REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

REGUS SERVICE CENTRE PHILIPPINES B.V.-ROHQ,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9907

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
APR 19 2023 ; 3:24PM

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DECISION

MANAHAN, *J.:*

This is a Petition for Review filed by petitioner Regus Service Centre, Philippines B.V. – ROHQ against respondent Commissioner of Internal Revenue (CIR) on August 13, 2018, praying for the refund of ₱2,593,640.12, representing its alleged unutilized input value-added tax (VAT) attributable to its export sales for the 1st quarter of calendar year (CY) 2016 or for the period January 1, 2016 to March 31, 2016.[1]

THE PARTIES

Petitioner is the duly registered regional operating headquarters (ROHQ) of Regus Service Centre, Philippines B.V. in the Philippines.[2] As a registered ROHQ, petitioner is duly licensed to transact and/or enter into business transactions in the Philippines.[3] Petitioner is also registered as a taxpayer, assigned with Taxpayer's Identification Number 287-343-976-000.[4]

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[1] Statement of the Case, Pre-Trial Order dated July 15, 2019, Docket, p. 268.
[2] Par. 1.a, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket, p. 191.
[3] Par. 1.b, Stipulation of Facts, JSFI, Docket, p. 191.
[4] Par. 1.d, Stipulation of Facts, JSFI, Docket, p. 192.

Respondent CIR is vested by law with the power and authority to decide, approve and grant applications for refund or tax credit of excess internal revenue tax payments.[5]

THE FACTS

On April 2, 2018, petitioner filed with the Bureau of Internal Revenue (BIR) an Application for Tax Credits / Refund (BIR Form No. 1914),[6] and its letter of even date,[7] requesting for the refund of its excess/unutilized input VAT amounting to ₱2,593,640.11 which is allegedly attributable to its zero-rated sales for the 1st quarter of CY 2016.

Thereafter, on July 13, 2018, petitioner received a letter dated June 7, 2018 from the Assessment Service, denying its application for the refund of its accumulated (excess) input tax for the 1st quarter of CY 2016. The denial of petitioner's refund claim was anchored on the following grounds:

a. The application was filed beyond the two-year period provided under Section 112 of the 1997 National Internal Revenue Code (NIRC), as amended, as implemented by Section 4.112-1 of Revenue Regulations (RR) No. 16-2005; and

b. The documents submitted in support of petitioner's application was not compliant with the requirements provided under Section 113 of the 1997 NIRC, as amended.[8]

As already stated, the present Petition for Review was filed on August 13, 2018.[9]

Respondent filed his Answer to the Petition for Review on November 13, 2018.[10]

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[5] Par. 2, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket, pp. 10 to 11, and 77, respectively. Refer also to Par. 1.c, Stipulation of Facts, JSFI, Docket, pp. 191 to 192.
[6] Exhibit "P-7", Docket, p. 571; and Par. 1.e.2, Stipulation of Facts, JSFI, Docket, p. 192.
[7] Exhibit "P-6", Docket, pp. 566 to 570; and Par. 1.e.1, Stipulation of Facts, JSFI, Docket, p. 192.
[8] Par. 10, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket, pp. 12, and 77, respectively. Refer also to Exhibit "P-9", Docket, pp. 579 to 580, and to Par. 1.e.3, Stipulation of Facts, JSFI, Docket, p. 192.
[9] Docket, pp. 10 to 20.
[10] Docket, pp. 77 to 86.

Respondent transmitted the BIR Records for this case on November 20, 2018.[11]

The Pre-Trial Conference was initially set on February 21, 2019.[12] Upon respondent's Urgent Motion To Reset Pre-Trial filed on February 18, 2019,[13] the said Pre-Trial Conference was reset to March 21, 2019.[14] However, pursuant to the Order dated March 18, 2019,[15] the same was further reset to, and held on, April 11, 2019.[16] Prior thereto, the Pre-Trial Brief (of Petitioner Regus Service Centre, Philippines B.V. – ROHQ) was filed on February 15, 2019,[17] while Respondent's Pre-Trial Brief was filed on February 18, 2019.[18]

On April 30, 2019, the parties filed their Joint Stipulation of Facts and Issues (JSFI),[19] which the Court admitted and approved in its Resolution dated May 6, 2019,[20] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order was then issued on July 15, 2019.[21]

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Atty. Juan R. Bernardino. Jr.,[22] petitioner's Senior Finance Manager; and (2) Ms. Krista V. Bambao,[23] the Court-commissioned independent certified public accountant (ICPA).[24]

The ICPA's Report was submitted on May 14, 2019.[25]

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[11] Docket, pp. 89 to 91.
[12] Notice of Pre-Trial Conference dated January 4, 2019, Docket, pp. 97 to 98.
[13] Docket, pp. 158 to 161.
[14] Order dated February 19, 2019, Docket, p. 168.
[15] Docket, p. 180.
[16] Minutes of the hearing held on, and Order dated, April 11, 2019, Docket, pp. 181 to 184 and 187 to 190, respectively.
[17] Docket, pp. 99 to 107.
[18] Docket, pp. 163 to 166.
[19] Docket, pp. 191 to 194.
[20] Docket, p. 197.
[21] Docket, pp. 268 to 274.
[22] Exhibit "P-10", Docket, pp. 112 to 120; Exhibit "P-10-2", Docket, pp. 277 to 280; Minutes of the hearing held on, and Order dated, July 30, 2019, Docket, pp. 374 to 376, 378 to 379, respectively.
[23] Exhibit "P-11", Docket, pp. 394 to 413; Minutes of the hearing held on, and Order dated, August 27, 2019, Docket, pp. 420 to 425.
[24] *Oath of Commission* dated April 11, 2019, Docket, p. 180; Minutes of the hearing held on, and Order dated, April 11, 2019, Docket, pp. 181 to 184 and 187 to 190, respectively.
[25] Exhibit "P-13", Docket, pp. 199 to 215.

On September 2, 2019, petitioner filed a Motion for the Issuance of Subpoena Duces Tecum and Motion to Defer Filing of Formal Offer of Evidence.[26] Respondent then filed his Opposition [Re: Petitioner's Motion for the Issuance of Subpoena Duces Tecum and Motion to defer Filing of Formal Offer of Evidence] on September 6, 2019.[27] Petitioner filed a Reply (to Respondent's Opposition) on September 18, 2019.[28] In the Resolution dated November 5, 2019,[29] the Court granted petitioner's motions and ordered the issuance of a *Subpoena Duces Tecum* against respondent's counsel, Atty. Rachelle Lee Ngo, and Ms. Mariza R. Uy, Chief of the VAT Credit Audit Division, to produce the original copy of the Certification of Non-Registration issued by the Securities and Exchange Commission to Franchise International S.A.R.L. Atty. Margarette Y. Guzman, Executive Clerk of Court III of this Court, then issued the *Subpoena Duces Tecum* dated November 7, 2019.[30]

Respondent filed a Manifestation [RE: Subpoena Duces Tecum and Ad Testificandum] on December 4, 2012.[31] In the Resolution dated January 9, 2020,[32] the Court ruled, *inter alia*, as follows: (1) to note the said Manifestation; (2) to quash the said Subpoena Duces Tecum in view of the categorical denial of Revenue Officer Jonathan Simon, under oath, that the original Certification of Non-Registration issued by the Securities and Exchange Commissioner (SEC) to Franchise International S.A.R.L. was never submitted to the Bureau of Internal Revenue on April 12, 2018; and (3) to grant petitioner's alternative prayer in its motions filed on September 2, 2019 to submit a new and original copy of the Certification of Non-Registration of Franchise International S.A.R.L. to be secured from the SEC. The said Certification of Non-Registration was submitted on September 17, 2020.[33]

On October 2, 2020, petitioner filed its Formal Offer of Evidence with Motion with Leave of Court to Set Commissioner's Hearing.[34] Respondent, however, failed to file his comment

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[26] Docket, pp. 466 to 471.
[27] Docket, pp. 474 to 477.
[28] Docket, pp. 481 to 490.
[29] Docket, pp. 493 to 498.
[30] Docket, p. 500.
[31] Docket, pp. 503 to 505.
[32] Docket, pp. 528 to 529.
[33] Docket, p. 532. Refer also to the Minutes of the hearing held on, and Order dated, September 17, 2020, Docket, pp. 535 to 538.
[34] Docket, pp. 541 to 550.

thereto.[35] In the Resolution dated December 21, 2020,[36] the Court granted petitioner's Motion with Leave of Court to Set Commissioner's Hearing.

In the Resolution dated May 18, 2021,[37] the Court admitted petitioner's offered exhibits, except for Exhibits "P-3", "P-4", "P-7-1", "P-49", "P-50", "P-5", for failure of the duly marked exhibits to correspond with the documents described in the formal offer and identified by petitioner's witness.

Respondent likewise presented his documentary and testimonial evidence. He offered the testimony of Revenue Officer Ma. Cleofe T. Tasarra.[38]

On June 11, 2021, respondent filed his Formal Offer of Evidence.[39] Petitioner, however, failed to file its comment thereto.[40] In the Resolution dated February 18, 2022,[41] the Court admitted all of respondent's offered evidence.

Respondent's Memorandum was filed on March 30, 2022,[42] while petitioner's Memorandum was posted on April 4, 2022.[43]

This case was submitted for decision on April 26, 2022.[44]

THE ISSUES

The parties stipulated the following issues for this Court's resolution, *viz.*:

"1. Whether Petitioner is entitled to its claim for refund representing its excess and/or unutilized

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[35] Records Verification dated December 2, 2020 issued by the Judicial Records Division of this Court, Docket, p. 590.
[36] Docket, pp. 596 to 597.
[37] Docket, pp. 617 to 619.
[38] Exhibit "R-4", Docket, pp. 174 to 179; Minutes of the hearing held on, and Order dated, June 1, 2021, Docket, pp. 624 to 628-B.
[39] Docket, pp. 629 to 631.
[40] Records Verification dated December 3, 2021 issued by the Judicial Records Division of this Court, Docket, p. 633.
[41] Docket, p. 635.
[42] Docket, pp. 640 to 650.
[43] Docket, pp. 682 to 703.
[44] Resolution dated April 26, 2022, Docket, p. 707.

input VAT attributable to its zero-rated sale of services for the first quarter of CY 2016 (or the period 1 January 2016 to 31 March 2016) in the amount of Pesos: Two Million Five Hundred Ninety-three Six Hundred Forty Pesos & 12/100 (₱2,593,640.12).

2. Whether the administrative decision denying the claim for refund based on the documents submitted was correct."[45]

Petitioner's arguments:

Petitioner states that its claim for refund of accumulated (excess) input VAT finds legal support in Section 108(B)(2) in relation to Sections 110(B) and 112(A) of the 1997 NIRC, as amended by the Tax Reform for Acceleration and Inclusion Law (hereinafter referred to as the "TRAIN Law") and that it fulfilled all the requirements provided under Section 112(A) of the 1997 NIRC, as amended, i.e., that it is a VAT-registered entity; that the administrative and judicial claims for refund were filed within the prescriptive period provided under relevant laws and implementing regulations; that it is engaged in zero-rated or effectively zero-rated transactions and that the sales were paid for in acceptable foreign currency exchange and the proceeds have been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP) ; that the input taxes due from the purchases of goods and services directly attributable to zero-rated sales of petitioner were duly supported by VAT invoices or official receipts; that the claimed input VAT payments were not applied against any output tax in the succeeding periods. Petitioner further contends that the erroneously paid VAT should be refunded as a matter of course, following the principle of *"solutio indebiti"*.

Respondent's counter-arguments:

Respondent cites the doctrine that if a decision has already been rendered denying the claim for refund in the administrative level, the duty of the Court is limited to determining whether the decision of the administrative body is proper. He maintains that the instant judicial claim for refund should be outrightly denied for petitioner's failure to

[45] Stipulation of Issues, JSFI, Docket, p. 192.

substantiate the claim for refund at the administrative level. Respondent emphasizes that no additional documents may be submitted to the Court because its review is confined to what was submitted or attached in its application for refund filed with the BIR. Respondent maintains that petitioner was not able to substantiate its claim for refund primarily due to its failure to submit documents despite notice/requests from the BIR. Respondent also invokes the oft-repeated maxim that tax refunds partake the nature of a tax exemption, hence, must be strictly construed against the taxpayer. In the instant case, respondent insists that petitioner failed to comply with the prescribed checklist of requirements for claims of VAT refund pursuant to Revenue Memorandum Order (RMO) No. 53-98, hence, denial or dismissal of its claim is warranted.

THE COURT'S RULING

This Court shall first determine the timeliness of the appeal filed by petitioner with this Court.

To recall, petitioner's administrative claim for refund filed with the BIR was denied in a letter dated June 7, 2018, signed by Assistant Commissioner Erlinda A. Simple, Assessment Service of the BIR,[46] explaining the reasons for the denial, and we quote as follows:

> "This refers to your client's claim for Value Added Tax (VAT) refund covering the aforesaid period in the amount of Php2,593,640.12 on account of zero-rated sales under Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended, covered by Tax Verification Notice 201700022669 dated April 2, 2018.
>
> Evaluation and verification of the documents submitted in support of the aforesaid application for VAT refund disclosed unallowable input VAT in the aggregate amount of Php2,362,258.98 due to non-compliance with the invoicing requirements pursuant to Section 113 of NIRC of 1997, as amended.
>
> However, aside from the foregoing observation, further verification of the records vital to the processing of the subject claim revealed that the application for VAT refund for the aforesaid period was filed on April 2, 2018 (evidenced by the attached Application for Tax Credits/Refund—BIR Form No. 1914).

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[46] Exhibit "P-9", Docket, pp. 579 to 580.

Section 4.112-1 of Revenue Regulations No. 16-2005 in relation to 112 (A) of the Tax Code of 1997, as amended, provides:

> *'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 issuance of a tax credit certificate or refund of creditable input tax due*** *or paid attributable to such sales x x x" (emphasis and underscore ours).*

Likewise, in the case of *CBK Power Company Limited vs. Commissioner of Internal Revenue (G.R. Nos. 198729-30, January 15, 2014),* the Court ruled that administrative claims for TCC/Refund under Section 112 (A) of the Tax Code of 1997, as amended, **shall be filed within the two (2) year period from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made** (emphasis stated).

For the case on hand, since the administrative application for VAT refund was filed on April 2, 2018 only, same was beyond the two (2)-year mandatory period prescribed under the aforecited provision of the Tax Code, Revenue Issuance and Jurisprudence.

Accordingly, we regret to inform that the claim for VAT refund of REGUS SERVICE CENTER PHILIPPINES BV ROHQ for the period January 01, 2016 to March 01, 2016 is hereby denied for lack of factual basis.

xxx xxx xxx."

From the foregoing, it is revealed that the denial of petitioner's claim for refund was anchored on the following grounds, to wit:

a. The application was filed beyond the two-year period provided under Section 112 of the 1997 NIRC, as amended, as implemented by Section 4.112-1 of RR No. 16-2005; and

b. The documents submitted in support of petitioner's application were not compliant with the requirements provided under Section 113 of the 1997 NIRC, as amended.[47]

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[47] Par. 10, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket, pp. 12, and 77, respectively.

This Court notes that the present claim for refund covers the 1st quarter of CY 2016. On the basis of the law, counting two (2) years from the close of the said quarter, the following table indicates the pertinent last day for the filing of an administrative claim, *i.e.*, March 31, 2018, to wit:

2016	***Period***	***Close of the Taxable Quarter***	***Last Day to File Administrative Claim***
1st quarter	January 1, 2016 to March 31, 2016	March 31, 2016	March 31, 2018

There is no doubt that petitioner filed its administrative claim on April 2, 2018.[48] However, Section 1 of Rule 22, Rules of Court, reads as follows:

> "SECTION 1. *How to compute time.* – In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. **If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day**." (emphasis supplied)

Since the last day, *i.e.*, March 31, 2018, fell on a Saturday, petitioner had until the next working day—April 2, 2018, the following Monday, to file the administrative claim, hence timely filed contrary to the allegation of respondent.

With regard to the filing of the judicial appeal with the Court, we find that it was filed beyond the period prescribed by the relevant provisions of law.

Section 112 of the 1997 NIRC, as last amended by Republic Act No. 10963[49], provides, in part, as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* —

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[48] Exhibits "P-6" and "P-7", Docket, pp. 566 to 571; and Pars. 1.e.1 and 1.e.2, Stipulation of Facts, JSFI, Docket, p. 192.

[49] AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> (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
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> (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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> **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." (emphasis supplied)

As regards the filing of a claim for tax refund or tax credit of input VAT before the BIR, within two (2) years from the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made, this Court earlier ruled that petitioner timely filed its administrative claim for refund on April 2, 2018 covering the 1st quarter of calendar year 2016.

From the filing of petitioner's administrative claim on April 2, 2018, respondent had ninety (90) days or until July 1, 2018, to act on the said claim. In case of *inaction* within the said 90-day period, petitioner has thirty (30) days from the expiration of such period to file its judicial claim, or until July 31, 2018.

In the present case, the BIR issued the letter denying petitioner's entire claim for refund on June 7, 2018 but was received by petitioner only on July 13, 2018.[50] Records show that petitioner filed its judicial claim, via the present Petition for Review,[51] on August 13, 2018.

Based on the foregoing timeline, this Court finds that the privilege of petitioner to file a judicial appeal has already lapsed.

We discuss.

In determining the timeliness of the filing of a judicial appeal on claims for refund or issuance of a tax credit certificate for excess input VAT, this Court holds that the afore-quoted Section 112 (C) of the 1997 NIRC, as amended, should be read in relation to Section 7 (a) (1) and (2) of RA No. 1125, as amended by RA No. 9282, quoted as follows:

> "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 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**;" (emphases supplied)

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[50] Refer to Par. 10, *Petition for Review*, vis-à-vis Par. 1, *Answer*, Docket, pp. 12, and 77, respectively; Exhibit "P-9", Docket, pp. 579 to 580; and Par. 1.e.3, Stipulation of Facts, JSFI, Docket, p. 192.

[51] Docket, pp. 10 to 20.

The Supreme Court, in *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*,[52] had the occasion to interpret the above provision as follows, to wit:

> "The charter of the CTA expressly provides that its jurisdiction is to review on appeal '**decisions** of the Commissioner of Internal Revenue in cases involving x x x refunds of internal revenue taxes.' When a taxpayer prematurely files a judicial claim for tax refund or credit with the CTA without waiting for the decision of the Commissioner, there is no 'decision' of the Commissioner to review and thus the CTA as a court of special jurisdiction has no jurisdiction over the appeal. **The charter of the CTA also expressly provides that if the Commissioner fails to decide within 'a specific period' required by law, such 'inaction shall be deemed a denial' of the application for tax refund or credit. It is the Commissioner's decision, or inaction 'deemed a denial,' that the taxpayer can take to the CTA for review. Without a decision or an 'inaction x x x deemed a denial' of the Commissioner, the CTA has no jurisdiction over a petition for review**." (emphasis supplied).

Simply put, Section 7(a)(1) and (2) of RA No. 1125, as amended by RA No. 9282, clearly provides for this Court's jurisdiction over refunds such that the CTA has exclusive appellate jurisdiction (a) to review respondent's decisions, and (b) to review respondent's inaction "*where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial*[.]." To be sure, the charter of this Court expressly provides that if respondent fails to decide within a "*specific period*" required by law, such "*inaction shall be deemed a denial*" of the application for tax refund or credit.[53] In other words, under this Court's Charter, respondent's inaction on a claim for refund is considered a "*denial*" of the claim, which may be appealed before this Court within thirty (30) days from the expiration of the period fixed by law for action.[54]

The TRAIN Law still provided "*a specific period of action*", albeit in the reduced period of ninety (90) days, on the part of respondent. Thus, despite the deletion of the phrase "*or the failure on the part of the Commissioner to act on the application within the period prescribed above*" found under the former

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

[53] *Commissioner of Internal Revenue vs. Team Sual Corporation (formerly Mirant Sual Corporation)*, G.R. No. 205055, July 18, 2014.

[54] Refer to *Steag State Power, Inc. (Formerly State Power Development Corporation) vs. Commissioner of Internal Revenue*, G.R. No. 205282, January 14, 2019.

Section 112(C), it cannot be denied that the afore-quoted Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, should still be applied.

One of the well-established rules of statutory construction enjoins that endeavor should be made to harmonize the provisions of a law or of two laws so that each shall be effective.[55] Such being the case, both Section 112(C) of the 1997 NIRC, as amended by the TRAIN Law **and** Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, should both be given effect.

Moreover, repeals by implication are not favored as laws are presumed to be passed with deliberation and full knowledge of all laws existing on the subject, the congruent application of which the courts must generally presume. For this reason, it has been held that the failure to add a specific repealing clause particularly mentioning the statute to be repealed indicates that the intent was not to repeal any existing law on the matter, unless an irreconcilable inconsistency and repugnancy exist in the terms of the new and old laws.[56] Thus, in enacting the TRAIN Law, the legislature is presumed to know the existence of Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282. Such being the case, had Congress intended to further amend or to repeal the said Section 7(a)(2), it could have easily done the same, by adding or mentioning it, in the repealing clause or Section 86 of the TRAIN Law. Notably, Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, is not one of the provisions mentioned in the said Section 86. In addition, no irreconcilable inconsistency and repugnancy exists between Section 112(C) of the 1997 NIRC, as amended by RA No. 10963, and Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282.

Based on the above disquisition, if respondent fails to act within the 90-day period provided under Section 112(C) of the 1997 NIRC, as amended by the TRAIN Law, such inaction should already be deemed a denial of the administrative claim, in accordance with Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, and the refund-claimant must already appeal the said denial, within thirty (30) days from the expiration of the said 90-day period, otherwise, this Court shall not acquire jurisdiction.

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[55] *Valera vs. Tuason, Jr., et al.*, G.R. No. L-1276, April 30, 1948.

[56] *Philippine International Trading Corporation vs. Commissioner of Audit*, G.R. No. 183517, June 22, 2010.

In the instant case, although the issuance of the letter denying the claim for refund of petitioner on June 7, 2018 was within the ninety (90)-day period, it was received by petitioner only after its lapse, i.e., July 13, 2018. Applying the above provisions of the law, petitioner should have elevated its judicial appeal before the Court within thirty (30) days from July 1, 2018, the date when the 90 day period lapsed or not later than July 31, 2018. The filing of the instant Petition for Review on August 13, 2018 is then considered filed out of time.

It is basic that appeal is not a matter of right. Parties wishing to appeal must comply with the rules, otherwise they lose their opportunity to appeal.[57] Prescription has set in at the time of its filing, thus depriving the Court of any jurisdiction.[58]

Having found that the Court has no jurisdiction, we are prohibited from discussing the other issues raised by petitioner in its Petition for Review.

WHEREFORE, in light of the foregoing considerations, the present Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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[57] *Deepak Kumar vs. People of the Philippines*, G.R. No. 247661, June 15, 2020.
[58] *Nickelbase, Inc., vs. Commissioner of Internal Revenue*, CTA EB No. 2268, December 16, 2021.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES -FAJARDO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

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