finds that petitioner failed to raise a new or substantial matter, or compelling reason to justify the reversal or modification of the Court's findings in the assailed Decision.

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[1] *Commissioner of Internal Revenue vs. San Roque Power Corporation,* G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration (Re: Decision dated March 26, 2019)**, is hereby **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

I CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice