REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

DENSO PHILIPPINES CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2239
(CTA Case No. 10046)

Present:

DEL ROSARIO, *P.J.,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO, *and*
CUI-DAVID, *JJ.*

Promulgated:
JAN 25 2022 11:28 a.m.

x - x

RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Denso Philippines Corporation's (**petitioner**'s/**DPC**'s) "Motion for Reconsideration (Re: Decision Promulgated on 23 June 2021)"[1] filed on 21 July 2021[2] with respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) "Comment (On Petitioner's Motion for Reconsideration filed on 21 July 2021)"[3] filed on 27 October 2021.

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[1] *Rollo*, pp. 166-175.
[2] Received by the Court on 02 September 2021.
[3] *Rollo*, pp. 182-194.

The instant motion seeks the reversal of this Court's Decision[4] (**assailed Decision**) dated 23 June 2021. The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, with the foregoing premises considered, the Petition for Review filed by petitioner Denso Philippines Corporation on 24 February 2020 is hereby **DENIED** for lack of merit. Accordingly, the assailed Resolutions dated 02 October 2019 and 31 January 2020, respectively, of the Court's First Division in CTA Case No. 10046, entitled *Denso Philippines Corporation v. Commissioner of Internal Revenue*, are hereby **AFFIRMED**.
>
> **SO ORDERED.**
>
> ...

A perusal of the records shows that petitioner's Petition for Review was principally denied on the ground of lack of jurisdiction due to petitioner's belated filing of its judicial claim for refund. The disquisitions in the assailed decision reads, thus:

> ...
>
> In debunking the First Division's findings, petitioner insists that it could not have completed its submission since the BIR never requested the latter for any other additional documents and that the BIR merely issued the Notices of Denial of its claims.
>
> In both of its petitions before the First Division and the Court *En Banc*, petitioner relies heavily on the following paragraphs of RMC 42-03, as amended by RMC 49-03, to wit:
>
> > ...
> > **II.) Additional paragraphs are hereto added to the last paragraph of RMC No. 42-2003 to read as follows:**
> >
> > **Q-18: For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?**
> >
> > A-18: For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.

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4 Id., pp. 141-154.

> For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.
>
> For current and future claims for tax credit/refund, the same shall be processed within one hundred twenty (120) days from receipt of the complete documents. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office, which shall be construed as within the one hundred twenty (120) day period.
>
> ...

It is petitioner's contention that since the BIR has not yet requested additional documents in order to complete the former's submission, the 120-day period was never set in motion. As a result, petitioner asserts that its action has not yet prescribed and that it still had 30 days left within which to appeal the Notices of Denial to this Court.

Unfortunately, whether or not petitioner was able to complete its submission of the documents is of little consequence. Although the 120+30-day period is jurisdictional for the perfection of petitioner's appeal, Section 112 of the NIRC of 1997, as amended, equally provides a two-year period after the close of the taxable quarter when the sales were made, within which to apply for a VAT refund.

First, assuming that petitioner was able to completely submit the supporting documents along with its refund applications, petitioner should have already filed an appeal with this Court within 30 days from the end of the 120-day period counting from the application's filing. Given that more than a decade has lapsed from petitioner's filing of its administrative claim, its recourse for judicial refund is already way too late to be filed.

Furthermore, if We are to take petitioner's present argument that the 120-day period is inapplicable due to the fact that its supporting documents could not be considered complete; petitioner would still have failed to perfect its administrative claim for refund within the two-year prescriptive period since, under RMC 49-03, the application for refund shall be considered received only upon the submission of complete supporting documents.[5]

...

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[5] Id., pp. 147-149.

In its present motion, petitioner again insists that the Court has jurisdiction over its claim for refund. However, a scrutiny of the motion reveals that petitioner does not present any arguments that have not been already passed upon by the Court both sitting in Division and *En Banc*.

Finding nothing in the instant motion deserving of another lengthy disquisition on the jurisdiction of this Court and no cogent reason to abandon or modify this Court's previous ruling, petitioner's motion must necessarily fail.

Unchanging in Our sentiment as regards petitioner's claim, We cite the conclusion reached in the assailed Decision, to wit:

> ...
>
> Although RMC 49-03 gives the taxpayer an opportunity to file its supporting documents subsequent to the refund application's filing; the same does not, however, bar the taxpayer from submitting all its supporting documents along therewith. Neither does RMC 49-03 prevent the BIR from receiving the submitted documents simultaneous with the application and considering the same complete as of its submission. After all, when petitioner filed its applications for refund, the documents it submitted were duly received while the rest were directly verified at its office. Similarly, RMC 49-03 does not mandate the BIR to further request the taxpayer for additional documents even after finding the documents submitted and verified to be complete in order for the 120-day period to run.
>
> As regards to petitioner's argument that its case may nevertheless fall within the purview of "other matters" under Section 7(a)(1) of RA 1125, We echo the First Division's resolve when it held, to wit:
>
> > ...
> >
> > In the instant case, the appeal, through the filing of petitioner's petition for review on March 8, 2019, has already prescribed. Hence, even if the issue raised was within the ambit of "other matters" on jurisdiction, this Court was already precluded from taking cognizance of the instant case since the appeal was filed out of time, hence, vesting no jurisdiction on the court.[6]
> >
> > ...

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6 Id., pp. 152-153.

WHEREFORE, the foregoing premises considered, petitioner's "Motion for Reconsideration (Re: Decision Promulgated on 23 June 2021)" filed on 21 July 2021 is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision dated 23 June 2021 in the above-captioned case is hereby **AFFIRMED**.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

J. C. Castaneda, Jr.
JUANITO C. CASTANEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice