REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ADVANCED WORLD SYSTEMS, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2097
(CTA CASE NO. 9864)

Present:

Del Rosario, *P.J.,*
Castañeda, Jr.,
Uy,
Ringpis-Liban,
Manahan,
Bacorro-Villena, *and*
Modesto-San Pedro, *JJ.*

Promulgated:
JUN 08 2021
4:13 p.m.

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RESOLUTION

For resolution is the petitioner's "Motion for Reconsideration [Re: *Decision* dated 17 September 2020]"[1] filed on October 8, 2020, praying that the Decision dated 17 September 2020 be vacated and set aside and, after due consideration, petitioner's judicial claim for tax credit for the period 1 April 2009 to 31 March 2010 in the total amount of P3,181,710.10 be given due course.

In the instant motion, the petitioner avers that the cases cited in the assailed Decision do not squarely apply to the present case; that the assailed Decision found that there was no retroactive application of Revenue Memorandum Circular (RMC) No. 54-2014; and that the assailed Decision stated that RR No. 1-2017 finds no application to the present case.

[1] Rollo, CTA EB NO. 2097, PP. 198-207.

Respondent no longer filed its comment to petitioner's "Motion for Reconsideration [Re: *Decision* dated 17 September 2020]."

After consideration, the Court *En Banc* resolves to deny the "Motion for Reconsideration." The Court *En Banc* finds that the issues raised by petitioner were already comprehensively passed upon and resolved in the assailed Decision.

The Court *En Banc* reiterates its ruling that the Court in Division has no jurisdiction over petitioner's judicial claim for refund. Petitioner failed to comply with the mandatory 120 + 30 days period under Section 112 (C) of the National Internal Revenue Code (NIRC) of 1997, as amended.

In the assailed Decision, the Court *En Banc* ruled in this wise:

> "From the foregoing, it was repeatedly emphasized that **an appeal to a denial of a taxpayer's administrative claim may only be made if such denial was issued within the 120-day period. And when the 120-day period lapses without any decision issued by Respondent, only an appeal to the inaction of respondent may be made**.
>
> The pronouncements made in RMC No. 54-2014 applies to administrative cases filed after June 11, 2014 only. In the present case, the administrative claim for refund was filed on March 11, 2011[2] and petitioner admitted in its Petition for Review before the Court in Division that it submitted the complete documentary requirements in support of its application during the period required.[3]
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> In the case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue,*[4] the Supreme Court *En Banc* held that **in claims for tax credit or refund filed prior to June 11, 2014**, or the issuance of RMC No. 54-2014, **the reckoning point in counting the 120-day period is the date of submission of complete documents. xxx**
>
> xxx xxx xxx
>
> In this case, the judicial claim was clearly filed out of time as petitioner's administrative claim was already deemed denied

[2] Petition for Review, paragraph 17, p. 4.
[3] Ibid., paragraph 19, p. 5.
[4] G.R. No. 207112, December 8, 2015.

upon the lapse of the 120-day period given for the respondent to decide on the said administrative claim.

As found by the Court, whether counting of the 120-day period to decide be from the day the application was filed, or from the last day allowed for the filing of additional documents, petitioner's right to file its petition before this Court ended in 2011, following RMC No. 49-2003 and the *Pilipinas Total Gas case* (and not RMC No. 54-2014). Thus, regardless of the Denial Letter allegedly issued by respondent, the administrative claim for refund was already deemed denied in the year 2011. Therefore, the Court is correct in ruling that the instant Petition for Review filed only on June 28, 2018 was already filed out of time.

Clearly, there is no reason for the Court to further elucidate on the effect of RR No. 1-2017 on the prescriptive period for filing a judicial claim and consequently, to petitioner's appeal as the same finds no application in this case, considering that there was no retroactive application of RMC No. 54-2014 in counting the 120-30-day period provided by law."

The 120-day period commenced to run from the filing of the administrative claim on March 11, 2011. From then, respondent had until July 9, 2011 to act on the administrative claim. Counting 30 days from July 9, 2011, **the Petition for Review should have been filed on or before August 8, 2011. However, the Petition for Review was filed only on June 28, 2018, which is the 30th day after its receipt of the Decision of the CIR.** The petitioner's non-compliance with the mandatory period of 120+30 days is fatal to its claim for refund on the ground of prescription. Accordingly, the Court in Division has no jurisdiction over the petitioner's judicial claim for refund."

In fine, this Court finds no cogent reason to deviate from the previous ruling that petitioner is not entitled to refund.

In the case of *Ferdinand Marcos et al. vs. Hon. Raul Manglapus et al.*[5], the Supreme Court emphasized that in all motions for reconsideration, the burden is upon the movant, petitioner herein, to show that there are compelling reasons to reconsider the decision of the Court. In the present case, petitioner was not able to convince the Court *En Banc* that its ruling is erroneous, improper, contrary to law or evidence. Having failed to do so, the petitioner's Motion for Reconsideration must fail.

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[5] *Marcos vs. Manglapuz*, G.R. No. 88211, October 27, 1989.

WHEREFORE, premises considered, the "Motion for Reconsideration [Re: *Decision* dated 17 September 2020]." is **DENIED for lack of merit.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice