REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

FMC SWITZERLAND II GMBH, doing business under the name FMC SWITZERLAND II GMBH, MANILA ROHQ,	**CTA Case No. 10727**
Petitioner,	Members:
-versus-	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: APR 03 2025 11:52 a.m.

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DECISION

MANAHAN, *J.*:

This is a Petition for Review filed on February 2, 2022, praying that the Court render judgment ordering respondent to refund to petitioner the aggregate amount of ₱10,497,680.23, allegedly representing petitioner's excess and unutilized value-added tax (VAT) input taxes attributable to its VAT zero-rated sales for the period from April 1, 2019 to December 31, 2019.[1]

THE PARTIES

Petitioner is the regional operating headquarters in the Philippines of FMC Switzerland II GMBH, a foreign corporation duly registered and existing under the laws of Switzerland.[2] It was issued a License to Transact Business in the Philippines by the Securities and Exchange Commission (SEC) under Company Registration No. FS201735590 on October 20, 2017.[3] It is also registered with the Bureau of Internal Revenue (BIR), as a VAT taxpayer, under Taxpayer's Identification Number (TIN) 009-862-335-000, with address at 10/F Net Lima, The Net

[1] Prayer, Petition for Review, Docket – Vol. 1, p. 37.
[2] Exhibit "P-1", BIR Records (Exhibit "R-6"), pp. 1 to 19.
[3] Exhibit "P-2", BIR Records (Exhibit "R-6"), p. 45.

Metropolis, 5th Ave. cor. 26th St., Bonifacio Global City, Fort Bonifacio, Taguig City.[4]

Respondent Commissioner of Internal Revenue (CIR) is empowered to perform the duties of his office, including acting upon protests and approval of claims for refund or tax credit as provided by law and implementing regulations.[5]

THE FACTS

On June 30, 2021, petitioner filed before the BIR – VAT Credit Audit Division (VCAD), an administrative claim for VAT refund in the total amount of ₱10,497,680.23, representing the unutilized input taxes that are allocable and directly attributable to its VAT zero-rated transactions as declared in its Quarterly VAT Returns for the period April 1, 2019 to December 31, 2019.[6]

A Tax Verification Notice No. TVN 201800143186 dated June 30, 2021 was issued to petitioner, authorizing Revenue Officer (RO) Jonathan G. Simon to verify petitioner's supporting documents and/or pertinent records relative to the claim for VAT refund covering the taxable period April 1, 2019 to December 31, 2019.[7]

On October 20, 2021, petitioner received a letter from the BIR signed by Ms. Maria Luisa I. Belen, Assistant Commissioner – Assessment Service, denying its administrative claim for refund in the amount of ₱10,497,680.26.[8]

On February 2, 2022, petitioner filed the present Petition for Review.[9]

On May 4, 2022, respondent filed his Answer to the Petition for Review.[10]

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[4] Exhibit "P-3", BIR Records (Exhibit "R-6"), p. 51.
[5] Par. 1, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. 1, p. 310.
[6] Par. 2, JSFI, Docket – Vol. 1, p. 310. Refer also to Exhibits "P-21", "P-23", and "R-2", BIR Records (Exhibit "R-6"), pp. 434 to 435.
[7] Par. 3, JSFI, Docket – Vol. 1, pp. 310 to 311; and Exhibits "P-24" and "R-1", BIR Records (Exhibit "R-6"), p. 437.
[8] Par. 4, JSFI, Docket – Vol. 1, p. 311; and Exhibits "P-4" and "R-5", BIR Records (Exhibit "R-6"), pp. 548 to 549.
[9] Docket – Vol. 1, pp. 6 to 39.
[10] Docket – Vol. 1, pp. 208 to 218.

On July 25, 2022, respondent transmitted to this Court the BIR Records of this case, consisting of 551 pages in one (1) folder.[11]

The Pre-Trial Conference was set and held on July 28, 2022.[12] Prior thereto, petitioner's Pre-Trial Brief was filed on June 27, 2022,[13] while Respondent's Pre-Trial Brief was submitted on July 25, 2022.[14]

On August 16, 2022, the parties submitted their Joint Stipulation of Facts and Issues,[15] which was approved by the Court in its Resolution dated September 7, 2022,[16] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order was then issued on October 4, 2022.[17]

Trial then ensued, with the parties presenting and offering their respective testimonial and documentary evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Ms. Zhyra Mae I. Sabado,[18] petitioner's Finance and Accounting Lead; and (2) Ms. Elaine E. De Guzman,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

The Report of the ICPA was submitted on October 28, 2022.[21]

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[11] *Compliance* dated July 22, 2022, Docket – Vol. 1, pp. 261 to 263.
[12] Notice of Pre-Trial Conference dated May 12, 2022, Docket – Vol. 1, pp. 225 to 227; and Minutes of the hearing held on, and Order dated, July 28, 2022, Docket, pp. 271 to 273, and 275 to 277, respectively.
[13] Docket – Vol. 1, pp. 233 to 245.
[14] Docket – Vol. 1, pp. 265 to 269.
[15] Docket – Vol. 1, pp. 310 to 321.
[16] Docket – Vol. 1, p. 335.
[17] Docket – Vol. 1, pp. 348 to 360.
[18] Exhibit "P-25", Docket – Vol. 1, pp. 111 to 128, and 196 (Attestation); and Minutes of the hearing held on, and Order dated, August 31, 2022, Docket – Vol. 1, pp. 322 to 325 and 327 to 329, respectively.
[19] Exhibit "P-60", Docket – Vol 1, pp. 381 to 396, and 414 (Attestation); Minutes of the hearing held on, and Order dated, November 8, 2022, Docket – Vol. 1, pp. 417 to 419.
[20] *Oath of Commission* dated August 31, 2022, Docket – Vol.1, p. 326; and Minutes of the hearing held on, and Order dated, August 31, 2022, Docket – Vol. 1, pp. 322 to 325 and 327 to 329, respectively.
[21] Docket – Vol. 1, pp. 361 to 378 (original); and Exhibit "P-27", Docket – Vol. 1, pp. 397 to 413 (marked copy).

On November 25, 2022, petitioner filed its Formal Offer of Evidence,[22] to which respondent filed his Comment (to Petitioner's Formal Offer of Evidence) on December 5, 2022.[23] In the Resolution dated February 10, 2023,[24] the Court admitted petitioner's offered exhibits, except the following:

1. Exhibit "P-18", for failure to present the original for comparison;

2. Exhibit "P-20", for failure of the exhibit formally offered and identified to correspond with the document actually marked;

3. Exhibits "P-43.2", "P-43.6", "P-43.11", "P-43.13" and "P-43.17", for being written in an unofficial language not accompanied with a translation into English or Filipino, pursuant to Section 33, Rule 132 of the Rules of Court; and

4. Exhibits "P-49.2.74" to "P-49.2.75", for not being found in the records of the case.

On March 6, 2023, petitioner filed its Motion for Partial Reconsideration to the Resolution dated February 10, 2023 with Motion to Set Commissioner's Hearing.[25] Respondent failed to file its comment thereto.[26] In the Resolution dated May 23, 2023,[27] the Court granted petitioner's Motion to Set Commissioner's Hearing for the purpose of comparison and marking of Exhibits "P-43.2", "P-43.6", "P-43.11", "P-43.13" and "P-43.17", while holding in abeyance the resolution of the said Motion for Partial Reconsideration. However, it is noted that no additional documents were marked for the petitioner during the scheduled commissioner's hearing.[28]

For his part, respondent offered the testimony of RO Jonathan G. Simon.[29]

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[22] Docket – Vol. 1, pp. 422 to 434.
[23] Docket – Vol. 1, pp. 466 to 468.
[24] Docket – Vol. 1, pp. 473 to 475.
[25] Docket – Vol. 2, pp. 505 to 507.
[26] Records Verification dated March 20, 2023 issued by this Court's Judicial Records Division, Docket – Vol. 2, p. 510.
[27] Docket – Vol. 2, pp. 515 to 516.
[28] Minute Resolution dated August 30, 2023, Docket – Vol. 2, p. 529.
[29] Exhibit "R-7", Docket – Vol. 1, pp. 253 to 259; and Minutes of the hearing held on, and Order dated, February 28, 2023, Docket – Vol. 2, pp. 498 to 502.

On August 17, 2023, respondent filed his Formal Offer of Evidence,[30] to which petitioner filed its Comment/Opposition (To the Respondent's Formal Offer of Evidence) on August 22, 2023.[31]

In the Resolution dated October 13, 2023,[32] the Court admitted all of respondent's exhibits; and partially granted petitioner's Motion for Partial Reconsideration to the Resolution dated February 10, 2023. The Court admitted Exhibits "P-49.2.74 to "P-49.2.75", but still denied Exhibits "P-43.2", "P-43.6", "P-43.11", "P-43.13" and "P-43.17", for being written in an unofficial language not accompanied with a translation into English or Filipino, pursuant to Section 33, Rule 132 of the Rules of Court.

On November 14, 2023, petitioner filed its Motion to Admit Documentary Exhibits,[33] to which respondent filed his Manifestation (in lieu of Comment) on December 11, 2023.[34] In the Resolution dated February 15, 2024,[35] the Court admitted Exhibits "P-43.2", "P-43.11", "P-43.13" and "P-43.17", but still denied the admission of Exhibit "P-43.6".

In the meantime, petitioner filed its Memorandum on November 21, 2023.[36] On the other hand, respondent filed his Manifestation on March 25, 2024,[37] stating that he is adopting the arguments he raised in his Answer as his Memorandum.

The case was submitted for decision on April 12, 2024.[38]

THE ISSUE

The parties stipulated the following issue for this Court's resolution, to wit:

> "WHETHER OR NOT PETITIONER IS ENTITLED FOR TAX REFUND ON THE EXCESS AND UNUTILIZED

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[30] Docket – Vol. 2, pp. 521 to 524.
[31] Docket – Vol. 2, pp. 526 to 527.
[32] Docket – Vol. 2, pp. 532 to 534.
[33] Docket – Vol. 2, pp. 537 to 539.
[34] Docket – Vol. 2, pp. 579 to 581.
[35] Docket – Vol. 2, pp. 586 to 589.
[36] Docket – Vol. 2, pp. 541 to 573.
[37] Docket – Vol. 2, pp. 590 to 592.
[38] Minute Resolution dated April 12, 2024, Docket – Vol. 2, p. 594.

> INPUT VALUE ADDED TAX (VAT) DIRECTLY ATTRIBUTABLE AND ALLOCABLE TO ITS VAT ZERO RATED SALES FOR THE PERIOD FROM APRIL 1, 2019 TO DECEMBER 31, 2019 (2ND TO 4TH QUARTERS OF CALENDAR YEAR 2019) AMOUNTING TO P10,497,680.26."[39]

Petitioner's arguments:

Petitioner argues that its claim for tax refund of its excess input VAT should be granted because all the elements provided in Section 108 (B)(2) of the 1997 National Internal Revenue Code (NIRC), as amended, are present, to wit:

1) The recipient of its services is a foreign corporation and that said foreign corporation is doing business outside the Philippines, or is a non-resident person not engaged in business who is outside the Philippines when the services were performed;

2) The payment for such services should be in acceptable foreign currency accounted for in accordance with the rules of the *Bangko Sentral ng Pilipinas* (BSP); and

3) The services fall under any of the categories provided in Section 108 (B)(2) of the 1997 NIRC, as amended, which is quoted hereafter:

> "Section 108. *Transactions Subject to Zero Percent (0%) Rate* – The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate-
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> (2) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate;
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> xxx xxx xxx"

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[39] Par. B, JSFI, Docket – Vol. 1, p. 311. It must be noted, however, that the amount stated in the *Petition for Review* (Prayer) and Par. IV, Pre-Trial Order dated October 4, 2022 is ₱10,497,680.23, Docket – Vol. 1, pp. 37 and 354, respectively.

Petitioner claims that it was able to satisfy all the above elements in claiming excess input VAT by submitting to the BIR, the necessary documents such as the relevant official receipts, sales invoices and other documents to prove its claim.

Respondent's counter-arguments:

In his Answer, respondent contends that the Petition for Review must be dismissed for failure of petitioner to substantiate its administrative claim for refund which is the reason for its denial in the administrative level.

Respondent asserts that since the administrative claim for refund was denied, the role of the Court in this judicial appeal is confined to evaluating whether the findings of respondent are consistent with law and whether the denial was proper given the evidence submitted at the administrative level. According to respondent, since a decision has already been made by respondent on the claim for refund, petitioner can no longer submit documents to the Court that it did not submit in the administrative level.

Citing the oft-repeated doctrine that tax refunds are strictly construed against the taxpayer, respondent avers that the taxpayer/claimant should submit every single document that will prove its entitlement to its claim and that petitioner failed to submit documents to sufficiently prove its claim for refund.

THE RULING OF THE COURT

This Court shall first determine whether it has jurisdiction to entertain the present appeal.

To obviate the possibility that its decision may be rendered void, the Court can, by its own initiative, raise the question of jurisdiction, although not raised by the parties. As a corollary thereto, to inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings. Therefore, even if there was no jurisdictional issue raised by any party, the

Court may look into it at any time during the proceedings, even during appeal.[40]

To be sure, the matter of jurisdiction may be ruled upon regardless of the stage of the proceedings, considering that a judgment rendered without jurisdiction is null and void, and a void judgment cannot be the source of any right whatsoever.[41]

Jurisdiction is defined as the power and authority of a court to hear, try, and decide a case. In order for the court or an adjudicative body to have authority to dispose of the case on the merits, it must acquire, among others, jurisdiction over the subject matter. It is axiomatic that jurisdiction over the subject matter is the power to hear and determine the general class to which the proceedings in question belong; it is conferred by law and not by the consent or acquiescence of any or all of the parties or by erroneous belief of the court that it exists. Thus, when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action.[42]

Sections 7(a)(1) and (2), and 11 of Republic Act (RA) No. 1125,[43] as amended by RA No. 9282,[44] confers jurisdiction to this Court relative to decisions and inactions of respondent, and states the manner of appealing the same, to wit:

> "SEC. 7. *Jurisdiction.* – **The CTA shall exercise**:
>
> (a) **Exclusive appellate jurisdiction to review by appeal, as herein provided**:
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> (1) Decisions of 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

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[40] Refer to *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 185969, November 19, 2014.

[41] Refer to *El Greco Ship Manning and Management Corporation vs. Commissioner of Customs*, G.R. No. 177188, December 4, 2008.

[42] *Mitsubishi Motors Philippines Corporation vs. Bureau of Customs*, G.R. No. 209830, June 17, 2015.

[43] AN ACT CREATING THE COURT OF TAX APPEALS.

[44] 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.

> Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;
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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 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**;" *(Emphases and underscoring added)*
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> "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**." *(Emphasis and underscoring added)*

Based on the foregoing provisions, this Court has appellate jurisdiction over decisions, rulings or inactions of respondent. The appeal must be filed within thirty (30) days from receipt of such decision or ruling, or after the expiration of the period fixed by law for action.

Anent decisions of respondent and the period fixed by law for action for claims of refund for creditable input taxes, Section 112(C) of the 1997 NIRC, as amended, by RA No. 10963[45], provides as follows:

> "SEC. 112. *Refunds or Tax Credits of Input Tax.* –
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> (A) *Zero-Rated or Effectively Zero-Rated Sales.* — Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid

[45] 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 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

> attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Sections 106(A)(2)(a)(1), (2) and (b) and Sections 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods of properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales: *Provided, finally,* That for a person making sales that are zero-rated under Section 108(B)(6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
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> xxx xxx 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.
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> **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."

The law vests the power to decide the applications of refund for creditable input taxes to respondent, and that the latter has ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application.[46] In other words, Section 112(C) of the 1997

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[46] Refer to *Energy Development Corporation vs. Commissioner of Internal Revenue,* G.R. No. 203367, March 17, 2021.

NIRC, as amended, by RA No. 10963, has fixed a period of action on the part of respondent, the expiration of which shall already be deemed a denial of the refund claim, pursuant to Sections 7(a)(1) and (2), and 11 of RA No. 1125, as amended by RA No. 9282.

Thus, based on the foregoing provisions, a VAT-registered taxpayer claiming a refund or tax credit of excess and unutilized input VAT must file: (1) an administrative claim within two (2) years from the close of the taxable quarter when the sales were made; and (2) a judicial claim within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application for refund.

The present claim covers the taxable period from April 1, 2019 to December 31, 2019. Counting two (2) years from the close of the subject taxable quarters, petitioner had until the following dates to file its administrative claim:

Period Covered	**Close of the Taxable Quarter**	**Last Day to File Administrative Claim**
1st Quarter (April 1 to June 30, 2019)	June 30, 2019	June 30, 2021
2nd Quarter (July 1 to September 30, 2019)	September 30, 2019	September 30, 2021
3rd Quarter (October 1 to December 31, 2019)	December 31, 2019	December 31, 2021

Hence, petitioner timely filed its administrative claim for VAT refund in the amount of ₱10,497,680.23, for the period April 1, 2019 to December 31, 2019, with the BIR's VCAD on June 30, 2021.[47]

Anent the judicial claim, the same must have been filed within thirty (30) days from receipt of respondent's decision or after the expiration of the ninety (90)-day period, in case of inaction within the same period. Clearly, the thirty (30)-day

[47] Par. 2, JSFI, Docket – Vol. 1, p. 310; and Exhibits "P-21", "P-23" and 'R-2", BIR Records (Exhibit "R-6"), pp. 434 to 435.

statutory period within which to file a petition for review is jurisdictional. Non-compliance bars this Court from taking cognizance of the appeal and determining the veracity of the tax refund or credit claim.[48]

Correspondingly, from the filing of petitioner's administrative claim on June 30, 2021, respondent had ninety (90) days or until **September 28, 2021**, to act on the said claim. However, respondent issued Revenue Memorandum Circular (RMC) No. 101-2021 dated September 17, 2021[49] in relation to Revenue Regulations (RR) No. 27-2020,[50] which suspended the ninety (90)-day period of processing of all VAT refund claims pending with VCAD during temporary closure until October 3, 2021. In this regard, the period from September 17, 2021 to October 3, 2021 shall be excluded from the counting of the ninety (90)-day period for the processing of the refund claim. Thus, respondent still had twelve (12) days reckoned from October 4, 2021 or until October 15, 2021 to act on the refund claim. Considering that respondent only issued its denial letter on October 20, 2021,[51] there is an obvious inaction on the part of respondent to act on petitioner's administrative claim within the said ninety (90)-day period.

Such being the case, petitioner should have appealed the said inaction, which is already deemed as a denial of its refund claim, within a period of thirty (30) days from October 15, 2021, or until November 15, 2021.[52]

Notably, the Supreme Court (SC) issued the following administrative circulars ordering the physical closure of courts and suspending the time for filing of petitions and appeals, complaints, motions, pleadings, and court submissions in the National Capital Judicial Region and nearby provinces due to the surge of Covid-19 cases from September 16, 2021 and shall

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[48] *CE Casecnan Water and Energy Company vs. Commissioner of Internal Revenue*, G.R. No. 203928, July 22, 2015.

[49] Extension of the Deadline for the Filing of Applications and Suspension of the Ninety (90) Day Processing of Value Added Tax (VAT) Refund Claims Pursuant to Section 112 of the Tax Code of 1997, As Amended by the R.A. No. 10963 (TRAIN Law) with the VAT Credit Audit Division (VCAD).

[50] Regulations Suspending the Filing and Ninety (90) - Day Processing of Value-Added Tax (VAT) Refund Claims Anchored Under Section 112 of the Tax Code of 1997, as Amended, in Relation to Section 4(tt) of Republic Act (R.A) No. 11494, Otherwise Known as the "Bayanihan to Recover as One Act".

[51] Par. 4, JSFI, Docket – Vol. 1, p. 311; and Exhibits "P-4" and "R-5", BIR Records (Exhibit "R-6"), pp. 548 to 549.

[52] November 14, 2021 (30th day) fell on a Sunday.

resume seven (7) days from October 20, 2021 or on October 27, 2021, *viz.*:

Administrative Circular (AC) No.	**Date Issued**	**Subject Matter/Content**
AC No. 72-2021	September 15, 2021	**Re: Court Operations Beginning 16 September 2021** "The time for filing and service of pleadings and motions during this period **REMAINS SUSPENDED** and shall resume after seven (7) calendar days counted from the first day of the physical reopening of the relevant court, unless otherwise expressly ordered by the relevant court which shall consider the physical closure of the courts and the granular lockdowns in the different areas."
AC No. 75-2021	October 1, 2021	**Re: Court Operations Beginning 4 October 2021** "The time for filing and service of pleadings and motions during this period shall **REMAIN SUSPENDED** until further notice."
AC No. 83-2021	October 18, 2021	**Re: Court Operations Beginning October 20, 2021 Until October 29, 2021** "The suspension of the time for filing ang service of pleadings and motions, regardless of the alert level or community quarantine, is LIFTED. **<u>Pursuant to Administrative Circular No. 72-2021</u>**, the period for filing and service shall resume seven (7) calendar days from October 20, 2021. xxx"
AC No. 85-2021	October 27, 2021	**Re: Court Operations From November 2 Until November 5, 2021** "To reiterate as stated in Administrative Circular No. 83-2021 dated October 18, 2021, the period for filing and service of pleadings and motions shall resume seven (7) seven calendar days from October 20, 2021."

Based on the foregoing, the thirty (30)-day reglementary period to file an appeal on respondent's inaction before this Court was suspended from September 16, 2021 and resumed seven (7) days from October 20, 2021 or on October 27, 2021. Particularly, the counting of thirty (30) days within which to appeal the claim for refund, which was deemed denied by virtue of respondent's inaction within the said period of ninety (90) days, was reckoned from October 27, 2021 or until November 26, 2021. Since the present judicial claim was filed only on February 2, 2022,[53] this Court has no more jurisdiction to take cognizance of the present case. As a corollary, petitioner's failure to file within the said thirty (30)-day period rendered the "deemed a denial" decision of respondent, final and unappealable.

Pertinently, this Court's Charter expressly provides that when respondent fails to take action on the administrative claim, the "inaction shall be deemed a denial" of the application for tax refund or credit. The taxpayer-claimant must strictly comply with the mandatory period by filing an appeal with this Court within thirty (30) days from such inaction, otherwise, the court cannot validly acquire jurisdiction over it.[54]

Moreover, it must be pointed out that the failure to perfect an appeal within the prescribed period is not a mere technicality but jurisdictional.[55] Moreover, the right to appeal is unavoidably forfeited by the litigant who does not comply with the manner thus prescribed.[56] In other words, the right to appeal is not a natural right or a part of due process, but is merely a statutory privilege that may be exercised only in the manner prescribed by law.[57]

To reiterate, if the court has no jurisdiction over the nature of an action, its only jurisdiction is to dismiss the case. The court could not decide the case on the merits.[58]

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[53] Docket – Vol. 1, pp. 6 to 39.
[54] *Nippon Express (Philippines) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.
[55] *Ruiz vs. delos Santos*, G.R. No. 166386, January 27, 2009.
[56] *Bejarasco, Jr. vs. People*, G.R. No. 159781, February 2, 2011.
[57] *Cadena vs. Civil Service Commission*, G.R. No. 191412, January 17, 2012.
[58] *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.

WHEREFORE, premises considered, the present Petition for Review is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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's Division.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice