REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

KURIMOTO (PHILIPPINES) CORPORATION,
Petitioner,

- versus -

HON. CAESAR R. DULAY, in his capacity as the Commissioner of Internal Revenue,
Respondent.

CTA CASE NO. 9740

Members:

CASTAÑEDA, JR., *Chairperson,*
BACORRO-VILLENA, *and*
CUI-DAVID, *JJ.*

Promulgated:
JUN 22 2022 2:53 PM

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is respondent Hon. Caesar R. Dulay, in his capacity as the Commissioner of Internal Revenue's (**respondent**'s) "Motion for Partial Reconsideration"[1] (**MPR**) of the Decision dated 17 September 2021[2] (**assailed Decision**) filed on 02 November 2021, without petitioner Kurimoto (Philippines) Corporation's (**petitioner**'s) comment despite due notice.[3] The dispositive portion of the assailed Decision reads as follows:

> ...
>
> **WHEREFORE**, premises considered, the present Petition for Review filed on 22 December 2017 by petitioner Kurimoto (Philippines) Corporation is hereby **PARTIALLY GRANTED.**

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[1] Division Docket, Volume III, pp. 1022-1029.
[2] Id., pp. 981-1021.
[3] *Per* Records Verification dated 04 March 2022, id. p. 1034.

> Accordingly, respondent Hon. Caesar R. Dulay, in his capacity as the Commissioner of Internal Revenue, is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the total amount of **FOUR MILLION EIGHT HUNDRED TWENTY THOUSAND ONE HUNDRED SEVENTEEN PESOS and TWENTY SIX CENTAVOS** (₱4,820,117.26), representing the unutilized and excess input value-added tax (VAT) attributable to its zero-rated sales for the third and fourth quarters of taxable year 2015.
>
> **SO ORDERED.**
>
> ...

In the MPR, respondent contends that petitioner failed to present as evidence its Authority to Print (**ATP**) in support of its claim for refund. Since the official receipts (**ORs**) issued by petitioner failed to indicate therein its ATP, the latter must present the said ATP citing *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*[4] (**Silicon**).

Respondent further avers that Revenue District Officer (**RDO**) Isabel A. Paulino's (**Paulino**'s) letter of denial[5] is not the final decision that is appealable to the Court. According to respondent, Revenue Memorandum Circular (**RMC**) No. 89-2017[6] states that claims exceeding ₱10,000,000.00 shall be approved by the Regional Director (and not merely the RDO).

According to respondent, since RDO Paulino's letter of denial is not the final decision of the Bureau of Internal Revenue (**BIR**), he had until 26 January 2018 within which to act on the administrative claim for refund. Considering that petitioner filed its judicial claim on 22 December 2017 or before the lapse of the 120-day period (ending on 26 January 2018) under Section 112(C) of the National Internal Revenue Code (**NIRC**) of 1997, as amended, the same was prematurely filed. Consequently, the Court had no jurisdiction over the subject Petition for Review, which issue may be raised anytime even for the first time on appeal.

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4 G.R. No. 172378, 17 January 2011.

5 Exhibit "P-15", Division Docket, Volume II, p. 764.

6 Circularizes the Amendments to Revenue Memorandum Circular No. 51-2007 on the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) and Revenue Officials Authorized to Approve and/or Issue the Tax Refund/TCC.

We resolve.

After a thorough consideration of the points raised by respondent, We find no merit in the instant MPR.

As regards the ATP, a perusal of the records would show that petitioner indicated its ATP in the official receipts and sales invoices it issued to its customers. Specifically, petitioner's Exhibits "P-39" to "P-44"[7], inclusive of the sub markings, clearly indicate that its ATP is stated therein as follows:

> ...
> 20 Bklts. (50x3) 0501-1500 OCN 9AU0000566157
> Date Issued: 05-17-13; Valid Until: 05-17-18
> ...

Under Revenue Regulations (**RR**) No. 18-2012[8], Outbound Correspondence Number (**OCN**) refers to "a systems-generated control number which serves as reference for every Authority to Print issued to a taxpayer". Thus, OCN 9AU0000566157 is the ATP issued to petitioner.

From the *Silicon* case that respondent cited, the presentation of ATP would only be required if the same is not indicated in the invoices or receipts, to wit:

> ...
>
> Under Section 112 (A) of the NIRC, a claimant must be engaged in sales which are zero-rated or effectively zero-rated. To prove this, duly registered invoices or receipts evidencing zero-rated sales must be presented. **However, since the ATP is not indicated in the invoices or receipts, the only way to verify whether the invoices or receipts are duly registered is by requiring the claimant to present its ATP from the BIR.** Without this proof, the invoices or receipts would have no probative value for the purpose of refund. In the case of *Intel*, we emphasized that[.][9]
>
> ...

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7 Photocopy of Official Receipts and Sales Invoices for the month of July to December 2015.

8 Regulations in the Processing of Authority to Print (ATP) Official Receipts, Sales Invoices, and Other Commercial Invoices using the On-line ATP System and Providing for the Additional Requirements in the Printing Thereof.

9 Supra at note 4; Emphasis supplied.

Since petitioner indicated in its ORs and sales invoices its ATP, it is no longer required to present the ATP itself to substantiate its claim for refund.

We also do not find merit in respondent's insistence that RDO Paulino's letter of denial is not the final decision of the BIR appealable to this Court.

In RMC No. 89-2017 that petitioner cited, the same clearly refers to a situation where the claim for refund is recommended to be approved and *not* when it is denied, *viz:*

> ...
>
> II. Claims for issuance of tax refund/TCC on income and other taxes filed by taxpayers registered with the Revenue District Offices (RDOs), including VAT refund/TCC claims of indirect exporters
>
> 1. All claims filed with and processed by the RDO shall be reviewed by the concerned Assessment Division prior to transmittal to the Regional Director.
>
> 2. The Regional Director shall be the authorized **approving** official for claims amounting to Ten Million (10M) Pesos and below. For claims exceeding 10M Pesos, the reports on said claims shall be signed by the Regional Director, who shall recommend the approval/issuance of the tax refund/TCC.[10]
>
> ...

On the contrary, the authority of RDO Paulino to issue the denial letter finds basis in RMC No. 54-2014[11], pertinent parts of which state:

> ...
>
> **II. Filing and Processing of Administrative Claims —**
>
> The application for VAT refund/tax credit must be accompanied by complete supporting documents as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex "B"). The affidavit shall further state that the said documents are the only documents which the taxpayer will present

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10 Emphasis and underscoring supplied.

11 Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended.

> to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.
>
> Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. **The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.**[12]
>
> ...

It is noted that since the BIR's decision is denial of petitioner's claim for petitioner's failure to submit supporting documents relative to its sale to Kurimoto, Ltd., RDO Paulino is thus authorized to issue the denial letter to petitioner.

At any rate, petitioner cannot be faulted for treating RDO Paulino's letter of denial as the decision appealable to this Court as the same was addressed and furnished to it. More importantly, the same letter declared in unequivocal manner that petitioner's claim for refund is denied (without any mention that the same is subject to the Regional Director's review and determination).

In sum, the Court finds no reason to disturb the assailed Decision.

Lastly, the Court **NOTES** the Formal Entry of Appearance filed by the counsel for petitioner on 08 April 2022.[13] Henceforth, let the copies of orders, decisions, resolutions, processes and other papers be furnished to the said counsel at the address indicated therein.

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[12] Emphasis supplied.
[13] Division Docket, Volume III, pp. 1038-1039.

WHEREFORE, the Motion for Partial Reconsideration filed by respondent Hon. Caesar R. Dulay, in his capacity as the Commissioner of Internal Revenue on 02 November 2021 is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

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

LANEE S. CUI-DAVID
Associate Justice