REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAS INSTITUTE (PHILIPPINES), INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2991
(CTA Case No. 10537)

x- x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

SAS INSTITUTE (PHILIPPINES), INC.,
Respondent.

CTA EB No. 2994
(CTA Case No. 10537)

Present:

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

Promulgated:

MAR 04 2026 11:28 am

x- x

DECISION

ANGELES, *J.*:

THE CASE

Before the Court *En Banc* are consolidated Petitions for Review filed by the following:

1. SAS Institute (Philippines), Inc. filed via accredited courier service provider on September 11, 2024,[1] docketed as CTA EB No. 2991; and

2. the Commissioner of Internal Revenue (CIR) posted on September 20, 2024,[2] with *Comment/Opposition (to Respondent's Petition for Review dated September 19, 2024)* filed by SAS Institute (Philippines), Inc. via accredited courier service provider on November 25, 2024,[3] docketed as CTA EB No. 2994.

Both Petitions assail the Decision dated March 22, 2024 (assailed Decision)[4] and the Resolution dated August 13, 2024 (assailed Resolution)[5] rendered by the Court of Tax Appeals (CTA) – Special First Division (Court in Division) in CTA Case No. 10537.

THE PARTIES

SAS Institute (Philippines), Inc. (SIPI) is a domestic corporation with principal place of business at 9th floor Asian Century Center, 27th Street corner 3rd Avenue, Bonifacio Global City, Taguig. It is registered with the Bureau of Internal Revenue (BIR) Revenue District Office No. 44, with Taxpayer Identification No. 000-815-872-000.[6]

The CIR is the duly appointed commissioner of the BIR, vested under the appropriate laws with authority to carry out all the functions, duties and responsibilities of said office, including *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters

---

[1] Docket (EB No. 2991), pp. 4 to 27.
[2] Docket (EB No. 2994), pp. 9 to 17.
[3] Docket (EB No. 2991), pp. 215 to 226.
[4] Docket (EB No. 2991), pp. 32 to 51; Docket (EB No. 2994), pp. 23 to 42; Docket (CTA Case No. 10537) – Vol. II, pp. 816 to 835.
[5] Docket (EB No. 2991), pp. 53 to 61; Docket (EB No. 2994), pp. 44 to 52; Docket (CTA Case No. 10537) – Vol. II, pp. 1022 to 1030.
[6] *The Parties*, Petition for Review, Docket (EB No. 2994), p. 3.

arising under the National Internal Revenue Code (NIRC) or other laws or portions thereof administered by the BIR.[7]

ANTECEDENT FACTS

The relevant facts as found by the Court in Division are as follows:[8]

> On April 6, 2018, petitioner [herein SIPI] filed its Annual Income Tax Return (AITR) for calendar year (CY) 2017. On April 11, 2019, petitioner [herein SIPI] filed its AITR for CY 2018 and paid the income taxes due thereon on April 12, 2019.
>
> On April 8, 2021, petitioner [herein SIPI] filed with the BIR Revenue District Office (RDO) No. 44, an Application for Tax Credits/Refunds (BIR Form No. 1914), and a letter dated April 7, 2021, requesting for a refund or issuance of TCC of erroneously paid income tax for TY 2018, in the amount of ₱29,312,339.36. Petitioner [herein SIPI] states that it erroneously included the deferred subscription revenue in the amount of ₱269,085,320.31, which was reported in its AITR for CY 2017, as part of the its total revenue for CY 2018.
>
> On May 24, 2021, petitioner [herein SIPI] filed a Petition for Review, to which respondent [herein CIR] posted an Answer on January 26, 2022.
>
> On May 26, 2022, the Pre-Trial Conference was held.
>
> On June 16, 2022, respondent [herein CIR] posted a Manifestation, wherein he stated that he will not be presenting any evidence in this case, which was noted, through Resolution dated July 15, 2022.
>
> On even date, the parties filed their Joint Stipulation of Facts and Issues, which was approved, via Resolution dated July 21, 2022. On the basis thereof, the Court issued a Pre-Trial Order dated August 11, 2022.

Trial ensued, with SIPI presenting and offering its documentary and testimonial evidence.[9]

Both parties filed their respective memoranda and the case was submitted for resolution.[10]

---

[7] *The Parties*, Petition for Review, Docket (EB No. 2994), p. 3.
[8] Docket (EB No. 2991), pp. 33 to 34; Docket (EB No. 2994), pp. 24 to 25; Docket (CTA Case No. 10537) – Vol. II, pp. 817 to 818.
[9] *Id.*
[10] *Id.*

On March 22, 2024, the Court in Division promulgated the assailed Decision,[11] the dispositive portion of which reads:

> "**WHEREFORE**, the *Petition for Review* filed by SAS Institute (Philippines), Inc is **PARTIALLY GRANTED**. Accordingly, respondent [herein CIR] is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner [herein SIPI] the amount of **₱1,561,610.61**, representing its erroneously paid income tax for CY 2018.
>
> **SO ORDERED**."

The Court in Division held that SIPI timely filed both its administrative and judicial claims for refund of erroneously paid taxes. It further ruled that although the Independent Certified Public Accountant (ICPA) verified the supporting documents substantiating the deferred subscription revenue in the amount of ₱269,085,318.95 from one hundred sixty (160) clients for calendar year (CY) 2017, the majority of the supporting documents upon which the ICPA Report was based were not presented to the Court. Specifically, SIPI submitted only the official receipts, contracts, and invoices pertaining to two (2) of its clients.

Accordingly, the Court in Division held that SIPI was able to establish that it had erroneously included deferred subscription revenue only in the amount of ₱5,205,368.49 in its Annual Income Tax Return (AITR) for CY 2017, which was reported as part of its revenue in its AITR for CY 2018. Consequently, SIPI was deemed to have proven erroneous payment of income taxes for CY 2018 only to the extent of ₱1,561,610.61.

On April 17, 2024, the CIR posted his *Motion for Partial Reconsideration*.[12] On the other hand, SIPI filed its *Motion for New Trial*[13] on April 22, 2024.

Thereafter, on August 13, 2024, the Court in Division rendered the assailed Resolution,[14] denying the CIR's *Motion for Partial Reconsideration* and SIPI's *Motion for New Trial*.

Hence, the present Petition.

---

[11] *Supra* note 4.
[12] Docket (CTA Case No. 10537) – Vol. II, pp. 836 to 841.
[13] Docket (CTA Case No. 10537) – Vol. II, pp. 844 to 856.
[14] *Supra* note 5.

PROCEEDINGS BEFORE THE COURT *EN BANC*

On September 5, 2024, the CIR posted his *Motion for Extension of Time to File Petition for Review*.[15]

On September 11, 2024, SIPI filed its *Petition for Review* via accredited courier service provider.[16] Subsequently on September 12, 2024, SIPI filed its *Manifestation*.[17]

In the Resolution dated September 19, 2024,[18] the Court granted the CIR a non-extendible period of fifteen (15) days within which to file his Petition for Review subject to the condition that the motion for extension was timely filed.

Thereafter, on September 20, 2024, the CIR posted his *Petition for Review*.[19]

In the Resolution dated September 27, 2024,[20] the Court ordered the consolidation of CTA EB No. 2991 and CTA EB No. 2994 pursuant to Section 1, Rule 31 of the Rules of Court.

On November 11, 2024, the Court issued a Resolution requiring the CIR to file his comment on the *Petition for Review* filed by SIPI.[21] In the same Resolution,[22] SIPI was likewise directed to file its comment on the *Petition for Review* filed by the CIR.

On November 25, 2024, SIPI filed its *Comment/Opposition (to Respondent's Petition for Review Dated 19 September 2024)*[23] via accredited courier service provider.

On the other hand, the CIR failed to file his comment.[24]

---

[15] Docket (EB No. 2994), pp. 2 to 4.
[16] *Supra* note 1.
[17] Docket (EB No. 2991), pp. 101 to 105.
[18] Docket (EB No. 2994), p. 7.
[19] *Supra* note 2.
[20] Docket (EB No. 2991), p. 213.
[21] Docket (EB No. 2991), p. 214.
[22] *Id.*
[23] Docket (EB No. 2991), pp. 215 to 226.
[24] Records Verification Report dated December 11, 2024.

Accordingly, on January 3, 2025, CTA EB No. 2991 and CTA EB No. 2994 were submitted for decision.[25]

ASSIGNMENT OF ERRORS

In CTA EB No. 2991, SIPI assigns the following errors allegedly committed by the Court in Division, to wit:[26]

I. Whether the Court in Division erred in denying SIPI's *Motion for New Trial*; and

II. Whether SIPI duly established its entitlement to the entire ₱29,312,399.36 refund claim.

On the other hand, in CTA EB No. 2994, the CIR assigns as error the issue of whether the Court in Division erred in denying his *Motion for Partial Reconsideration*.[27]

THE ARGUMENTS

CTA EB No. 2991

SIPI contends that the Court in Division erred in denying its *Motion for New Trial*. It argues that both the Rules of Court and the Revised Rules of the Court of Tax Appeals (RRCTA) expressly allow an aggrieved party to seek for a new trial on the ground of fraud, accident, mistake, or excusable negligence. SIPI maintains that the ICPA declared that she fully examined all the documents which formed the basis of her ICPA Report, and that she only submitted a sample to the Court for presentation purposes only. Thus, SIPI asserts that the ICPA failed to submit all of the supporting documents due to accident, mistake, excusable negligence, and/or inadvertence. Hence, SIPI posits that its *Motion for New Trial* should have been granted.[28]

SIPI further asserts that, contrary to the ruling of the Court in Division, the assailed Decision had not yet attained finality. It argues that its timely filing of a *Motion for New Trial* prevented the assailed Decision from becoming a final judgment. Consequently, SIPI maintains that the Court in Division erred in denying its *Motion for*

[25] Docket (EB No. 2991), unpaginated.
[26] *Issues*, Petition for Review, Docket (EB No. 2991), p. 10.
[27] *Issue*, Petition for Review, Docket (EB No. 2994), p. 12.
[28] Docket (EB No. 2991), pp. 12 to 16.

New Trial on the ground that the assailed Decision was already a final judgment.[29]

SIPI likewise argues that the ICPA was able to establish that its deferred subscription revenue for CY 2017 in the amount of ₱269,085,320.31 was recorded in its general ledger and trial balance for CY 2018. According to SIPI, the ICPA's tracing of the deferred subscription revenue for CY 2017 to the revenues recognized in CY 2018, through the general ledger and the trial balance, sufficiently demonstrated that the deferred subscription revenue was subjected to income tax twice, namely in CY 2017 and again in CY 2018. On this basis, SIPI argues that its claim for refund should have been granted.[30]

SIPI further opines that the presentation of billing statements, even without the corresponding license contracts, is sufficient to establish that it erroneously included deferred subscription revenue in its AITR for CY 2017 and CY 2018. SIPI points out that the Court in Division itself ruled that SIPI was able to prove that it erroneously included deferred subscription revenue in the amount of ₱5,205,368.49 based on the billing statements and tax invoices it presented. Accordingly, SIPI prays that it be allowed to present the remaining evidence already examined by the ICPA to prove that the subscription periods over which the revenues were deferred and recognized are consistent with the duly established accounting standards and applicable BIR issuances on revenue recognition.[31]

SIPI argues that the Court in Division erred in characterizing the supporting documents relating to its one hundred fifty-eight (158) clients as forgotten evidence. SIPI insists that the documents were not forgotten but were inadvertently excluded by the ICPA due to excusable negligence. It emphasizes that the ICPA expressly stated that she obtained the documents and determined the proper timing of the deferred subscription revenue. Thus, she could not have forgotten documents which she had already reviewed and relied upon in her ICPA Report. SIPI concludes that the failure to attach the remaining supporting documents was due to accident, mistake, and/or excusable negligence. SIPI further underscores that it did not seek admission of the documents as newly discovered evidence, but it has consistently maintained that the documents were submitted to the ICPA and were omitted in the attachments due to accident, mistake, and/or excusable negligence. Consequently, SIPI prays that the supporting documents be admitted and duly considered by the Court.[32]

---

[29] Docket (EB No. 2991), pp. 16 to 18.
[30] Docket (EB No. 2991), pp. 18 to 19.
[31] Docket (EB No. 2991), pp. 20 to 22.
[32] Docket (EB No. 2991), pp. 22 to 24.

CTA EB No. 2994

The CIR contends that the Court in Division erred in ruling that SIPI's claim for refund was filed on time. He argues that SIPI itself alleged that it reported deferred subscription revenue in both its AITR for CY 2017 and in its AITR for CY 2018, resulting in an alleged overpayment of income taxes in the amount of ₱29,312,399.36. However, the CIR maintains that the erroneous payment, occurred in CY 2017 and not in CY 2018, since the deferred subscription revenue was collected in 2017 but only realized or earned in 2018. Thus, according to the CIR, SIPI correctly included the realized portion of the subscription revenue in its AITR for CY 2018. Consequently, the CIR asserts that the two (2)-year period within which to file the administrative and judicial claims for refund should be reckoned from the filing of the AITR for CY 2017. On this basis, the CIR claims that SIPI filed its refund claim one (1) year late.[33]

The CIR further asserts that tax refunds are in the nature of tax exemptions and must be strictly construed against the taxpayer. He argues that SIPI failed to fully substantiate its claim for refund. Hence, the claim must be denied.[34]

On the other hand, SIPI argues that the CIR's Petition for Review merely reiterates the arguments previously raised in his Motion for Partial Reconsideration, which were already extensively discussed by the Court in Division.[35]

SIPI further maintains that the Court in Division correctly ruled that it timely filed both its administrative and judicial claims for refund of erroneously paid taxes. SIPI argues that since it had already recorded deferred subscription revenue for CY 2017 in its AITR and the same was subjected to income tax, such revenue should have been excluded in computing its income tax liability for CY 2018. According to SIPI, the erroneous payment of income tax thus occurred in CY 2018. Hence, SIPI asserts that the two (2)-year period to file the administrative and judicial claims for refund should be reckoned from the date of payment of its income taxes for CY 2018. SIPI emphasizes that it filed its AITR and paid the corresponding taxes on April 11 and 12, 2019, respectively. Accordingly, SIPI argues that it had until April 12, 2021, within which to file its administrative and judicial claims for

---

[33] Docket (EB No. 2994), pp. 13 to 14.
[34] Docket (EB No. 2994), pp. 14 to 15.
[35] Docket (EB No. 2991), pp. 216 to 217.

refund. Since SIPI filed its administrative claim on April 8, 2021 and its judicial claim on May 24, 2021,[36] both claims were timely filed.[37]

SIPI likewise asserts that the Court in Division did not err in ruling that SIPI overpaid income taxes for CY 2018. SIPI argues that the deferred subscription revenue previously recognized and taxed in its AITR for CY 2017 was again recorded in its AITR for CY 2018, resulting in an overpayment of income tax for CY 2018. SIPI further contends that the CIR's assertion of lack of substantiation is without merit. It points out that the CIR failed to present countervailing evidence during trial. Thus, SIPI maintains that it was able to establish, by a preponderance of evidence, its entitlement to a refund of erroneously paid taxes.[38]

RULING OF THE COURT

The Court denies the Petitions for Review.

SIPI's Petition for Review was filed on time.

Section 3(b), Rule 8 of the RRCTA provides:

> **RULE 8**
> **PROCEDURE IN CIVIL CASES**
>
> xxx xxx xxx
>
> SEC. 3. Who may appeal; period to file petition. –
>
> xxx xxx xxx
>
> (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

---

[36] AC No. 15-2021 dated April 3, 2021; AC No. 21-2021 dated April 10, 2021; AC No. 22-2021 dated April 14, 2021; AC No. 29-2021 dated April 30, 2021; AC No. 33-2021 dated May 14, 2021.
[37] Docket (EB No. 2991), pp. 217 to 219.
[38] Docket (EB No. 2991), pp. 220 to 223.

> fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

In the present case, records show that SIPI received the assailed Resolution on August 27, 2024.[39] Accordingly, pursuant to Section 3(b), Rule 8 of the RRCTA, SIPI had fifteen (15) days, or until September 11, 2024, within which to file its Petition for Review.

On September 11, 2024, SIPI filed its *Petition for Review*[40] via accredited courier service provider. Hence, SIPI's *Petition for Review* was filed on time.

The CIR's Petition for Review was belatedly filed.

The CIR's *Petition for Review* in CTA EB No. 2994 was belatedly filed.

In *National Power Corporation v. National Labor Relations Commission*,[41] the Supreme Court clarified that when the government is represented by the Office of the Solicitor General (OSG), the period to appeal an adverse decision is reckoned from the date the OSG receives a copy of the decision or resolution, and not from the date of receipt of the deputized counsel. The Court explained:

> Although jurisprudence regarding mandatory service of orders and decision on the OSG and not merely to its deputized special attorneys, pertain to court cases involving land registration and naturalization, the same rule should be observed in cases before the Labor Arbiter and the NLRC. **The underlying justification for compelling service of pleadings, orders, notices and decisions on the OSG as principal counsel is one and the same.** As the lawyer for the government or the government corporation involved, the OSG is entitled to the service of said pleadings and decisions, whether the case is before the courts or before a quasi-judicial agency such as respondent commission. Needless to say, a uniform rule for all cases handled by the OSG simplifies procedure, prevents confusion and thus facilitates the orderly administration of justice.
>
> From the foregoing, we conclude that service of the Labor Arbiter's decision on the deputized special attorney is insufficient and not valid and binding on the Solicitor General, who was himself entitled to such service. **The period to appeal an adverse decision should be reckoned from the date the OSG, and**

[39] Docket (CTA Case No. 10537) – Vol. II, p. 1021.
[40] Docket (EB No. 2991), pp. 4 to 27.
[41] G.R. No. 90933-61, May 29, 1997.

> **not the deputized lawyer, received a copy of the decision.** Since service was not made on the OSG, the period to file an appeal was suspended and did not commence to run. The appeal memorandum, having been filed on July 17, 1989, it was filed on time and should have been entertained by the NLRC. Consequently, respondent Commission committed grave abuse of discretion when it promulgated its decision on October 6, 1989 dismissing petitioner's appeal for having been filed late. (Emphasis supplied)

Based on the foregoing, the period to appeal an adverse decision or resolution of the CTA must be counted from the date of receipt by the OSG, as the government's principal counsel.

Here, records show that the OSG received a copy of the assailed Resolution on August 15, 2024.[42] Thus, pursuant to Section 3(b), Rule 8 of the RRCTA, the CIR had fifteen (15) days therefrom, or until August 30, 2024, within which to file his Petition for Review.

Section 3(b), Rule 8 of the RRCTA further provides that while the Court *En Banc* may grant an extension of time to file the petition for review, such extension may be granted only upon a proper motion filed before the expiration of the original reglementary period.

In this case, the CIR posted his *Motion for Extension of Time to File Petition for Review* only on September 5, 2024.[43] Although the same was granted in the Resolution dated September 19, 2024,[44] such grant was made subject to the condition that the motion for extension was timely filed. Since the CIR's original period to file the Petition for Review expired on August 30, 2024, the motion for extension was filed out of time. Consequently, the *Petition for Review*[45] subsequently posted by the CIR on September 20, 2024 was belatedly filed.

In *Bureau of Internal Revenue v. TICO Insurance Co., Inc.*,[46] the Supreme Court reiterated that:

> It is settled that the perfection of an appeal in the manner and within the period prescribed by law is not only mandatory but jurisdictional. This means that the failure to interpose a timely appeal deprives the appellate body of any jurisdiction to alter the final judgment, more so to entertain the appeal. Once a decision attains finality, it becomes the law of the case irrespective of whether the decision is erroneous or not, and no court — not even the Supreme Court — has the power to revise, review, change or alter the

---

[42] Docket (CTA Case No. 10537) – Vol. II, p. 1021.
[43] Docket (EB No. 2994), pp. 2 to 4.
[44] Docket (EB No. 2994), p. 7.
[45] Docket (EB No. 2994), pp. 9 to 17.
[46] G.R. No. 204226, April 18, 2022.

> same. The right to appeal is not a part of due process of law, but is a mere statutory privilege to be exercised only in the manner, and in accordance with, the provisions of the law. After a decision is declared final and executory, vested rights are acquired by the winning party.

Accordingly, for failure of the CIR to timely file the *Motion for Extension of Time to File Petition for Review*, the *Petition for Review* filed by the CIR in CTA EB No. 2994 must be dismissed, since the assailed Resolution has become final and executory as to the CIR.

The Court in Division erred in ruling that the administrative and judicial claims for refund were timely filed.

Sections 204(C) and 229 of the NIRC of 1997, as amended (Tax Code), govern the refund mechanism for taxes erroneously or illegally collected:

> SEC.204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –
>
> (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. xxx (Emphasis supplied)
>
> 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 excessively or in any manner wrongfully collected, **until a claim for refund 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. (Emphasis supplied)

Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.[47] It is clear from these provisions that the taxpayer must first file an administrative claim for refund with the CIR before instituting a judicial claim for refund with the CTA. More importantly, both the administrative and judicial claims must be filed within two (2) years from the date of payment of the tax.

The Supreme Court has consistently ruled that the reckoning point of the two (2)-year prescriptive period is from the date of payment of the tax. In *Commissioner of Internal Revenue v. Manila Electric Company*,[48] the Supreme Court held that:

> It should be pointed out further that while the prescriptive period of two (2) years commences to run from the time that the refund is ascertained, the propriety thereof is determined by law (in this case, **from the date of payment of tax), and not upon the discovery by the taxpayer of the erroneous or excessive payment of taxes.** (Emphasis supplied)

Similarly, in *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[49] involving the erroneous payment of final withholding taxes on dividends, the Supreme Court reckoned the two (2)-year prescriptive period to file the administrative claim and judicial claim for refund from the date of payment or remittance of the tax to the BIR, to wit:

> Here, as the Court of Tax Appeals Second Division found, respondent filed its monthly remittance return of final income taxes withheld for November and December 2009, and paid the corresponding final withholding tax of ₱87,108,441.80 on the dividend payments, as follows:

Return Period	**Date Filed**	**Payment Date**	**Amount Paid**
November 2009	December 10, 2009	December 10, 2009	₱65,400,000.00
December 2009	January 8, 2010	January 12, 2010	₱21,708,441.80
			₱87,108,441.80

> Based on the payment dates, the two-year period for filing a claim for refund (both administrative and judicial) would end on December 10, 2011 and January 12, 2012.

---

[47] *Commissioner of Internal Revenue v. Estate of Mr. Charles Romig*, G.R. No. 262092, October 9, 2024.
[48] G.R. No. 181459, June 9, 2014.
[49] G.R. No. 226592, July 17, 2021.

In the present case, the Court in Division ruled that SIPI timely filed both its administrative and judicial claims for refund:[50]

> On April 11, 2019, petitioner filed its original AITR for CY 2018 and paid the income tax due on April 12, 2019. **The alleged erroneous payment of income tax occurred from the date of filing of petitioner's Annual ITR for CY 2018**. Following Carrier and TMX, it had two (2) years from April 12, 2019, or until April 12, 2021, to file both its administrative and judicial claims for refund or tax credit in said order.
>
> Record shows that petitioner timely filed its administrative claim for refund or tax credit on April 8, 2021.
>
> As for the judicial claim, petitioner also had until April 12, 2021 to file a Petition for Review before the Court. Said date is covered by several administrative circulars issued by the Supreme Court, ordering the physical closure of courts and the suspension of the filing and service of motions, pleadings and other court submissions beginning March 29, 2021. The filing of pleadings and other court submissions shall resume seven (7) calendar days counted from the first day of physical reopening of the relevant court. The Court of Tax Appeals (CTA) physically reopened on May 17, 2021, pursuant to Supreme Court AC No. 33-2021 dated May 14, 2021.
>
> Considering these issuances, petitioner had until May 24, 2021 to file a Petition for Review. On May 24, 2021, petitioner timely filed its judicial claim for refund or tax credit of erroneous payment of tax for CY 2018. (Emphasis supplied)

Upon a careful examination of the facts, however, the Court *En Banc* reverses the Court in Division's finding. The two (2)-year prescriptive period for SIPI to file both the administrative and judicial claims for refund must be reckoned from the payment of the income tax for **CY 2017**, which was on April 6, 2018.[51]

SIPI itself alleges that it reported total revenue of ₱753,758,919.00 in its AITR for CY 2017,[52] which already included deferred subscription revenue amounting to ₱269,085,320.31.[53] It likewise reported total revenue of ₱1,300,387,263.00 in its AITR for CY 2018,[54] which again included deferred subscription revenue of ₱269,085,320.31 already recorded in its AITR for CY 2017.[55]

---

[50] Docket (CTA Case No. 10537) – Vol. II, pp. 820 to 822.
[51] Exhibit "P-4," Docket (CTA Case No. 10537) – Vol. I, p. 115.
[52] Par. 10, *Petition for Review*, Docket (EB No. 2991), pp. 5 to 6.
[53] Par. 11, *Petition for Review*, Docket (EB No. 2991), p. 6.
[54] Par. 12, *Petition for Review*, Docket (EB No. 2991), p. 6.
[55] Par. 13, *Petition for Review*, Docket (EB No. 2991), p. 6.

SIPI insists that the erroneous payment arose in CY 2018 on the theory that the deferred subscription revenue was reported in CY 2017 but subsequently realized in CY 2018.[56] SIPI argues that the inclusion of the deferred subscription revenue in its total revenue for both its AITR for CY 2017 and AITR for CY 2018 resulted in an overpayment of income tax in the amount of ₱29,312,399.36 for CY 2018.[57] On this basis, SIPI maintains that the two (2)-year prescriptive period should be reckoned from the date of payment of its income taxes for CY 2018.

SIPI's contentions are unavailing.

SIPI's own finance director, Ms. Elsie E. Dela Rosa, clearly explained the nature of the deferred subscription revenue and the alleged cause of the overpayment for CY 2018, thus:[58]

> Q16: Can you explain what is this deferred subscription revenue?
>
> A16: Deferred Subscription Revenue pertains to revenue collected but is yet to be earned. The 269M deferred revenue was already collected in 2017 and hence included in the computation of taxable income. However, this revenue was recognized and earned as accounting income in 2018.
>
> xxx xxx xxx
>
> Q23: You mentioned that Petitioner had an overpayment of Php29,312,339.36 for taxable year 2018. Why was there an overpayment?
>
> A23: Petitioner company had erroneously included the deferred subscription revenue of Php269,085,320.31, which was reported in 2017 but realized in 2018, as part of the Company's revenue for taxable year 2018. Thus, there was a double take up of the amount of Php269,085,320.31, which resulted in an overpayment of Php29,312,339.36.

A careful examination of the records, however, shows that the deferred subscription revenue **was erroneously recorded as part of revenue in SIPI's AITR for CY 2017**. Consequently, the erroneous payment of income tax occurred when SIPI paid its income taxes for CY 2017 and not CY 2018.

---

[56] Par. 13, *Petition for Review*, Docket (EB No. 2991), p. 6.
[57] Par. 15, *Petition for Review*, Docket (EB No. 2991), p. 7.
[58] Exhibit "P-3," Docket (CTA Case No. 10537) – Vol. I, pp. 91 to 92.

Moreover, the ICPA submitted a sample of SIPI's journal entries reflecting the recording of subscription revenue and deferred subscription revenue for its clients, to wit:[59]

Customer Name:	Marketing Convergence Inc.
Term of License Contract:	July 13, 2017 – July 12, 2018 (1 year)
Converted Number of Days:	365 days
Invoice Amount:	Php6,149,576.00
Amount Collected for the Year (net of VAT):	Php6,149,576.00
Amount collected per official receipt (gross of VAT and net of 2% withholding)	Php6,764,533.60
Date and Year of Collection:	December 18, 2017
Subscription Revenue:	Php2,897,882.39
Deferred Subscription Revenue:	Php3,251,693.61

<u>Entry to record revenue based on invoice raised</u>

Accounts Receivable		6,887,525.12	
	Output Vat		737,949.12
	Renewal Revenue		6,149,576.00

<u>Entry to record the collection</u>

Cash		6,764,533.60	
Withholding Tax (2%*Php6,149,576.00)		122,991.52	
	Accounts Receivable		6,887,525.12

<u>Entry to record unearned revenue as per total software revenue</u>

Unearned Revenue (Contra-revenue account)		6,149,576.00	
	Deferred Subscription Revenue (Liability Account)		6,149,576.00

<u>Entry to record subscription revenue as per subscription template calculation</u>

Deferred Subscription Revenue		2,897,882.39	
	Subscription Revenue		2,897,882.39

Recalculation of Subscription Revenue:

Amount collected for the year:	Php6,149,576.00
Days earned:	172 days (July 13, 2017 – December 31, 2017)

[59] Exhibit "P-16," Docket (CTA Case No. 10537) – Vol. I, pp. 308 to 310.

Computation:	Php6,149,576.00 x 172 days/365 days
Subscription Revenue:	Php2,897,882.39

Notably, Note 2.16 of SIPI's Audited Financial Statements (AFS) as at and for the years ended December 31, 2018 and 2017 sets forth the revenue recognition principles adopted by SIPI, thus:[60]

> NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES
>
> 2.16 Revenue recognition
>
> With the adoption of PFRS 15, revenue from contract with customers is recognized when the performance obligation in the contract has been satisfied, either at a point in time or over time. Revenue is recognized over time if one of the following criteria is met: (a) the customer simultaneously receives and consumes the benefits as the Company performs its obligations; (b) the Company's performance creates or enhances an asset that the customer controls as the asset is created or enhanced; or (c) the Company's performance does not create an asset with an alternative use to the Company and the Company has an enforceable right to payment for performance completed to date. Otherwise, revenue is recognized at a point in time.
>
> xxx xxx xxx
>
> The following specific recognition criteria must also be met before the revenue is recognized:
>
> *License fees*
>
> License fee is recognized upon transfer of control. When either party to a contract has performed, the Company shall **present the contract** in the statement of the financial position as **a contract asset or a contract liability**, depending on the relationship between the Company's performance and its customer's payment. The Company shall present any unconditional rights to consideration separately as part of "Contract assets and other current assets."
>
> If a customer pays consideration, or the Company has a right to an amount of consideration that is unconditional, before the entity transfer [sic] a good or service to the customer, the Company shall present the contract as a contract liability when the payment is made or the payment is due, whichever is earlier. **A contract liability is the Company's obligation to transfer goods or services to a customer for which the Company has received consideration (or an amount of consideration is due) from the customer.**
>
> xxx xxx xxx

[60] Exhibit "P-8," Docket (CTA Case No. 10537) – Vol. I, p. 399.

> In 2017, license fees are recognized to the extent that it is probable that the economic benefits will flow to the Company and the revenue can be reliably measured. **The Company uses the subscription method of accounting for revenue from licensing computer software. This method requires the recognition of revenue from license agreements over the license period which is normally one year. The unearned portion of license fees is accounted for under "Deferred income" account in the liability section of the statement of financial position.** (Emphasis supplied)

From the foregoing, it is evident that deferred subscription income is treated as a contract liability in SIPI's statement of financial position, as it represents amounts collected but not yet earned. Consistent with this treatment, Note 13 to SIPI's AFS likewise confirms that the contract liabilities account includes deferred income from 2017.[61] While SIPI adjusts the deferred subscription income account at year-end to properly reflect the realized portion already earned, the unrealized portion of the deferred subscription income account remains classified as a current liability.

Section 43 of the Tax Code provides:

> SEC. 43. General Rule. - **The taxable income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer**, but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner clearly reflects the income. If the taxpayer's annual accounting period is other than a fiscal year, as defined in Section 22(Q), or if the taxpayer has no annual accounting period, or does not keep books, or if the taxpayer is an individual, the taxable income shall be computed on the basis of the calendar year. (Emphasis supplied)

Accordingly, a taxpayer is generally permitted to adopt its chosen method of accounting for tax purposes, provided that such method clearly reflects income. In this case, SIPI uses the accrual method of accounting in recording its revenues. Under BIR Revenue Audit Memorandum Order (RAMO) No. 1-00, the accrual basis of accounting is defined as the method of recognizing income in the period it is earned, regardless of whether it has been received or not.

---

[61] Exhibit "P-8," Docket (CTA Case No. 10537) – Vol. I, p. 416.

n

In *Commissioner of Internal Revenue v. Isabela Cultural Corp.*,[62] the Supreme Court explained that:

> The accrual method relies upon the taxpayer's right to receive amounts or its obligation to pay them, in opposition to actual receipt or payment, which characterizes the cash method of accounting. Amounts of income accrue where the right to receive them become fixed, where there is created an enforceable liability. Similarly, liabilities are accrued when fixed and determinable in amount, without regard to indeterminacy merely of time of payment.

In light of the foregoing, income under the accrual method of accounting is recognized **when it is earned, not when it is collected**. Put differently, SIPI may record income only upon actual performance of its contractual obligations to its customers, as it is only at that point that income is earned.

Accordingly, SIPI correctly included the realized portion of the deferred subscription revenue in CY 2018, since the income was earned only in that year. Consequently, SIPI erroneously included deferred subscription revenue in the amount of ₱269,085,320.31 in its AITR for **CY 2017,** when such income had not yet been earned. As earlier discussed, deferred subscription revenue constitutes a **liability account** and, as such, should not have been reported as revenue in SIPI's AITR for CY 2017.

During clarificatory questioning by the Court, SIPI's finance director, Ms. Elsie Dela Rosa, expressly admitted that SIPI uses the accrual method of accounting in the recording of its transactions:[63]

> JUSTICE MANAHAN:
> I just have some clarificatory questions to the witness. Ms. Dela Rosa, what is the accounting method of you company, is it cash or accrual?
>
> MS. DELA ROSA:
> **Accrual.** (Emphasis supplied)
>
> JUSTICE MANAHAN:
> In your answer to Question No. 15 and also Question No. 16, can you refer to your Judicial Affidavit?
>
> MS. DELA ROSA:
> Yes, Ma'am.
>
> JUSTICE MANAHAN:
> Because we are trying to understand why there was an overpayment. In Question No. 15, you made mention in the last paragraph that you

---

[62] G.R. No. 172231, February 12, 2007.
[63] Transcript of Stenographic Notes – August 11, 2022, pp. 12 to 15.

included in the 2017 Income Tax Return your deferred subscription revenue. The deferred subscription revenue in 2017 was included in your 2017 return, although the same was realized in 2018?

MS. DELA ROSA:
Yes, Ma'am.

JUSTICE MANAHAN:
Can you just explain to the Court what you mean by that? Because if your accounting method is accrual, then even if the cash was received in 2017, the same should have been recognized in your books at the time that they are supposed to accrue, which is in 2018. So, can you just explain why there was a recognition of this deferred subscription revenue in 2017, but they were declared in 2017, but the accrual thereof or recognition thereof was made in 2018? So, can you explain it to the Court?

MS. DELA ROSA:
Yes, Ma'am. What happened is, for accounting purposes, it is booked in our books as invoice, but for tax purposes, we recognize (interrupted)

JUSTICE MANAHAN:
For accounting purposes, you recognize this income in 2018?

MS. DELA ROSA:
Yes, because it has been earned in 2018. But for tax purposes, it was included in 2017 tax computation because it was collected in 2017. (Emphasis supplied)

JUSTICE MANAHAN:
So, in other words, income that you have been paid in 2018 was already received, there was cash payment made in 2017?

MS. DELA ROSA:
Yes, Ma'am.

JUSTICE MANAHAN:
So for tax purposes, you already declared this subscription income in 2017 even if they were supposed to be recognized or accrued in 2018?

MS. DELA ROSA:
Yes, Ma'am.

JUSTICE MANAHAN:
Since your accounting method is accrual?

MS. DELA ROSA:
Yes, Ma'am.

JUSTICE MANAHAN:
So, this is the very reason why there was a double payment of income tax on those revenues because they were already taxed in 2017, but then you declared them for accounting purposes in 2018, and that was break down by the Revenue Examiner?

u

MS. DELA ROSA:
Yes, and because it was already included in 2017. In our 2018 tax computation, we should have excluded it, but we didn't exclude it in the tax computation.

JUSTICE MANAHAN:
So, even in the tax return of 2018, you again declared it?

MS. DELA ROSA:
Yes, your Honors.

JUSTICE MANAHAN:
I thought you only recognized it in the books for accounting purposes, but the tax return, you did not anymore include it. But what you did was you included it again?

MS. DELA ROSA:
Yes, that's why we paid double.

JUSTICE MANAHAN:
So, you declared it twice?

MS. DELA ROSA:
Yes, Ma'am.

JUSTICE MANAHAN:
So, that's the reason why you filed this income tax refund case?

MS. DELA ROSA:
Yes, Ma'am.

It bears reiterating that under the accrual method of accounting, income is recognized when earned. **Hence, the erroneous payment arose when SIPI included deferred subscription revenue as part of its revenues in its AITR for CY 2017 and paid the corresponding income taxes thereon, when in CY 2017, as admitted by SIPI, such income has not been earned.**

In *Melco Resorts Leisure (Php) Corporation v. Commissioner of Internal Revenue*,[64] the Supreme Court defined what constitutes erroneous or illegal tax as follows:

> We have defined an "erroneous or illegal tax" as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which in some other similar respect is illegal. In jurisprudence, We also held that **an erroneous payment of tax is when the taxpayer pays under a mistake of fact**, as when the taxpayer is not aware

[64] G.R. No. 271261, April 2, 2025.

> of an existing exemption in his or her favor at the time the payment was made. (Emphasis supplied)

It is clear from the foregoing that the **payment of income taxes is <u>erroneous</u> only in CY 2017**, when SIPI **paid income taxes** on deferred subscription revenue that had been collected but had **not yet been earned for that year.**

It is well-settled that Sections 204(C) and 229 of the Tax Code unequivocally require that both the administrative and judicial claims for refund be filed within two (2) years from the date of payment. Accordingly, the two (2)-year prescriptive period must be reckoned from the time SIPI paid its income taxes for CY 2017.

Records show that SIPI paid its income taxes for CY 2017 on April 6, 2018.[65] Thus, counting two (2) years therefrom, SIPI had until April 6, 2020 to file both its administrative and judicial claims for refund. However, Revenue Regulations No. 11-2020 extended the deadline for filing applications for credit or refund of erroneously paid taxes until June 14, 2020. Moreover, Supreme Court Administrative Circular No. 41-2020 expressly ordered the resumption of court operations on June 1, 2020.

Accordingly, SIPI had until **June 1, 2020** within which to file both its administrative and judicial claims for refund. Records show, however, that SIPI filed its administrative claim for refund only on April 8, 2021,[66] and thereafter filed its judicial claim for refund on May 24, 2021.[67] Plainly, both the administrative and judicial claims for refund were belatedly filed.

In *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*,[68] the Supreme Court underscored the importance of the timely filing of the claim for refund of erroneously paid taxes, thus:

> These provisions are clear: within two years from the date of payment of tax, the claimant must first file an administrative claim with the CIR before filing its judicial claim with the courts of law. Both claims must be filed within a two-year reglementary period. **Timeliness of the filing of the claim is mandatory and jurisdictional. The court cannot take cognizance of a**

---

[65] Exhibit "P-4," Docket (CTA Case No. 10537) – Vol. I, p. 115.
[66] Exhibit "P-7," Docket (CTA Case No. 10537) – Vol. II, p. 777.
[67] Docket (CTA Case No. 10537) – Vol. I, pp. 9 to 14.
[68] G.R. No. 209776, December 7, 2016.

> **judicial claim for refund filed either prematurely or out of time.** (Emphasis supplied)

Clearly, the timeliness of the filing of the administrative and judicial claims for refund is mandatory and jurisdictional. Having failed to timely file both its administrative and judicial claims for refund, the Court in Division did not acquire jurisdiction over the case. Consequently, the petition should have been dismissed.

Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law. Only a statute can confer jurisdiction on courts and administrative agencies.[69] When a case is filed with a court which has no jurisdiction over the action, the court shall motu proprio dismiss the case.[70]

WHEREFORE, premises considered, the Petition for Review filed by SIPI in CTA EB No. 2991 is **DENIED** for lack of merit and the Petition for Review filed by the CIR in CTA EB No. 2994 is **DISMISSED**. Accordingly, the Decision and Resolution, dated March 22, 2024 and August 13, 2024, respectively, in CTA Case No. 10537 are **REVERSED** and **SET ASIDE**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

---

[69] *Fernandez v. Fulgueras*, G.R. No. 178575, June 29, 2010.
[70] *City of Lapu-Lapu v. Philippine Economic Zone Authority*, G.R. No. 184203, November 26, 2014.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
With due respect, please see D.O.
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

With due respect, please see C.D.O.
CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SAS INSTITUTE (PHILIPPINES.), INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2991
(CTA Case No. 10537)

x---x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SAS INSTITUTE (PHILIPPINES.), INC
Respondent.

CTA EB No. 2994
(CTA Case No. 10537)

Present:

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

Promulgated:
MAR 04 2026 11:21

x---x

DISSENT

REYES-FAJARDO, ***J.*:**

The *ponencia* found that SAS Institute (Philippines) Inc. (SAS) used the accrual method of accounting in reporting its income. This method requires the recognition of income on the year it was earned, rather than the year it was received.[1] Following this method, SAS's income from deferred subscription payments should be reported in 2018, the year it was earned, rather than in 2017, the year it was received. SAS allegedly reported said income for both 2017 and 2018. For the *ponencia,* SAS's erroneous payment of Income Tax (IT) occurred in 2017; hence, the two (2)-year prescriptive period under Sections 204(C) and 229 of the 1997 National Internal Revenue Code (NIRC), as amended should have been reckoned from the filing of SAS's 2017 Annual Income Tax Return (AITR).

I disagree with the *ponencia's* reckoning of the two (2)-year prescriptive period from the filing of SAS's 2017 AITR. Consider:

First. The *ponencia's* finding would *ordinarily* be correct. Yet, what sets this case apart is a ***peculiar and significant*** fact, which leads to the commencement of the running of the two (2)-year prescriptive period from the filing of SAS's **2018** AITR.

To be precise, notwithstanding SAS's awareness that it employs accrual method of accounting, it was constrained[2] to report income on TY 2017 by directive of Revenue Memorandum Circular (RMC) No. 16-2013.[3] The pertinent portion of said RMC states that "[w]hen **cash deposits or advances are received by taxpayers** other than GPP covered by RMC [No.] 89-2012 from the Client/Customer, a corresponding Official Receipt shall be issued. **The amount received shall be booked as [i]ncome.** ..."[4]

With the BIR's order that cash deposits or advances received by taxpayers be booked as income in the year of receipt, SAS was under the impression that the alleged income derived from the deferred subscription payments were **correctly** reported in its 2017 AITR and **correctly** paid on said year; precisely, SAS was, in fact, seeking refund[5] of **excessively** and **erroneously** collected IT for TY 2018. For this reason, the two (2)-year prescriptive period under Section 204(C)

1 Revenue Audit Memorandum Order No. 1-2000.
SUBJECT: Updated Handbook on Audit Procedures and Techniques Volume I (Revision - Year 2000).
2 Exhibit "P-16," page 8. Docket (CTA Case No. 10537), p. 307.
3 SUBJECT: Clarifying the Tax Implications and Recording of Deposits/Advances for Expenses Received by Taxpayers not covered by Revenue Memorandum Circular No. 89-2012.
4 Boldfacing mine.
5 Prayer, Petition for Review. Docket (CTA Case No. 10537), p. 13.

and 229 of the NIRC, as amended, should be **counted** from the filing of its 2018 AITR. To hold otherwise would be to penalize the taxpayer in obeying the command of the taxing authority.

Second. The imposition of the accrual method in reporting SAS's income from deferred subscription payments for TY 2017 **undermines** SAS's choice to comply with RMC No. 16-2013. This is offensive to the law and jurisprudence.

In *Department of Finance v. Asia United Bank, et al. (AUB),*[6] the Supreme Court ruled that "[Section 43[7] of the NIRC, as amended,] provides the general rule for taxpayer's accounting periods and methods of accounting. **It unequivocally states that taxpayers are allowed to self-determine the most applicable accounting method.** The CIR may only prescribe an accounting method if any of the following conditions exist: (a) no accounting method has been employed by the taxpayer; or (b) while an accounting method has been employed, it does not clearly reflect the income of the taxpayer."[8]

SAS opted to follow RMC No. 16-2013 in reporting its income on deferred subscription payments for TY 2017. Adherence with such method was commanded and sanctioned by the BIR itself; hence, SAS cannot be faulted from reflecting said income based on RMC No. 16-2013. Consistent with Section 43 of the NIRC, as amended, and *AUB*, SAS's choice to observe RMC No. 16-2013 should be respected. Any attempt to undermine SAS's choice should be rejected.

Third. Out of ₱29,312,399.36 being claimed by SAS as refund or credit of 2018 IT, SAS satisfactorily established entitlement thereto, to the extent of ₱1,561,610.61.

---

6 G.R. Nos. 240163 & 240168-69, December 1, 2021.

7 **SEC. 43.** *General Rule.* - The taxable income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the Commissioner clearly reflects the income. If the taxpayer's annual accounting period is other than a fiscal year, as defined in Section 22(Q), or if the taxpayer has no annual accounting period, or does not keep books, or if the taxpayer is an individual, the taxable income shall be computed on the basis of the calendar year.

8 Boldfacing mine. Underscoring in the original.

ON THESE ACCOUNTS, I **VOTE** to **AFFIRM** the Decision dated March 22, 2024 and Resolution dated August 13, 2024, both rendered by the Court of Tax Appeals - First Division in CTA Case No. 10537.

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>EN BANC</u>

SAS INSTITUTE (PHILIPPINES) INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2991
(CTA Case No. 10537)

x-------------------------x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SAS INSTITUTE (PHILIPPINES) INC.,
Respondent.

CTA EB NO. 2994
(CTA Case No. 10537)

Present:

RINGPIS-LIBAN, *<u>P.J.</u>*,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *<u>JJ.</u>*

Promulgated:
MAR 04 2026 11:21am

x---x

CONCURRING AND DISSENTING OPINION

FERRER-FLORES, <u>J.</u>:

I concur with the Court *En Banc's* finding that the **Petition for Review** of the **Commissioner of Internal Revenue (CIR)** was belatedly filed.

With due respect to our esteemed colleague, Honorable Associate Justice Henry S. Angeles, I am, however, constrained to withhold my assent on the *ponencia* insofar as the belated filing of the administrative and judicial claims for refund is concerned.

Let me expound.

In the *ponencia*, the Court *En Banc* denied for lack of merit the *Petition for Review* filed by **SAS Institute (Philippines) Inc.** (**SIPI**) against the CIR appealing the Decision dated March 22, 2024 (assailed Decision)[1] and Resolution dated August 13, 2024 (assailed Resolution)[2] rendered by the Special First Division of this Court (Court in Division). Nevertheless, the assailed Decision and Resolution were still reversed and set aside on the ground that the administrative and judicial claims for refund were filed beyond the two-year reglementary period under Sections 204(C) and 229 of the National Internal Revenue Code (NIRC) of 1997, as amended.

For purposes of the two-year period reglementary period, the *ponencia* ascertained when the erroneous payment occurred. Applying the accrual basis of accounting, the method adopted by SIPI, the Court *En Banc* found that the deferred subscription revenue was properly recognized as income in calendar year (CY) 2018 and not in CY 2017 when the same was actually collected. Consequently, it was the erroneous reporting of the deferred subscription revenue in the CY 2017 Income Tax Return (ITR) which resulted in the double payment of income tax; thus, two-year period should be reckoned from the payment of CY 2017 income tax on **April 6, 2018**.

I respectfully disagree. It is my view that the erroneous payment of income tax was made in **CY 2018**; hence, the two-year period should be reckoned from the payment of the CY 2018 income tax on **April 12, 2019**.

Indeed, the general rule, as provided in Section 43 of the NIRC of 1997, as amended, is that taxable income shall be computed on the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer.

Nevertheless, as aptly pointed out by Honorable Justice Marian Ivy F. Reyes-Fajardo in her Dissenting Opinion, the Supreme Court, in *Department*

---

1 Penned by Associate Justice Marian Ivy F. Reyes-Fajardo with the concurrence of (Ret.) Presiding Justice Roman G. Del Rosario and (Ret.) Associate Justice Catherine T. Manahan; *Rollo*, pp. 32 to 51.

2 *Rollo*, pp. 53 to 61.

of Finance vs. Asia United Bank,[3] held that Section 43 of the NIRC of 1997, as amended, unequivocally states that taxpayers are allowed to self-determine the most applicable accounting method. Applying the same to the present case, in opting to follow Revenue Memorandum Circular (RMC) No. 16-2013, which requires the reporting of advance collections as income in the period when they are received, SIPI merely exercised the option to self-determine such accounting method of reporting its deferred subscription revenues in the period these are collected.

Furthermore, the practice of reporting advance collections in the period when they are received is likewise sanctioned under Section 44 of the NIRC of 1997, as amended, to wit:

> SECTION 44. *Period in which Items of Gross Income Included.* — The amount of **all items of gross income shall be included in the gross income for the taxable year in which <u>received</u> by the taxpayer**, unless, under methods of accounting permitted under Section 43, any such amounts are to be properly accounted for as of a different period. *(Boldfacing and underscoring supplied)*

In relation to the above, Section 51 of Revenue Regulations (RR) No. 2-40, or the Income Tax Regulations, also provides similarly:

> SECTION 51. *When income is to be reported.* — **Gains, profits, and income are to be included in the gross income for the taxable year in which <u>they are received by the taxpayer</u>**, unless they are included when they accrue to him in accordance with the approved method of accounting followed by him. *(Boldfacing and underscoring supplied)*

In fact, the Bureau of Internal Revenue (BIR) itself applies the above accounting method as can be observed in Revenue Audit Memorandum Order (RAMO) No. 1-2000,[4] where the following audit procedure was prescribed with regard to "Deferred Credits":

> O. Deferred Credits
>
> 1. Check all payments received as recorded in the cash receipts book, (i.e. date of receipt, source of collection, and other entries).
>
> 2. **Check if collections were included in the gross income <u>during the year when the payments were actually received</u>**. Amounts are generally includible in gross income for tax purposes not later than the time of receipt **if they are subject to free and unrestricted use by the taxpayer. Under this theory, collections,** advance rentals, legal retainer and the like, advance sales of transportations

---

[3] *Department of Finance vs. Asia United Bank*, G.R. Nos. 240163 & 240168-69, December 1, 2021.

[4] Updated Handbook on Audit Procedures and Techniques Volume I (Revision —Year 2000), March 17, 2000.

> tokens or communications tickets and **other advances are income when received.**
>
> 3. Look for credit balance of accounts which fall under deferred credits. They may be clearly labeled as advanced rentals, **deferred service income** or may be shown as a reserve account that is mixed with true liability accounts, or as a contra-balance in the receivables. *(Emphasis and underscoring supplied)*

The above audit procedure of checking for taxable advance collections has been consistently adopted by the BIR in the 1995 (i.e., RAMO No. 1-1995) and 2020 (RAMO No. 1-2020) versions of its audit manual.

In relation to the foregoing, Section 52 of RR No. 2-40 also provide for the same principle of subjecting receipts to tax in the year during which they are so credited or set apart, viz.:

> SECTION 52. *Income constructively received.* — **Income which is credited to the account of or set apart for a taxpayer and which may be drawn upon by him at any time is subject to tax for the year during which so credited or set apart**, although not then actually reduced to possession. **To constitute receipt in such a case the income must be credited to the taxpayer without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made.** xxx *(Emphasis supplied)*

In sum, for tax purposes, advance collections are considered part of gross income in the year when they are received, if they are subject to free and unrestricted use by the taxpayer.

The above practice can also be observed in several BIR Rulings, where the BIR consistently held that advance payments of rent, received without restriction as to its use, constitute as taxable income in the year when received and <u>such is true even though the lessor is on accrual or cash method of accounting.</u>[5]

Here, an examination of the sample Supplement to the Master Licensing Agreement reveals that SIPI granted a three-year **non-cancelable license** to its customer, Land Bank of the Philippines, the license fees of which are paid in three annual installments.[6] Based on the foregoing, the fees collected in advance on an annual basis under SIPI's non-cancelable licensing agreements are already free from any substantial restriction and available for SIPI's unrestricted use; thereby, the reporting of the proceeds as income in the

[5] BIR Ruling No. 011-69, October 3, 1969, BIR Ruling No. 259-91, December 3, 1991, BIR Ruling No. 3-00 dated January 5, 2000.

[6] Paragraphs 3.1 and 3.2, "Exhibit P-11", Docket — Vol. I, pp. 453 to 454.

year when these are collected is warranted. Accordingly, SIPI's advance collection of subscription revenue constitutes taxable income in CY 2017—the period when it received the same without any substantial restriction—regardless of its use of the accrual method of accounting.

Consistent with the above disquisitions, as explained by the Court-commissioned Independent Certified Public Accountant (ICPA) in her report, for tax purposes, advance collections ₱269,311,020.31 were already reported as taxable revenue in CY 2017 while the same amount was recorded as earned in CY 2018 for accounting purposes only. To avoid double taxation of the same amount, there should have been a corresponding reversal during CY 2018, which SIPI failed to consider in its CY 2018 ITR thereby resulting in the erroneous payment of tax on the same amount already subjected to income tax in CY 2017.[7]

In light of the foregoing, the Court in Division did not err in finding that the erroneous payment of income tax was made in CY 2018 and, thus, the two-year reglementary period should be reckoned from the payment of the CY 2018 income tax on April 12, 2019. Counting two years therefrom, SIPI had until **April 12, 2021** to file both its administrative and judicial claims for refund. The administrative claim was undoubtedly timely filed on April 8, 2021. As to the judicial claim, considering the Supreme Court issuances[8] on the physical closure of courts and eventual reopening and resumption of filing of pleadings on May 24, 2021, the *Petition for Review* was also timely filed on May 24, 2021. Coupled with its compliance of the remaining requisites for its entitlement to the claim for refund, the Court in Division properly granted the claim, albeit, partially.

ALL TOLD, I vote to **AFFIRM** the Decision dated March 22, 2024 and Resolution dated August 13, 2024 rendered by the Special First Division of this Court.

CORAZON G. FERRER-FLORES
Associate Justice

---

7 Exhibit "P-16" p. 6, Docket – Vol. 1, p. 306.
8 Supreme Court Administrative Circular (AC) No. 15-2021 dated April 3, 2021; AC No. 21-2021 dated April 10, 2021; AC No. 22-2021 dated April 14, 2021; AC No. 29-2021 dated April 30, 2021; AC No. 33-2021 dated May 14, 2021.