REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

MD RIO VISTA AGRI-VENTURES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2903
(CTA Case No. 11247)

Present:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
SEP 02 2025 11:56 am

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DECISION

BACORRO-VILLENA, J.:

Before the Court *En Banc* is the Petition for Review[1] filed by petitioner MD Rio Vista Agri-Ventures, Inc. (**petitioner**) on 11 April 2024, pursuant to Section 3(b)[2], Rule 8, in relation to Section

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[1] *Rollo*, pp. 1-27.

[2] **SEC. 3**. *Who may appeal; period to file petition.*

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

2(a)(1)[3], Rule 4 of the Revised Rules of the Court of Tax Appeals[4] (**RRCTA**), seeking the reversal and setting aside of the Resolution dated 24 October 2023[5] and Resolution dated 19 March 2024[6] (**assailed Resolutions**) of the Court of Tax Appeals (**CTA**) Second Division[7] in CTA Case No. 11247, entitled *MD Rio Vista Agri-Ventures, Inc. v. Commissioner of Internal Revenue.* The Second Division found that the petition was filed out of time; thus, it failed to acquire jurisdiction over it.

PARTIES OF THE CASE

Petitioner was established on 15 July 1999 to engage in the business of developing and operating agricultural lands, particularly in planting and cultivating Cavendish bananas. It is registered as an exporter with the Bureau of Customs (**BOC**) and as an export producer of Cavendish bananas with the Board of Investments (**BOI**) under BOI Certificate of Registration (**COR**) No. 2019-263. It is also registered with the Bureau of Internal Revenue (**BIR**) under Tax Identification No. (**TIN**) 005-210-007.[8]

Respondent Commissioner of Internal Revenue (**CIR**), on the other hand, is the public officer duly authorized to decide cases involving claims for tax refund pursuant to the National Internal Revenue Code (**NIRC**) of 1997, as amended.[9]

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3 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.]

4 A.M. No. 05-11-07-CTA.

5 *Rollo*, pp. 41-47.

6 Id., pp. 29-39.

7 Composed of Associate Justices Ma. Belen M. Ringpis-Liban, Maria Rowena Modesto-San Pedro and Corazon G. Ferrer-Flores.

8 See Resolution dated 24 October 2023, *rollo*, p. 41.

9 See Petition for Review, id., p. 2.

FACTS OF THE CASE

On 31 March 2023, pursuant to Revenue Memorandum Order (**RMO**) No. 47-2020[10], in relation to Section 112(A)[11] of the NIRC of 1997, as amended, petitioner filed with the Value-Added Tax (**VAT**) Credit Audit Division (**VCAD**) of the BIR National Office its administrative claim for refund of excess and unutilized input VAT in the amount of ₱5,111,120.23 for the period covering 01 January 2021 to 31 December 2021 or calendar year (**CY**) 2021.[12] On 04 July 2023, petitioner received a VAT Refund Notice dated 05 June 2023 (**VAT Refund Notice**), issued by respondent through Assistant Commissioner (**ACIR**) Maria Luisa I. Belen (**Belen**), denying in full petitioner's administrative claim for refund.[13]

PROCEEDINGS BEFORE THE SECOND DIVISION

Aggrieved, petitioner filed its Petition for Review before the Second Division on 03 August 2023, which it received on 08 August 2023.[14] However, in the assailed Resolution dated 24 October 2023, the Second Division dismissed the petition outright without first issuing a summons to respondent. The dismissal was anchored on the ground that the petition was filed out of time, thereby depriving the Second Division of jurisdiction to entertain the same. The dispositive portion of the Resolution states:[15]

> ...
>
> **WHEREFORE**, premises considered, the instant Petition for Review filed on August 3, 2023 is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**
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> ...

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10 Consolidated and Updated Guidelines and Procedures on the Processing of Claims for Value-Added Tax Credit/Refund Except Those under the Authority and Jurisdiction of the Legal Group.

11 SEC. 112. *Refunds or Tax Credits of Input Tax.* –
(A) *Zero-rated or Effectively Zero-rated Sales.* –

12 Supra at note 8, p. 42.

13 Id.

14 Division Docket, p. 6.

15 *Rollo*, p. 47; Emphasis in the original text.

In dismissing the case, the Second Division observed and applied the 90-30 rule, reasoning that since petitioner filed its administrative claim for refund on 31 March 2023, respondent had ninety (90) days or until 29 June 2023 to act on the claim. Petitioner, in turn, had thirty (30) days from the expiration of that 90-day period, or until 29 July 2023, to file its judicial claim. In this case, however, petitioner received respondent's denial of its claim on 04 July 2023 and thus had until 03 August 2023 to file its petition. The Second Division, nonetheless, concluded that when petitioner filed its Petition for Review on 03 August 2023[16], the claim was already time-barred and accordingly held that it no longer had jurisdiction over the case.[17]

Thereafter, petitioner moved for reconsideration of the first assailed Resolution, to which respondent failed to file a comment. The Second Division, through the assailed Resolution dated 19 March 2024[18], denied the motion. The dispositive portion of the said Resolution reads:

> ...
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> **WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration* is **DENIED** for lack of merit.
>
> **SO ORDERED.**
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> ...

In denying the motion for reconsideration (**MR**), the Second Division reiterated its finding that petitioner failed to comply with the 90-30 rule. It emphasized that even though respondent issued a denial within the 90-day period, such action was still deemed ineffectual. Accordingly, the claim was treated as unacted upon and deemed denied by operation of law. The Second Division held that petitioner should have filed its appeal within 30 days from the expiration of the 90-day period, not from actual receipt of the denial and its failure to do so rendered the petition fatally defective. With no new substantial issues raised, the Second Division upheld the first assailed Resolution.[19]

16 Supra at note 14.
17 Supra at note 8, pp. 45-46.
18 Supra at note 6, p. 39; Emphasis and italics in the original text.
19 Id., p. 38.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Undaunted, petitioner filed the instant Petition for Review before the Court *En Banc* on 11 April 2024.[20] On 13 May 2024, the Court *En Banc* directed respondent to file a comment.[21] However, based on the Records Verification dated 04 June 2024[22], respondent failed to file the required comment. Consequently, the case was submitted for decision on 24 June 2024.[23]

ISSUE

The main issue for the Court *En Banc*'s adjudication is whether the Second Division erred in dismissing petitioner's Petition for Review for lack of jurisdiction.[24]

ARGUMENTS

In the instant Petition for Review, petitioner maintains that its Petition for Review before the Second Division was filed *within* the 30-day reglementary period from its receipt of respondent's decision, as provided under Section 112(C)[25] of the NIRC of 1997, as amended by Republic Act (**RA**) No. 10963[26] or Tax Reform for Acceleration and Inclusion (**TRAIN**). Petitioner emphasizes that a plain reading of the amended provision supports its position that the reckoning point for the 30-day period is the *date of receipt* of respondent's decision, *not* the expiration of the 90-day period for administrative action.

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20 Supra at note 1.
21 See Minute Resolution dated 13 May 2024, *rollo*, p. 80.
22 Id., p. 81.
23 See Minute Resolution dated 24 June 2024, id., p. 82.
24 See IV. Issues, Petition for Review, supra at note 1, p. 4.
25 SEC. 112. *Refunds or Tax Credits of Input Tax.* –
...
(C) *Period within which the Refund or Tax Credit of Input Taxes shall be Made.* –
26 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 NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

Petitioner asseverates that the congressional deliberations on TRAIN reveal a clear congressional intent to eliminate the previous ambiguity surrounding the reckoning period for judicial claims. Specifically, the lawmakers deliberately removed the phrases, such as "or the failure on the part of the Commissioner to act on the application within the period prescribed above" and "or after the expiration of the one hundred twenty (120)-day period xxx or the unacted claim," to compel respondent to act within the 90-day period and to hold revenue officers administratively liable for any unjustified delay beyond that period. By streamlining the provision, TRAIN unequivocally establishes that where respondent issues a decision within the 90-day window, the taxpayer has 30 days from receipt thereof to file a petition with the Second Division.

Additionally, petitioner contends that respondent timely acted and issued a written denial of petitioner's administrative claim for VAT refund within the 90-day period. As there was no inaction on respondent's part, the appropriate recourse under Section 112(C)[27] of the NIRC of 1997, as amended, is for petitioner to appeal within 30 days from actual receipt of the denial.

Lastly, petitioner notes that of the ten (10) cases cited by the Second Division to support its dismissal, only *New York Bay Philippines, Inc. v. Commissioner on Internal Revenue*[28] is factually on point. The case involved a taxable period after the effectivity of TRAIN and a respondent's decision rendered within 90 days but received by the taxpayer after such period. In that case, the Court ruled that the 30-day period for filing a judicial claim should be reckoned from the date of receipt of respondent's decision. Petitioner further asserts that this ruling aligns with the legislative intent and textual clarity introduced by TRAIN and bolsters its position in the present case.

Notably, however, on the part of respondent, he or she failed to file a comment on petitioner's instant Petition for Review before the Court *En Banc*, despite having been directed to do so. As such, respondent failed to directly controvert the arguments raised by petitioner in seeking reconsideration of the dismissal of the case.

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27 Supra at note 25.
28 CTA Case No. 10417, 04 October 2023.

RULING OF THE COURT *EN BANC*

Before delving into the merits of the case, the Court *En Banc* shall first ascertain whether the instant Petition for Review was timely filed.

THE INSTANT PETITION FOR REVIEW WAS TIMELY FILED.

Section 18 of RA 1125[29], as amended by RA 9282[30], provides that a party adversely affected by a resolution of a Division of the CTA on MR or new trial, may file a Petition for Review with the CTA *En Banc*.

Section 3(b)[31], Rule 8 of the RRCTA states that the party affected should file the Petition for Review within fifteen (15) days from receipt of a copy of the questioned decision or resolution. This is without prejudice to the authority of the Court *En Banc* to grant an additional 15-day period[32] from the expiration of the original period, within which to file the Petition for Review.

Applying the foregoing, petitioner received the second assailed Resolution on 25 March 2024.[33] Counting fifteen (15) days therefrom, petitioner had until 09 April 2024 to file the present Petition for Review before the Court *En Banc*. However, since both 09 April 2024[34] and 10 April 2024[35] were declared holidays, petitioner had until 11 April 2024 to timely file its petition. Consequently, the Petition for Review filed on 11 April 2024[36] was well within the reglementary period, thereby vesting the Court *En Banc* with jurisdiction over the instant case.

Succinctly, the resolution of this case rests on the determination of whether, under the amendments introduced by TRAIN—which

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29 AN ACT CREATING THE COURT OF TAX APPEALS.

30 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

31 Supra at note 2.

32 Id.

33 *Rollo*, p. 28.

34 Araw ng Kagitingan; Proclamation No. 368, 11 October 2023.

35 Eid'l Fitr (Feast of Ramadan); Proclamation No. 514, 04 April 2024.

36 Supra at note 1.

removed the phrase "after the expiration of the one hundred twenty-day period [now 90-day], appeal the decision or the unacted claim with the [CTA]"—the previously prevailing doctrine of "deemed denial" still holds.

THE DOCTRINE OF "DEEMED DENIAL" STILL HOLDS.

Sections 7 and 11 of the RA 9282[37] provide that when the CIR or his or her authorized representative fails to act within the **specific period prescribed by the NIRC of 1997, as amended, such inaction is deemed a denial of the taxpayer's claim, that is already appealable before the CTA**:

> ...
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> **SEC. 7.** *Jurisdiction.* - The CTA shall exercise:
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> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> ...
>
> 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**[.]
>
> ...
>
> **SEC. 11.** *Who May Appeal; Mode of Appeal; Effect of Appeal.* - Any party adversely affected by a decision, ruling or **inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA **within thirty (30) days** after the receipt of such decision or ruling or **after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.**

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[37] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days** from the receipt of the decision or ruling or **in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon**. A Division of the CTA shall hear the appeal: *Provided, however*, That with respect to decisions or rulings of the Central Board of Assessment Appeals and the Regional Trial Court in the exercise of its appellate jurisdiction, appeal shall be made by filing a petition for review under a procedure analogous to that provided for under rule 43 of the 1997 Rules of Civil Procedure with the CTA, which shall hear the case en banc.[38]
>
> ...

Section 86[39] of TRAIN, which contains the lengthy enumeration of laws expressly repealed by the said law, did *not* mention RA 9282. Thus, considering that the TRAIN did not repeal the pertinent provisions of RA 9282, it cannot be said that the "deemed denial" rule, insofar as claims for refund of unutilized input taxes attributable to zero-rated sales, has already been abrogated. Truth is, the "deemed denial" rule still finds relevance even after the passage of TRAIN and it could not be disregarded simply because a similar provision dealing with the same subject matter has been deleted.

Consistently, it has been held that "whenever the legislature enacts a law, it has in mind the previous statutes relating to the same subject matter, and **in the absence of any express repeal or amendment, the new statute is deemed enacted in accordance with the legislative policy embodied in those prior statutes.**"[40]

Applying herein the foregoing, in enacting TRAIN, the legislature is presumed to have in mind the pertinent provisions of RA 9282 with respect to when the taxpayer may treat respondent's inaction as denial. Thus, in the absence of its express repeal, TRAIN is deemed enacted in accordance with the legislative policy embodied in such prior laws (including RA 9282).

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38 Emphasis supplied and italics in the original text.
39 **Sec. 86.** *Repealing Clause.*
40 *Hon. Arturo C. Corona, et al. v. Court of Appeals, et al.*, G.R. No. 97356, 30 September 1992.

The next pivotal query is whether the doctrine of "deemed denial" could find application in the present case.

We rule in the negative.

THE DOCTRINE OF "DEEMED DENIAL" IS *NOT* APPLICABLE IN THE INSTANT CASE.

Petitioner argues that respondent timely acted and issued a written denial of petitioner's administrative claim for VAT refund within the 90-day period. It further argues that since there was no inaction, the reckoning of the 30-day period to appeal before this Court is from petitioner's receipt thereof.

Petitioner's arguments are well-taken.

Section 112 of the NIRC of 1997, as amended by TRAIN, states that:

> ...
> **Sec. 112.** *Refunds or Tax Credits of Input Tax -*
> ...
>
> (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.**
>
> 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.**[41]
> ...

[41] Emphasis supplied, italics in the original text and supplied.

In the landmark case of *Commissioner of Internal Revenue v. San Roque Power Corporation*[42], the Supreme Court, in interpreting Section 112(D) [now Section 112(C)], held that the taxpayer can file an appeal in one of two (2) ways: (1) file the judicial claim within 30 days after the CIR denies the claim within the 120-day [now 90-day] waiting period, or (2) file the judicial claim within 30 days from the expiration of the 120-day (now 90-day) period if the CIR does not act within that period.

In *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue*[43], the Supreme Court clarified that the 120-day (now 90-day) period was intended to serve as a waiting period to give time for the CIR or his or her authorized representative to **act** on the administrative claim for a refund or credit. In the same case, it was clarified that the **inaction or when the CIR or his or her authorized representative failed to act within the waiting period, the same shall be considered as a decision itself** that would trigger the running of the 30-day period to appeal.

Here, petitioner filed its administrative claim for refund on 31 March 2023. Under Section 112(C) of the NIRC of 1997, as amended, the CIR or his or her authorized representative had 90 days, or until 29 June 2023, to act upon the said claim. Petitioner alleges that it received the VAT Refund Notice dated 05 June 2023 on 04 July 2023.[44] On this basis, the Second Division held that the VAT Refund Notice was issued beyond the 90-day period, and that the judicial claim, filed more than 30 days thereafter, was fatally late.

The Court *En Banc* holds otherwise.

The controlling datum here is the date of the CIR's "action," *not* the date of petitioner's receipt. Revenue Memorandum Circular (**RMC**) No. 17-18[45], outlines that for claims not more than ₱50 million,

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42 G.R. Nos. 187485, 196113 & 197156, 12 February 2013.

43 G.R. No. 168950, 14 January 2015.

44 Division Docket, pp. 84-85.

45 Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

such as the present case, the 90-day period ends upon the Assistant CIR-Assessment Service's (**ACIR-AS**') approval or disapproval of the claim.[46]

In the present case, the VAT Refund Notice, which contains ACIR-AS Belen's full denial of petitioner's administrative claim for refund, was issued on 05 June 2023, ***i.e.*, within the 90-day period to act**. Thus, **there was no inaction and the doctrine of deemed denial does not apply. What exists is a categorical denial, received by petitioner on 04 July 2023**. As such, the reckoning of the 30-day period to appeal must commence, not from the expiration of the 90-day period, but from the date of actual receipt of the denial, *i.e.*, 04 July 2023.

Moreover, in the seminal case of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*[47] (**Aichi**), the Supreme Court construed Section 112(D) [now Section 112(C)] of the NIRC, as amended, as follows:

> ...
> The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) **when a decision is <u>issued</u> by the CIR before the lapse of the 120-day period**; and (2) **when no decision is made after the 120-day period**. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.
> ...

From the foregoing, it is evident that as early as 2015, the Supreme Court has already construed the phrase "to act" to mean "to issue a decision". This is evident in the minutes of the Bicameral Conference

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46 ...

VCAD [VAT Credit Audit Division] Cases	No. of Days from Receipt of Application
	For claims not more than ₱50,000,000.00
Verification/processing	65
Review (TARD [Tax Audit Review Division])	20
Recommending/Final Approval	
ACIR-AS [Assistant CIR-Assessment Service]	5
Total No. of Days	**90**

4. The concerned revenue officers/officials shall <u>act</u> on the recommended claims in accordance with the **abovementioned time frame**, including VAT claims on importations. (Emphasis and underscoring supplied)

47 G.R. No. 184823, 06 October 2010; Emphasis and underscoring supplied.

Committee Hearings for the disagreeing provisions to the precursor bills to TRAIN, *i.e.*, House Bill No. 5636 and Senate Bill No. 1592, to wit:[48]

> ...
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> CHAIRPERSON CUA: My anxiety comes from a force action upon an action 'no. *Kung hindi ka gumalaw* then there's a . . . there's an ultimate result. So may I . . . I have to my left the author of the attrition law. I think that is something . . . I mean *kung walang* action that should be . . . that should be attached somehow to an attrition consequence so that *umaksyon 'yung* BIR within 90 days or *ano*, we can draft some matrix there. May we . . . may we hear from the DOF if they have any proposals here?
>
> CHAIRPERSON ANGARA: Yeah. DOF any . . . any ideas here.
>
> MR. CHUA: The . . . **<u>the objective is to come up with a decision</u>**.
>
> CHAIRPERSON ANGARA: Yes.
>
> ...
>
> SEN. RECTO: Mr. Chairman, the version has the solution.
>
> CHAIRPERSON ANGARA: Yeah. Yes. What is that, Your Honor?
>
> SEN. RECTO: It says here . . .
>
> CHAIRPERSON ANGARA: Yeah.
>
> SEN. RECTO: . . . a result in the approval of the claim for refund without prejudice to its subsequent audit to be conducted by the BIR.
>
> ...
>
> CHAIRPERSON CUA. But even if the number is small, it is considering that the system is broken today. Now, we are trying to reform it to have a system that become more efficient. I understand the objective of the Senate panel and I agree that we have to protect the taxpayers right to collect his money *baka naman masyadong* disadvantageous to the government. I think we want to do is police those officials **<u>to make sure they release it on time, within the prescribed 90-day period</u>**. So, perhaps the penalty for the BIR officials can be upon those metrics, for your consideration, Your Honor.

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48 Bicameral Conference Committee Meeting on the Disagreeing Provisions of House Bill No. 5636 and Senate Bill No. 1592 Re: [TRAIN], 17th Congress, 2nd Session, 05 December 2017, pp. XXXI-1 to XXXI-3; Emphasis and underscoring supplied.

CHAIRPERSON ANGARA: Are you proposing penalty for BIR officials who fail to decide? Something like that? What does the BIR say to that?

MS. TERESITA M. ANGELES (Director II, Officer-in-Charge, Assistant Commissioner for Large Taxpayers Service, Bureau of Internal Revenue). As far as the present situation, we have the 120 days for the VAT refund. If not acted upon, the revenue officer may be subjected to administrative cases.

CHAIRPERSON ANGARA: Is that in the law?

MS. ANGELES: No, Sir.

CHAIRPERSON ANGARA: That is not in the law?

MS. ANGELES: It is in the revenue . . .

CHAIRPERSON CUA: *Ilan ang naano diyan . . .*

...

The foregoing reflects the unmistakable intent of Congress to impose upon the CIR, or his or her duly authorized representative, the affirmative duty to act upon the claims of taxpayers, not as a matter of administrative convenience, but as a measure of substantive right accorded for the benefit of taxpayers. To dismiss petitioner's claim solely on the ground that it remained unacted upon, notwithstanding a decision having been rendered within the statutory 90-day period but belatedly transmitted, would be to frustrate, if not defy, the clear legislative mandate and the very safeguards the law was designed to bestow. Verily, to countenance such inaction is to denude the law of its spirit and efficacy.

In the present case, since a decision (by ACIR-AS Belen, the CIR's authorized representative) was issued on 05 June 2023 (well within the 90-day period for respondent to act), the first scenario contemplated in *Aichi* applies. Consequently, the doctrine of "deemed denial" finds no application and the 30-day period for judicial recourse must be reckoned from petitioner's actual receipt of respondent's decision and not from the expiration of the 90-day period.

Resultantly, the Petition for Review, having been filed on 03 August 2023[49] and well within the 30-day reglementary period reckoned from 04 July 2023, was *timely* filed.

To rule otherwise would unjustly burden the CIR or his or her authorized representative by imputing to him or her the consequences of a delay in the transmittal or receipt of the decision—an event clearly beyond his or her control.[50] Such a construction likewise places an undue strain upon taxpayers who, under threat of losing the right to judicial recourse, would be forced to prematurely resort to litigation—even in cases where the administrative process, if allowed to run its course, might have afforded full and adequate relief. It undermines the doctrine of primary administrative jurisdiction, which commands due deference to the specialized competence and procedural prerogatives of administrative agencies[51], such as the BIR. It erodes respect for the mechanisms of administrative redress and incentivizes unnecessary judicial intervention. Worse still, it risks compounding the perennial problem of docket congestion, thereby impeding the prompt administration of justice.

The following disquisition likewise finds support in the subsequent amendments to the NIRC of 1997 brought by RA 11976[52] (which took effect on 22 January 2024[53]) or the Ease of Paying Taxes (**EOPT**) and RA 12066[54] (which was signed on 08 November 2024[55]) or the Corporate Recovery and Tax Incentives for Enterprises to Maximize Opportunities for Reinvigorating the Economy (**CREATE MORE**), as follows:

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49 Supra at note 14.

50 Since such inaction exposes the concerned official, agent, or employee of the BIR to penalties and/or fines under Section 269 of the NIRC of 1997, as amended.

51 See *Nestle Philippines, Inc., et al. v. Uniwide Sales, Inc., et al.*, G.R. No. 174674 (Resolution), 20 October 2010.

52 AN ACT INTRODUCING ADMINISTRATIVE TAX REFORMS, AMENDING SECTIONS 21, 22, 51, 56, 57, 58, 76, 77, 81, 90, 91, 103, 106, 108, 109, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 128, 200, 204, 229, 235, 236, 237, 238, 241, 243, 245, 248, AND 169; AND REPEALING SECTION 34(K) OF THE NATIONAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

53 Revenue Memorandum Circular (RMC) No. 3-2024, 10 January 2024.

54 AN ACT AMENDING SECTIONS 27, 28, 32, 34, 57, 106, 108, 109, 112, 135, 237, 237-A, 269, 292, 293, 294, 295, 296, 297, 300, 301, 308, 309, 310, AND 311, AND ADDING NEW SECTIONS 135-A, 295-A, 296-A, AND 297-A OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

55 Available at <https://www.officialgazette.gov.ph/2024/11/08/republic-act-no-12066/> (last accessed on 17 July 2025).

EOPT	CREATE MORE
... **Sec. 112.** *Refunds of Input Tax.* – ... (C) *Period within which the 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 invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into low-, medium-, and high-risk claims with the risk classification based on amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium- and high-risk claims shall be subject to audit or other verification processes in accordance with the Bureau of Internal Revenue's national audit program for the relevant year: *Provided,* finally, **That should the Commissioner find that the grant of refund is not proper, the Commissioner must <u>state in writing</u> the legal and factual basis for the denial <u>within</u> the ninety (90)-day period.**[56]	... **Sec. 112.** *Refunds or Tax Credits of Input Tax* - ... (C) *Period within which the Refund or Tax Credit 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 certified true copies of invoices and other documents specifically limited to those prescribed in the revenue issuances and in support of the application filed in accordance with Subsections (A) and (B) hereof:** *Provided,* That for this purpose, the VAT refund claims shall be classified into low-, medium-, and high-risk claims with the risk classification to be based on the amount of VAT refund claim, tax compliance history, frequency of filing VAT refund claims, among others: *Provided, further,* That medium- and high-risk claims shall be subject to audit or other verification processes in accordance with the BIR's national audit program for the relevant year. **Should the Commissioner find that the grant of refund is not proper, the Commissioner must, <u>within</u> the ninety (90)-day period, <u>*communicate* in writing</u> to the taxpayer, the legal and factual basis for the denial,** including the deficiencies of the VAT refund claim.[57]

As can be gleaned from the above, what is required under TRAIN and EOPT is for respondent to **state** in writing the legal and factual basis for the denial. However, neither law expressly mandates that this written denial be communicated to the taxpayer within the statutory

[56] Italics in the original text, emphasis and underscoring supplied.
[57] Emphasis and underscoring supplied, italics in the original text and supplied.

period for action. The focus is on the sufficiency and form of the denial, not the timing of its communication to the taxpayer.

In contrast, CREATE MORE ushers in a more exacting standard: not only must the denial be reduced to writing and that it should state the legal and factual basis, but it must also be **communicated** to the taxpayer within the 90-day period. Under the settled rule of statutory construction, legislative amendments are presumed to be deliberate and meaningful, not mere semantic exercises.[58] There must have been some purpose in making them and the rational explanation is that notice to the taxpayer of the denial ***now*** forms part of the 90-day period to act.

Nonetheless, this legislative innovation finds no application to the instant case. When petitioner received the VAT Refund Notice, CREATE MORE had not yet taken effect. CREATE MORE may also not be given retroactive application since it would impair petitioner's vested right to question respondent's decision.

In fine, petitioner's claim complied with the 90-30 rule and was timely filed before the Second Division. Thus, the Second Division erred in dismissing petitioner's judicial claim for lack of jurisdiction.

WHEREFORE, with the foregoing considered, the instant Petition for Review filed by petitioner MD Rio Vista Agri-Ventures, Inc. on 11 April 2024 is **GRANTED**. The Resolution dated 24 October 2023 and the Resolution dated 19 March 2024 of the Court of Tax Appeals Second Division in CTA Case No. 11247 are **REVERSED** and **SET ASIDE**. Thus, the case is **REMANDED** to the Second Division of this Court for the proper determination of the refundable or creditable amount due to petitioner MD Rio Vista Agri-Ventures, Inc., if any.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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58 See *Tan Kim Kee v. The Court of Tax Appeals, et al.*, G.R. No. L-18080, 22 April 1963.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ON LEAVE
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

With due respect, attached is my Dissenting Opinion
CATHERINE T. MANAHAN
Associate Justice

Please see my Separate Opinion
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

With due respect, I join Associate Justice Catherine T. Manahan's Dissenting Opinion
MARIAN IVY F. REYES-FAJARDO
Associate Justice

With Concurring Opinion
LANEE S. CUI-DAVID
Associate Justice

With due respect, I join the Dissenting Opinion of Justice Manahan
CORAZON G. FERRER-FLORES
Associate Justice

x - x

HENRY S. ANGELES
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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MD RIO VISTA AGRI-VENTURES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent,

CTA EB NO. 2903
(CTA CASE NO. 11247)

Present:

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
SEP 02 2025 11:56am

x- x

DISSENTING OPINION

MANAHAN, J.:

With due respect to my esteemed colleague, Justice Jean Marie A. Bacorro-Villena, it is my opinion that the Court has no jurisdiction over the case.

Under Section 36 of Republic Act (RA) No. 10963, otherwise known as "Tax Reform for Acceleration and Inclusion" Law (TRAIN Law), Section 112(C) of the 1997 National Internal Revenue Code (NIRC), as amended, was amended in the following manner, to wit;

> SEC. 36. Section 112 of the NIRC, as amended, is hereby further amended to read as follows:
>
> SEC. 112. *Refunds or Tax Credits of Input Tax.* -
>
> (A) xxx

> (B) xxx
>
> (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.
>
> 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.
>
> xxx.

Petitioner contends that the phrases "or the failure on the part of the Commissioner to act on the application within the period prescribed above", "or after the expiration of the one hundred twenty (120)-day period ... or the unacted claim" under the pre-TRAIN provision of Section 112(C) were deliberately removed under the amended provision. Thus, insinuating that the legislature impliedly repealed the "inaction" of the Commissioner of Internal Revenue (CIR) from the said provision.

However, a closer scrutiny of the repealing clause under Section 86 of the TRAIN Law reveals that nowhere in the said law has the legislature removed or even amended Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, which provides for the jurisdiction of this Court on cases of CIR's inaction on claim for refund, to wit:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. xxx xxx xxx;
> 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 for action, in which case the inaction shall be deemed a denial**; ...

Here, while the phrase "or the failure on the part of the Commissioner to act on the application within the period described above" is omitted in Section 112 of the former 1997 NIRC under the TRAIN Law, the latter could not have repealed by implication the jurisdiction of the CTA in cases of inaction as provided in the abovementioned provision of the CTA charter. What is glaringly clear in the TRAIN amendment is the reduction of the one hundred twenty (120)-day period for the CIR to act on the refund application to ninety (90) days.

In *The United Harbor Pilots' Association of the Philippines, Inc. v. Association of International Shipping Lines, Inc.*,[1] the Supreme Court said that:

> ... A repeal by implication is frowned upon in this jurisdiction. It is not favored, unless it is manifest that the legislative authority so intended or unless it is convincingly and unambiguously demonstrated that the subject laws or orders are clearly repugnant and patently inconsistent that they cannot co-exist. This is because the legislative authority is presumed to know the existing law so that if repeal is intended, the proper step is to express it.

Further, "it is a canon of statutory construction that a special law prevails over a general law — regardless of their dates of passage — and the special is to be considered as remaining an exception to the general."[2]

In this case, RA No. 1125, as amended, is a special law, while the TRAIN Law is a general law. As such, the latter TRAIN Law, being a general law, could not have repealed or amended the jurisdiction of this Court under RA No. 1125, as amended, a special law.

The phrase "failure on the part of any official, agent, or employee of the Bureau of Internal Revenue (BIR) to act on the application within the ninety (90)-day period," therefore, refers

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[1] G.R. No. 133763, November 13, 2002.
[2] *Hon. Gemiliano C. Lopez, Jr., v. The Civil Service Commission*, et al., G.R. No. 87119, April 16, 1991.

to the inaction and the period to act on the taxpayer's claim for refund.

Relatedly, in a claim for refund of input VAT, an applicant must strictly follow the prescribed period as ruled by the Supreme Court in *Commissioner of Internal Revenue v. Toledo Power Company,*[3] citing *Commissioner of Internal Revenue v. San Roque Power Corporation,*[4] to wit:

> Pursuant to Section 112 (A) and (D) of the NIRC, a taxpayer has two (2) years from the close of the taxable quarter when the zero-rated sales were made within which to file with the CIR an administrative claim for refund or credit of unutilized input VAT attributable to such sales. The CIR, on the other hand, has 120 (now, 90) days from receipt of the complete documents within which to act on the administrative claim. Upon receipt of the decision, a taxpayer has 30 days within which to appeal the decision to the CTA. However, if the 120-day period expires without any decision from the CIR, the taxpayer may appeal the inaction to the CTA within 30 days from the expiration of the 120-day period.
>
> In *Commissioner of Internal Revenue v. San Roque Power Corporation*, we said that the **120+30-day (now, 90+30-day) period must be strictly observed** except from the date of issuance of BIR Ruling No. DA-489-03 on December 10, 2003, which allowed taxpayers to file a judicial claim without waiting for the end of the 120-day period, up to the date of promulgation of *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.* on October 6, 2010, where we declared that **compliance with the 120+30-day (now, 90+30-day) period is mandatory and jurisdictional**.

Further, RA No. 10963 did not categorically amend or repeal Section 7(a)(2) of RA No. 1125, as amended.[5]

Applying now the foregoing, from the filing of petitioner's administrative application with the BIR on March 31, 2023, the CIR had ninety (90) days, or until June 29, 2023 to act on the said claim.

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[3] G.R. Nos. 196415 & 196451, December 02, 2015.
[4] G.R. Nos. 187485, 196113, and 197156, February 12, 2013.
[5] (2) **Inaction by 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 Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial.**

The ponente cited that respondent issued the denial on such claim on June 5, 2023 which is well within the ninety (90)-day period although petitioner actually received the same only on July 4, 2023 which is beyond the ninety (90)-day period. Hence, there is no inaction on the part of respondent.

However, from the petitioner's perspective, the law, particularly RA No. 1125, as amended, mandates that the aggrieved taxpayer must file an appeal with the CTA within thirty (30) days after the expiration of the period fixed by law for action. More particularly, Section 11 thereof provides:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* — **Any party adversely affected by** a decision, ruling or **inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days** after the receipt of such decision or ruling or **after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein**... *(Emphasis supplied)*

And more emphatically, in the earlier disquisition, repeal of law by implication is not favored and courts must work out their congruent application. The rule is expressed in the maxim, *interpretare et concordare leqibus est optimus interpretendi, i.e.*, every statute must be so interpreted and brought into accord with other laws as to form a uniform system of jurisprudence. The fundamental is that the legislature should be presumed to have known the existing laws on the subject and not to have enacted conflicting statutes. Hence, all doubts must be resolved against any implied repeal, and all efforts should be exerted in order to harmonize and give effect to all laws on the subject.[6]

Hence, petitioner's right to judicial relief accrues on June 29, 2023 and therefore must be protected.

Considering that respondent CIR failed to act on June 29, 2023, petitioner had thirty (30) days from said date, or until July 29, 2023, to file its judicial claim for refund before this Court. Since the original Petition for Review in the Court in Division was only filed on August 3, 2023, the same was filed out of time. Thus, the Court in Division correctly ruled that the

[6] *Hon. Juan M. Hagad, in his capacity as Deputy Ombudsman for the Visayas v. Hon. Mercedes Gozo-Dadole, et al.*, G.R. No. 108072, December 12, 1995.

filing was beyond the prescribed period which precluded the Court in Division from acquiring jurisdiction over the said case.

WHEREFORE, I vote to **DENY** the Petition for Review in the instant case.

CATHERINE T. MANAHAN
Associate Justice

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

MD RIO VISTA AGRI-VENTURES, INC., Petitioner,	**CTA EB NO. 2903** (CTA Case No. 11247)
-versus-	Present: **DEL ROSARIO,** *P.J.* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: SEP 02 2025 11:50am

x -- x

SEPARATE OPINION

MODESTO-SAN PEDRO, J.:

With all due respect to my esteemed colleague, Associate Justice Catherine T. Manahan, I disagree with the finding that the Court in Division did not gain jurisdiction over petitioner's case before it.

Preliminarily, I fully acknowledge that I concurred with the Court in Division's Resolution, dated March 19, 2024, which affirmed the earlier dismissal of the case for lack of jurisdiction. I have since reviewed the matter more thoroughly, however, and have come to the conclusion that such a ruling is in error.

The issue mostly stems from a single provision: the second paragraph of *Section 112(c) of the NIRC*. It arises specifically from the various versions of the provision produced by relatively recent amendments to the *NIRC*. Particularly relevant here are the amendments made by *TRAIN* and *EOPTA*.

The three relevant versions of the paragraph are quoted below:

NIRC	*TRAIN*	*EOPTA*
In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from receipt of the decision denying the claim or after the expiration of the one hundred twenty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals.	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 Bureau of Internal Revenue to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.	In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the ninety (90)-day period, appeal the decision with the Court of Tax Appeals: Provided, however, That failure on the part of any official, agent, or employee of the Bureau of Internal Revenue to act on the application within the ninety (90)-day period shall be punishable under Section 269 of this Code.

Significantly, *TRAIN* removed (i) the phrase "or the failure on the part of the Commissioner of Internal Revenue ("CIR") to act on the application within the period prescribed above" as a condition for raising an appeal to this Court; and (ii) the phrase "or after the expiration of the one hundred twenty day-period" as a reckoning point for the 30-day period for filing such an appeal. It instead added a new provision instituting administrative punishment for such failures to act on claims for refund. *EOPTA*, meanwhile, reinserted the deleted phrases into the provision, while retaining the part about administrative punishment.

An amendment to a law that removes certain provisions must be treated as important. Drawing from the book *Statutory Construction* by Ruben E. Agpalo, the Supreme Court has decreed that "the deliberate selection of language differing from that of the earlier act on the subject indicates that a change in the meaning of the law was intended"[1] and that an amendment to a statute should not be treated as "mere semantic exercise" but must instead be seen as expressing some purpose, which must be given effect.[2] In other words, a change made to the language used in a law must be understood as a change in the law itself.

To be even more specific, the High Court has held that "an amendment by the deletion of certain words or phrases indicates an intention to change its meaning."[3] Clearly, then, the removal of a course of action previously provided by law must be understood as the law being modified to no longer allow such.

1 *Oceanmarine Resources Corporation v. Nedic*, G.R. No. 236263, July 19, 2022.
2 *Akbayan v. Commission on Elections*, G.R. Nos. 147066 & 147179, March 26, 2001.
3 *Republic of the Philippines v. St. Vincent de Paul Colleges, Inc.*, G.R. No. 192908, August 22, 2012, citing *Laguna Metts Corporation v. Court of Appeals*, G.R. No. 185220 (Resolution), July 27, 2009.

Furthermore, "when there is a reasonable certainty that a particular person, object, or thing has been omitted from a legislative enumeration," such omission must be taken as intentional.[4] The provision in question must consequently be treated as inapplicable to the entity omitted from the enumeration.

Finally, as often emphasized, when the laws do not distinguish, neither should the Courts.[5]

Considering the above, *TRAIN*'s explicit removal of the CIR's inaction as either a condition of raising an appeal or the reckoning point of the 30-day prescriptive period cannot be brushed aside. To treat the old option, of raising a judicial claim for refund from the CIR's inaction, as still available even after said removal would be to treat *TRAIN*'s amendments to *Section 112(c)* as meaningless, effectively nullifying said changes. It would conflict with the explicit deletion of said option from the *NIRC*. It would ignore the provision's telling omission of appeals from inaction. It would distinguish (between cases where the CIR does and does not act on an administrative claim within the 90-day period) when the law does not. It would thus contradict the law itself.

This is further supported by the fact that the contentious passages were reinserted by *EOPTA*. Had legislators intended for the "deemed denied" provision to simply by treated as included in *TRAIN*, then there would be no need to explicitly reinclude it in the *NIRC* through *EOPTA*. Why would they need to add a provision if it was already considered as included in the law, after all? This reinsertion only makes sense if inactions from the CIR on refund claims for input taxes were *not* appealable to this Court under *TRAIN*. As such, treating such inaction as appealable not only ignores the clear amendments made by *TRAIN*—it also ignores the specific changes enacted by *EOPTA*.

I am not unaware that statutory construction frowns upon repeals by implication, as stated in *The United Harbor Pilots' Association of the Philippines, Inc. v. Association of International Shipping Laws, Inc.*[6] cited in the majority opinion. However, as included in the cited passage, repeals by implication are accepted when "it is manifest that the legislative authority so intended" such repeal. And as discussed above, deletions and omissions from legislative enumerations must be understood as expressions of intent to leave out what was deleted or omitted. The deletion and omission of the "deemed denied" provision from *Section 112(c) of the NIRC* by *TRAIN* must therefore be treated as intentional and thus as an *exception* to the general rule against repeals by implication.

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4 *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, August 7, 2024.

5 See, for example, *Philippine Contractors Accreditation Board v. Central Mindanao Construction Multi-Purpose Cooperative*, G.R. No. 242296, July 31, 2024.

6 G.R. No. 133763, November 12, 2002.

In my opinion, neither can the priority of special laws over general laws be used to introduce the "deemed denial" provision to *TRAIN*. *Sections 7(a)(2) of Republic Act No. 1125, as amended* ("*CTA Law*"), is itself a *general* provision as it covers not just "refunds of internal revenue taxes, fees, or other charges" but also disputed assessments, penalties, and other matters arising from the *NIRC* and other laws administered by the Bureau of Internal Revenue. Its scope is thus broad. Compare this to *Section 112(c) of the NIRC*, as specifically amended by *TRAIN*, which *exclusively* covers claims for refund or tax credit for input taxes *only*. It governs a *specific* power of the CIR (to grant refunds and tax credits) involving a *specific* type of tax (input taxes), whereas *Section 7(a)(2) of the CTA Law* covers the inaction of the CIR on *all kinds of controversies appealable to this Court*. As such, *Section 112(c) of the NIRC*, as amended by *TRAIN*, must be considered the specific *special* law that prevails over the broad *general* provision of *Section 7(a)(2) of the CTA Law*.

Finally, *Commissioner of Internal Revenue v. Toledo Power Company*[7] is inapplicable to the case at bar. The administrative claim in that case was filed before the enactment of *TRAIN*'s amendments. The above-discussed deletions and omissions made by *TRAIN* thus do not factor into the ruling itself. The use of "90+30" must therefore be seen as *obiter dictum* and not as full-blooded interpretation of *TRAIN*.

TRAIN's removal of the relevant phrases must consequently be construed as the explicit removal of the option to raise an appeal from the CIR's inaction. Under *TRAIN*, a judicial claim could *not* be raised based on the CIR's inaction. A taxpayer's only option, as far as raising a judicial claim goes, was to await the CIR's decision.

As an aside, I note that conflicts of interpretations of the law can be resolved by reference to the legislation's intent, when available. There may thus be need for this Court to independently consult the actual Senate hearings and meetings held for the drafting of *TRAIN* and *EOPTA* to finally put this issue to rest.

ALL TOLD, I vote that the instant Petition for Review be **GRANTED** and that the case be remanded to the Court in Division for the conduct of a trial on the merits.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[7] G.R. Nos. 196415 & 196451, December 2, 2015.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MD RIO VISTA AGRI-VENTURES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* No. 2903
(CTA Case No. 11247)

Members:

DEL ROSARIO, *P.J.*,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
SEP 02 2025 11:56 am

x- -x

CONCURRING OPINION

CUI-DAVID, J.:

I concur in the grant of petitioner's Petition for Review and in the remand of the instant case to the Court's Second Division.

I write separately this concurring opinion to elaborate on the determination of this Court's jurisdiction over petitions for review involving claims for refund of input value-added tax (**VAT**) attributable to zero-rated sales under Section 112(A) of the National Internal Revenue Code (**NIRC**) of 1997, as amended. This opinion considers the amendments introduced by Republic Act (**RA**) No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (**TRAIN**) Law, but before the amendments under RA No. 11976, otherwise known as the Ease of Paying Taxes (**EOPT**) Act, as the relevant events in this case occurred before the latter law (EOPT Act) took effect.

A concise timeline of material events is presented below:

Date	Details
March 31, 2023	Petitioner filed its administrative claim for VAT refund with the Bureau of Internal Revenue (**BIR**) VAT Credit Audit Division.
June 29, 2023	Expiration of the 90-day period for the BIR to act on the claim.
July 4, 2023	Petitioner received the BIR's decision denying the claim for refund.
August 3, 2023	Petitioner filed a Petition for Review before the Court in Division.

As the records show, the *Petition for Review* was filed on August 3, 2023, **five (5) days beyond** the 90+30-day period, reckoned from **June 29, 2023**. Notably, the 90-day period for the BIR to act on the refund claim expired on **June 29, 2023**. However, petitioner neither received a decision by that date nor filed a *Petition for Review* within the subsequent 30-day period, which ended on **July 29, 2023**. Consequently, the Court in Division dismissed the *Petition for Review* for lack of jurisdiction, as it was filed **5 days late**.

I agree with the *ponencia* that the dismissal should be reversed. I explain why.

Section 112 (C) of the NIRC of 1997, as amended, governs the period for filing judicial claims for refund or tax credit of input VAT.

<u>Before</u> the TRAIN Law, Section 112(C) provided that:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* — ...
>
> ... ...
>
> (C) *Period within Which Refund or Tax Credit of Input Taxes shall be Made.* — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within **one hundred twenty (120) days** from the date of submission of complete documents in support of the application filed in accordance with Subsection (A).
>
> In case of full or partial denial of the claim for tax refund or tax credit, **<u>or the failure on the part of the Commissioner to act on the application within the</u>**

hr

> **period prescribed above**, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim **or after the expiration of the one hundred twenty day-period**, appeal the decision or the unacted claim with the Court of Tax Appeals. *(Emphasis supplied)*

In *Taihei Alltech Construction (Phil..), Inc. v. Commissioner of Internal Revenue (Taihei),*[1] the Supreme Court held that a taxpayer may file an appeal (judicial claim) for refund in **either** of **two (2) scenarios**:

(1) Within thirty (30) days from receipt of the CIR's denial within the 120-day period, **or**

(2) Within 30 days from the lapse or expiration of the 120-day period if the CIR fails to act (with such inaction deemed a denial).

In *Taihei*, the Supreme Court emphasized that taxpayers should not wait a decision once the 120-day period has lapsed. The CIR's **inaction within this period is deemed a denial** of the administrative claim for refund. If the taxpayer fails to file a timely appeal, this "deemed denial" becomes final and unappealable.[2]

In *Silicon Philippines, Inc. v. Commissioner of Internal Revenue (Silicon),* which was cited in *Taihei*, the Supreme Court reiterated that the judicial claim must be filed within 30 days from either the receipt of the CIR's decision **or** the expiration of the 120-day period, "**whichever is sooner**."[3]

After the TRAIN Law, Section 112(C) was amended as follows:

> SEC. 112. *Refunds or Tax Credits of Input Tax.* — ...
>
> ... ...
>
> (C) *Period within which Refund or Tax Credit 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**

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1 G.R. No. 258791, December 7, 2022 [Per J. Lazaro-Javier, Second Division].

2 *Taihei Alltech Construction (Phil.), Inc. v. Commissioner of Internal Revenue*, G.R. No. 258791, December 7, 2022 [Per J. Lazaro-Javier, Second Division], citing *Rohm Apollo Semiconductor Phils. v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015 [Per C.J. Sereno, First Division].

3 *Id.*, citing *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016 [Per C.J. Sereno, First Division].

> **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.**
>
> In case of full or partial denial of the claim for tax refund, **the taxpayer affected may, within thirty (30) days from the <u>receipt of the decision</u> 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 ninety (90) days period shall be punishable under Section 269 of this Code. *(Emphasis supplied)*

For comparison, the text of Section 112(C) of the NIRC of 1997, as amended, is presented below as it appeared **before** and **after** the effectivity of TRAIN Law:

Before TRAIN Law	After TRAIN Law
In case of full or partial denial of the claim for tax refund or tax credit, <u>**or the failure on the part of the Commissioner to act on the application within the period prescribed above**</u>, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim <u>**or after the expiration of the one hundred twenty day-period,**</u> appeal the decision or the unacted claim with the Court of Tax Appeals.	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: <u>**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.**</u>

The amendment to Section 112(C) **shortened** the CIR's period to act on the claim for refund **from 120 days to 90 days** and **removed** the provision that previously deemed inaction as a denial. Specifically, it eliminated phrases such as "*or the failure on the part of the Commissioner to act on the application within the period prescribed above*" and "*or after the expiration of the one hundred twenty day-period.*" The deletion suggests a legislative departure from the "deemed denial" doctrine.

The amended Section 112(C) now appears to contemplate **only <u>one</u> scenario** for judicial recourse: *the taxpayer may appeal to the CTA* <u>***within 30 days from receipt of the CIR's decision***</u> *denying the claim, regardless of whether the decision was issued before or after the lapse of the 90-day period.*

The implementing rules support this interpretation. Section 4.112-1(d) of Revenue Regulations (**RR**) No. 16-2005,[4] as amended by RR No. 26-2018,[5] expressly provides that a taxpayer may appeal to the CTA within 30 days from **receipt** of the decision denying the refund claim. Notably, it also permits the BIR to continue processing claims beyond the 90-day period, thereby implicitly recognizing that a decision may still be validly rendered beyond this period.

The relevant portion of Section 4.112-1(d) reads as follows:

> SEC. 4.112-1. Claims for Refund/Credit of Input Tax. —
>
> ...
>
> ... ...
>
> (d) Period within which refund/credit of input taxes shall be made
>
> ... ...
>
> The 90-day period to process and decide shall start from the filing of the claim up to the release of the payment of the VAT refund: Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.
>
> In case of full or partial denial of the claim for tax refund, **the taxpayer affected, may, within <u>thirty (30) days from the *receipt* of the decision</u> denying the claim, appeal the decision with the Court of Tax Appeals (CTA)**: Provided, 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 the Tax Code, as amended. Provided, further, That, **in the event that the 90-day period has lapsed without having the refund released to the taxpayer-claimant, <u>the VAT refund claim may still continue to be processed administratively</u>.** Provided however, That the BIR official, agent or employee who was found to have deliberately caused the delay in the processing of the VAT refund claim may be subjected to penalties imposed under said section. *(Emphasis supplied)*

Thus, the Court must acknowledge that a judicial claim filed within 30 days from receipt of a denial, **regardless of**

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[4] SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

[5] SUBJECT: Amends Certain Provisions of RR No. 13-2018 to Implement the 90-Day Processing of Claim for VAT Refund under Section 112 (C) of the Tax Code of 1997, as Amended by Republic Act (R.A.) No. 10963, Otherwise Known as the Tax Reform for Acceleration and Inclusion or TRAIN.

whether the denial was rendered before or after the lapse of the 90-day period, is **timely**. To underscore, the taxpayer should not be prejudiced by the BIR's inaction; instead, it is the BIR and its officers who are penalized for their inaction.

Accordingly, when petitioner received the CIR's decision on **July 4, 2023**, and filed its *Petition for Review* on **August 3, 2023**, the filing of the *Petition* was well within the 30-day period prescribed under the law. The *Petition* was, therefore, timely filed, and the Court in Division should have exercised jurisdiction.

At this juncture, it bears asking: **Is inaction on a claim for refund of input VAT attributable to zero-rated sales still appealable to the CTA?**

I answer in the **affirmative.**

Despite the amendments introduced by the TRAIN Law, the **CTA retains appellate jurisdiction over the CIR's inaction** under Section 7(a)(2), in relation to Section 11 of RA No. 1125,[6] as amended by RA No. 9282.[7] These provisions explicitly grant the CTA jurisdiction not only over decisions of the CIR but also over his **inaction** in refund claims where the law prescribes a specific period for action.

Moreover, Section 86 of the TRAIN Law,[8] which contains the repealing clause, does not include RA No. 1125 or RA No. 9282 among the laws repealed. The mere **silence** of the TRAIN Law on the CIR's inaction does not amount to an implied repeal of Section 7(a)(2) of RA No. 1125, as amended.

It has been consistently held that "on the presumption that whenever the legislature enacts a provision it has in mind the previous statutes relating to the same subject matter, it is held that *in the absence of any* ***express repeal or amendment*** therein, the new provision was enacted in accord with the

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6 AN ACT CREATING THE COURT OF TAX APPEALS

7 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

8 SECTION 86. Repealing Clause. — The following laws or provisions of laws are hereby repealed, and the persons and/or transactions affected herein are made subject to the VAT provision of Title IV of the NIRC, as amended: ...Tax Reform for Acceleration and Inclusion (TRAIN), Republic Act No. 10963, December 19, 2017.

legislative policy embodied in those prior statutes, and they all should be construed together.[9]

Applying the foregoing, it must be presumed that in enacting the TRAIN Law, Congress was fully aware of RA No. 9282 concerning the CTA's jurisdiction to review the CIR's **inaction** in cases involving disputed assessments, **refunds,** or other matters arising under the NIRC. In the absence of an express repeal, the TRAIN Law must be interpreted as consistent with the legislative policy embodied in those prior statutes.

Section 7(a)(2) and Section 11 of RA No. 1125, as amended by RA No. 9282, which remain **unrepealed**, are quoted as follows:

> SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
>
> ... ...
>
> (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**;
>
> ... ...
>
> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by a decision, ruling, or inaction** of the Commissioner of Internal Revenue...may file an appeal with the CTA **within thirty (30) days after the receipt of such decision** or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein.
>
> Appeal shall be made by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure with the CTA **within thirty (30) days** from the receipt of the **decision** or ruling or in the case of **inaction as herein provided, from the expiration of the period fixed by law to act thereon**. A Division of the CTA shall hear the appeal: ... *(Emphasis supplied)*

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[9] *Garcia v. Tolentino*, G.R. Nos. 153810 & 167297, August 12, 2015 [Per J. Jardeleza, Third Division].

This jurisdictional framework is echoed in Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**), which reiterates the CTA's authority to review CIR's **inaction** where a specific period for action is provided by law, *viz.*:

> **RULE 4**
> Jurisdiction of the Court
>
> . . . .
>
> SECTION 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:
>
> (a) Exclusive original or appellate jurisdiction to review by appeal the following:
>
> ... ...
>
> (2) **Inaction by 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 Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code or other applicable law provides a specific period for action**: ...

Therefore, even after the TRAIN Law's amendments, the CTA retains jurisdiction over the CIR's **inaction**. Importantly, it is not required that the CIR's decision be received within the 90-day period. A judicial claim filed within 30 days from receipt of a decision rendered beyond the 90-day period remains valid.

Taxpayers should not be penalized for relying on laws that establish and expand the jurisdiction of the very court to which they seek recourse.

In summary, under **Section 112(C) of the NIRC of 1997**, as amended by the TRAIN Law, and **Sections 7(a)(2) and 11 of RA No. 1125**, as amended by RA No. 9282, and reiterated in the RRCTA, a taxpayer adversely affected by a decision, ruling or inaction of the CIR may appeal to the CTA as follows:

1. **If the CIR denies the claim within the 90-day period**, the affected taxpayer may appeal to the CTA within 30 days from receipt of the decision denying the claim.

2. **If the CIR fails to act within the 90-day period**, the affected taxpayer may, under Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, treat the inaction as a **deemed denial** and may appeal to the CTA within 30 days from the lapse of the 90-day "specific period of action."

3. **If the taxpayer chooses to wait and receives a denial after the 90-day period**, the affected taxpayer may still appeal to the CTA within 30 days from receipt of the decision, pursuant to Section 112(C) of the NIRC of 1997, as amended by the TRAIN Law.

These remedies are not inconsistent or irreconcilable. The TRAIN Law's amendment of Section 112(C) of the NIRC does not repeal Section 7(a)(2) of RA No. 1125, as amended by RA No. 9282, particularly with respect to claims for refund of input VAT attributable to zero-rated sales.

As a rule of statutory construction, courts must strive to **harmonize laws** so that each may be given effect. **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.[10] In order that one law may operate to repeal another law, the two laws must actually be inconsistent. The former must be so repugnant as to be irreconcilable with the latter act. Merely because a later enactment may relate to the same subject matter as that of an earlier statute is not of itself sufficient to cause an implied repeal of the latter, since the new law may be cumulative or a continuation of the old one.[11]

All told, I vote to **GRANT** the *Petition for Review* and remand the case to the Court in Division.

LANEE S. CUI-DAVID
Associate Justice

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[10] *Philippine International Trading Corporation v. Commission on Audit*, G.R. No. 183517, June 22, 2010 [Per J. Perez, *En Banc*], citing *Spouses Recaña v. Court of Appeals, et al.*, G.R. No. 123850, January 5, 2001 [Per J. Quisimbing, Second Division] & *Republic v. Marcopper Mining Corporation*, G.R. No. 137174, July 10, 2000 [Per J. Gonzaga-Reyes, Third Division].

[11] *Valera v. Tuason, Jr., et al.*, G.R. No. L-1276, April 30, 1948 [Per J. Tuason, Second Division].