REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PMFTC, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10110

Members:

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

Promulgated:
APR 21 2022 8:10 AM

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RESOLUTION

CASTAÑEDA, JR., J.:

Before this Court is petitioner's **Motion for Reconsideration (of the Decision dated 25 November 2021)** filed on December 15, 2021, without respondent's comment per Records Verification Report dated March 22, 2022.

On November 25, 2021, the Court promulgated the Decision dismissing petitioner's claim for refund of excise taxes in the amount of ₱2,747,529,700.00 for being filed out of time, the dispositive portion of which states:

> "**WHEREFORE**, premises considered, the *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED**."

To recapitulate, the Court ruled in the above Decision that even when petitioner paid under protest the subject excise taxes, and notwithstanding the Supreme Court's issuance of a Temporary Restraining Order (TRO) in the case of *Secretary of Finance Cesar V. Purisima and Commissioner of Internal Revenue Kim S. Jacinto-Henares v. Philippine Tobacco Institute, Inc.,* [1] *("Purisima Case"* hereafter for brevity) the claim for refund thereof is still within the purview of Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, and does ***not*** excuse petitioner from complying with the two (2)-year prescriptive period indicated therein. Consequently, considering that said prescriptive period is not only mandatory but also jurisdictional, petitioner's *Petition for Review* was dismissed for the Court's lack of jurisdiction.

Now, in its Motion, petitioner primarily argues that its claim for refund should not have been denied because compliance with the two-year period for filing a claim for refund would likely impede, obstruct or degrade the ends of justice as administered by the Supreme Court. Petitioner raises the following grounds in support of its argument, *viz.*:

A. The TRO was issued by the Supreme Court in the *Purisima Case* to maintain the *status quo,* which meant that Petitioner must continue paying the excise tax on the assumption that Revenue Regulations (RR) No. 17-2012 and Revenue Memorandum Circular (RMC) No. 90-2012 are valid.

B. The issuance of the TRO by the Supreme Court in the *Purisima Case* is a valid exercise of judicial power, which constitutes a special circumstance not present in the case of *Commissioner of Internal Revenue vs. San Miguel Corporation* (the San Miguel Case) warranting a suspension of the two-year prescriptive period for filing a claim for refund.

As to the *first ground,* petitioner claims that the Court's conclusion was premised on the fact that the TRO was not binding on petitioner because (i) the TRO was not directed at it; and (ii) there was no prohibition against respondent and this Court to act on a refund claim, had one been filed by petitioner within the two-year period. However, petitioner asserts that as a manufacturer of tobacco products, it is actually the one directly affected by the decision rendered by the Supreme Court in the *Purisima Case* — more than

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[1] G.R. No. 210251, April17, 2017.

the industry association, Philippine Tobacco Institute, Inc. ("PTI") who initiated the case on behalf of its members. Petitioner posits that limiting the binding effect of the TRO to PTI only, to the exclusion its members, would have rendered the TRO ineffectual and contrary to the intent and spirit behind its issuance.

Likewise, petitioner submits that the determination of the validity of RR No. 17-2012[2] and RMC No. 90-2012[3], which was one of the main issues in the *Purisima Case*, is a "prejudicial question" that must first be resolved before petitioner could file a claim for refund of excise tax paid pursuant to said administrative issuances. Petitioner expounds that the rationale behind the principle of prejudicial question is precisely to avoid two conflicting decisions.

With regard to the *second ground*, petitioner argues that the TRO issued by the Supreme Court in the *Purisima Case* is a special circumstance which warrants the suspension of the two-year prescriptive period under Section 229 of the NIRC of 1997, as amended. Petitioner further avers that the all-encompassing term "supervening cause" as mentioned under the said section should necessarily be deemed to exclude cases where a TRO is issued by the Supreme Court since the same is not considered an ordinary event but a valid judicial intervention. Thus, for the foregoing reasons, petitioner submits that its claim for refund of erroneously paid excise taxes for cigarette packs containing less than twenty (20) sticks should therefore be granted.

The Court finds petitioner's Motion for Reconsideration bereft of merit.

At the onset, the Court bears emphasis that the two-year period in filing a claim for tax refund pursuant to Section 204(C)[4] and

[2] "SUBJECT: Prescribing the Implementing Guidelines on the Revised Tax Rates on Alcohol and Tobacco Products Pursuant to the Provisions of Republic Act No. 10351 and to Clarify Certain Provisions of Existing Revenue Regulations", dated December 21, 2012.

[3] "SUBJECT: Revised Tax Rates of Alcohol and Tobacco Products Under Republic Act No. 10351, "An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9334, and for Other Purposes", dated December 27, 2012.

[4] "**SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*– The Commissioner may –

x x x

229[5] of the NIRC of 1997, as amended, is crucial since the timeliness of the filing of the claim is mandatory and jurisdictional. The Court reiterates that no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment. Consequently, the Court cannot take cognizance of a judicial claim for refund if the same is filed out of time, like in the present case.

Again, in order for the Court or an adjudicative body to have the authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter.[6]

Herein, the payments of the subject excise taxes were made from February 20, 2014 until December 17, 2015.[7] Correspondingly, the two-year prescriptive period, at the earliest, should end on February 20, 2016; and at the latest, should end on December 17, 2017. Hence, portion of the alleged payments from July 12, 2015 until December 17, 2015[8] may still be the subject of refund if the corresponding administrative and judicial claims were filed from July 12, 2017 to December 17, 2017.

Nonetheless, granting for the sake of argument that the issue in the *Purisima Case* must be preemptively resolved first thereby also

(C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty: Provided, however that a return filed showing an overpayment shall be considered as a written claim for credit or refund.** x x x." *(Emphasis added)*

[5] "**SEC. 229.** *Recovery of Tax Erroneously or Illegally Collected.* – No suit or proceeding shall be maintained in any court for the **recovery of any national internal revenue tax hereafter** alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphases added)*

[6] *Mitsubishi Motors Philippines Corporation v. Bureau of Customs*, G.R. 209830, June 17, 2015.

[7] Exhibits "P-26-1" to "P-26-262", and "P-27-1" to "P-27-105".

[8] Exhibit Nos. "P-27-65" to "P-27-105" or BIR Form No. 2200-T-Excise Tax Payments (Tax Stamps) for Cigarette Packs of 20s and 2x10s.

be considered as an exception to the supervening cause, a perusal of the records show that petitioner still had the opportunity to file the administrative and judicial claim within the prescribed two-year period from the time the judgment of the Supreme Court in the subject *Purisima Case* became final and executory on **July 12, 2017**.[9]

However, for some unknown reason petitioner opted to file the administrative claim and the judicial claims only on June 13, 2019, and on July 11, 2019, respectively. Unfortunately, both were way past the prescribed two-year period within which to file a claim for refund under the law.

More so, petitioner's plea that substantial justice, equity, and fair play take precedence over technicalities and legalisms, finds no application in the present case. The well-known maxim of equity that *"he who comes to equity must come with clean hands"* bars the application of equity to herein petitioner. To reiterate, petitioner had ample chance to ventilate its refund claim after the finality of the decision of the Supreme Court in the *Purisima Case* on July 12, 2017 until December 17, 2017 but nonetheless failed to do so.

Time and again, it has been emphasized that procedural rules are not to be disdained as mere technicalities that may be ignored at will to suit the convenience of a party.[10] Technical rules serve a purpose. They are not made to discourage litigants from pursuing their case nor are they fabricated out of thin air. The rules were established primarily to provide order to, and enhance the efficiency of our judicial system.[11]

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its Motion, the Court finds no compelling reason to reverse, amend, or modify the Decision promulgated on November 25, 2021.

WHEREFORE, premises considered, petitioner's Motion for Reconsideration (of the Decision dated 25 November 2021) is **DENIED** for lack of merit.

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[9] Entry of Judgement for G.R. No. 210251; *See* Note No. 20 of the Decision, p. 5.
[10] *Nicanor T. Santos v. Court of Appeals, et al.*, G.R. No. 92862, July 4, 1991.
[11] *Dr. Joseph L. Malixi, et al., v. Dr. Glory V. Baltazar*, G.R. No. 208224, November 22, 2017.

SO ORDERED.

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

We Concur:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

LANEE S. CUI-DAVID
Associate Justice