REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC
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LANTRO PHILIPPINES, INC., Petitioner,	**CTA EB No. 2406** (CTA Case No. 9436)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID,** and **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	***Promulgated:*** DEC 20 2022 2:50pm

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RESOLUTION

UY, *J.*:

For resolution is petitioner's "***Motion for Reconsideration***" filed on June 29, 2022, without respondent's Comment despite due notice.

In the said Motion, petitioner prays that the Court's Decision dated June 9, 2022 be reversed and set aside. The dispositive portion thereof reads:

> "**WHEREFORE,** in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The assailed Decision dated August 26, 2020 and the Resolution dated December 11,

2020 rendered by the First Division of this Court in CTA Case No. 9436 are hereby **AFFIRMED**.

SO ORDERED."

In support of its Motion, petitioner argues that:

1. Petitioner's claim that it refiled its administrative claim on February 26, 2016 is not a bare allegation. The fact that the second filing was not stamped-received on its face does not automatically mean it was not filed at all.

2. The 120-day period from the filing of the administrative claim and submission of complete documents in support thereof, is reckoned from February 26, 2016.

THE COURT'S RULING

Petitioner's Motion lacks merit.

After a careful examination and consideration of petitioner's Motion for Reconsideration, it is noted that the main arguments raised in the said Motion are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision. Thus, We shall not belabor, in this Resolution, to repeat the disquisitions made therein.

Nevertheless, this Court emphasizes the difference between the following:

(1) petitioner's *Application for Tax Credits/Refunds* (BIR Form No. 1914),[1] as well as its *Letter of Request*[2] dated January 5, 2016, applying for VAT refund for TY 2014, both of which were stamped received by the BIR on January 7, 2016; and

(2) petitioner's alleged refiling of its administrative claim for

[1] Exhibits "P-4" to "P-4-3," Division Docket (CTA Case No. 9436) - Vol. II, pp. 718 to 721; BIR Records, pp. 18 to 21.
[2] Exhibit "P-4-4," Division Docket (CTA Case No. 9436) - Vol. II, p. 722; BIR Records, p. 22.

refund on February 26, 2016, even if it was not stamped received on its face.[3]

As pointed out in the assailed Decision, petitioner's *Transmittal Sheet*[4] dated February 26, 2016, was a mere submission of the documentary requirements in support of its administrative claim for refund filed on January 7, 2016.

A comparison of both the title and the contents of the two (2) letters, reflect petitioner's intentions in the filing thereof. To be specific, the *Letter of Request* categorically states that it is ***applying for a VAT refund,*** while the *Transmittal Sheet* merely states that it is ***transmitting the documents/requirements needed for their application for VAT refund.***

Moreover, it is stressed that nowhere in the subject *Letter of Request* is it stated that petitioner was re-applying, or re-filing its administrative claim for refund, or that the previous filing is being superseded. Rather, the *Transmittal Sheet* indicates that it is transmitting the documentary requirements for their claim for refund.

Thus, while the Court *En Banc* agrees that the re-filing of administrative claims within the prescriptive period is ***not*** prohibited, taxpayer-claimants are cautioned to act judiciously and with circumspect, considering that the actual date of filing is crucial for purposes of counting the 120-day period for the CIR to act on the claim, and ultimately, in determining the Court's jurisdiction.

To uphold petitioner's claim that it re-filed its administrative claim on February 26, 2016, without any showing that it categorically and definitely abandoned its initial administrative claim, will give rise to an undesirable precedent and practice, wherein a taxpayer claimant may refile its administrative claim, without first withdrawing its earlier claim.

Moreover, this would only cause confusion as to when the date of filing of the administrative claim should be reckoned. Hence, the Court cannot give credence to petitioner's claim that it re-filed its

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[3] Paragraph 29, Petition for Review, EB Docket, pp. 12 to 43, at 21.
[4] Exhibit "P-6," Division Docket (CTA Case No. 9436) - Vol. II, pp. 724 to 725; BIR Records, p. 120.

administrative claim, absent clear and definite proof that it intended to abandon its initial administrative claim.

Accordingly, since the filing made on February 26, 2016 is a mere transmission of documentary requirements, and cannot be considered as the re-filing of petitioner's administrative claim for refund, this Court finds that its administrative claim is considered to have been made on *January 7, 2016*.

Thereafter, respondent had one hundred twenty (120) days from January 7, 2016, or until May 6, 2016, within which to render a decision on the said claim. However, since respondent failed to act on petitioner's claim on *or* before May 6, 2016, petitioner had thirty (30) days, or until June 5, 2016, within which to file its *judicial claim* before the CTA. In view of the filing of the *Petition for Review*[5] before the Court in Division on August 23, 2016, petitioner's judicial claim was filed out of time, and the Court in Division did not err in dismissing the Petition for Review for lack of jurisdiction.

WHEREFORE, in light of the foregoing considerations, petitioner's "***Motion for Reconsideration***" is hereby **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[5] Division Docket (CTA Case No. 9436) - Vol. I, pp. 10 to 26.

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice