REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

MANULIFE DATA SERVICES, INC.,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2850
(CTA Case No. 10138)

Present:

Del Rosario, *P.J.*,
Ringpis-Liban,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:
FEB 26 2025 4:45

x---x

DECISION

RINGPIS-LIBAN, *J.*:

This is a Petition for Review[1] filed on January 17, 2024 under Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), challenging the Decision[2] dated August 10, 2023 ("Assailed Decision") and the Resolution[3] dated December 11, 2023 ("Assailed Resolution") both promulgated by the Court of Tax Appeals – Second Division (Court in Division) in CTA Case No. 10138.

The respective dispositive portions of the Assailed Decision and Assailed Resolution are quoted hereunder:

---

[1] Court *En Banc* Docket, pp. 7-17.
[2] *Id.*, pp. 27-39.
[3] *Id.*, pp. 41-46.

Assailed Decision:

> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**"

Assailed Resolution:

> "**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (Decision dated August 10, 2023)* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

As briefly narrated by the Court in Division in the Assailed Decision, the undisputed facts of the case are as follows:[4]

> "On March 29, 2019, petitioner, through counsel, filed with respondent, through the BIR Regular LT-Audit Division III, an administrative application for refund/tax credit of its excess and unutilized input VAT for the whole period of calendar year ('CY') 2017, together with its supporting documents in accordance with Annex 'A' of Revenue Memorandum Circular ('RMC') No. 17-2018.
>
> Subsequently, on May 29, 2019, respondent served on petitioner, not on its counsel, a letter informing it that its claim for refund has been denied.
>
> THE PROCEEDINGS BEFORE THE COURT
>
> The present Petition of Review was filed on July 26, 2019.
>
> On December 5, 2019, respondent filed a Motion for Extension of Time to File Answer, which the Court granted in a Resolution dated December 10, 2019. Respondent filed his Answer (to the Petition for Review dated 15 April 2019) on January 4, 2020.
>
> Respondent transmitted the BIR Records for this case on February 6, 2020.
>
> The Pre-Trial Conference was set on March 31, 2020, but was reset to and held on September 3, 2020. Prior thereto,

---
[4] *Id.*, pp. 28-29.

petitioner filed its Pre-Trial Brief on March 12, 2020, while Respondent's Pre-Trial Brief was submitted on June 9, 2020.

On September 22, 2020, the parties filed their Joint Stipulation of Facts and Issues, which the Court admitted and approved in its Resolution dated October 13, 2020, thereby deeming the termination of the pre-trial. The Pre-Trial Order, dated November 18, 2020, was then issued.

Trial ensued."

On August 10, 2023, the Court in Division rendered the Assailed Decision.

On August 30, 2023, petitioner filed its *Motion for Reconsideration (Decision dated August 10, 2023)* which the Court in Division denied in the Assailed Resolution.

Aggrieved, petitioner filed the present Petition for Review on January 17, 2024 within the extended period granted by the Court *En Banc*.[5]

In a Minute Resolution dated January 24, 2024,[6] the Court *En Banc* directed the respondent to file his Comment within ten (10) days from notice.

Respondent failed to file the required Comment as per the Records Verification Report submitted by this Court's Judicial Records Division dated March 4, 2024.[7]

In a Minute Resolution dated March 14, 2024,[8] the Court *En Banc* submitted the present Petition for Review for decision.

THE ISSUE

In its Petition for Review, petitioner raised the following sole issue:[9]

"Whether notice to petitioner, and not petitioner's counsel, of the respondent's denial of petitioner's administrative application for a tax refund commenced the period to appeal under the National Internal Revenue Code, Section 112."

---

[5] Minute Resolution dated January 4, 2024, Court *En Banc* Docket, p. 6.
[6] *Id*, p. 92.
[7] *Id.*, p. 93.
[8] *Id.*, p. 94.
[9] *Id.* p. 10.

PETITIONER'S ARGUMENTS

In the present Petition for Review, petitioner insists on the applicability of the "counsel-service" rule to the present case and that the service of the denial-letter to itself must be deemed a "nullity" for purposes of determining compliance with the reglementary period as provided under Section 112(C) of the National Internal Revenue Code of 1997, as amended in relation to Section 11 of of Republic Act (RA) No. 1125, as amended. In support of its position, petitioner invokes the following:

1. Section 14, Chapter 3, Book VII of the Administrative Code, where it purportedly requires in administrative adjudication, among others, that "the parties shall be notified of the decision personally or by registered mail addressed to their counsel of record, if any, **or to them."**

2. The cases of *Samalio v. Court of Appeals*,[10] *Social Security System v. Commission on Audit*,[11] and *Soriano v. Soriano*[12] where the Supreme Court purportedly held that the counsel-service rule is deemed applicable to administrative proceedings. Petitioner further points out that the underlying rationale of the counsel-service rule is to make sure that the party being served is duly informed so that it can take steps to protect its interest, *i.e.*, to enable the party to file an appeal or apply for other appropriate relief before the decision becomes final. Petitioner maintains that such rationale applies to this case.

3. Revenue Memorandum Circular (RMC) No. 17-2018 does not provide for the inapplicability of the Rules of Court in terms of notice. Petitioner also signifies that the same revenue issuance required the appointment of an agent under a special power of attorney. Petitioner thus postulates that by promulgating such requirement, respondent had announced that tax refund claims are fitting subjects for specially empowered agents and, by communicating the denial to the principal (and not the agent), respondent has acted inconsistently with his own regulation.

THE COURT *EN BANC*'S RULING

After thorough evaluation of the factual antecedents of the present case, the arguments presented, as well as the relevant laws and jurisprudence on the matter, the Court *En Banc* finds that the present Petition for Review must be denied for lack of merit. There is no compelling reason to disturb the Court in Division's ruling in the Assailed Decision and Resolution. Petitioner's arguments

---

[10] G.R. No. 140079, March 31, 2005.
[11] G.R. No. 222217, July 27, 2021.
[12] G.R. No. 130348, September 3, 2007.

are mere restatements of those that were duly raised and passed upon by the Court in Division both in the Assailed Decision and Resolution.

The rule that notice or service made upon a party who is represented by counsel is a nullity, being based on a mere procedural rule, cannot prevail over the express mandate of substantive laws. Section 112(C) of the 1997 NIRC expressly provides that the taxpayer affected may appeal the denial of the claim within 30 days from the receipt of the decision while Section 11 of RA 1125, as amended plainly states that any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue may file an appeal before this Court within 30 days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action. The legal duty is imposed upon the taxpayer itself and not to its counsel.

The elucidations provided by the Court in Division in its Assailed Decision and Resolution on this matter are very clear, and we quote:

> "As plainly worded, the term 'service' under Section 2, Rule 13 of the Rules of Court refers explicitly to pleadings or other court submissions. As a corollary, it bears stressing that the proceeding involved in the present case is administrative in nature, involving the BIR, an administrative body.
>
> Relative thereto, it must be emphasized that administrative bodies are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to observance of fundamental and essential requirements of due process in justiciable cases presented before them. In administrative proceedings, technical rules of procedure and evidence are not strictly applied, and administrative due process cannot be fully equated with due process in its judicial sense. Moreover, technical rules applicable to judicial proceedings are not exact replicas of those of administrative investigations. Correspondingly, Section 2, Rule 13 of the Rules of Court cannot be made to apply to the service of decisions denying refund claims under Section 112 of the NIRC of 1997, as amended.
>
> Petitioner's claim that the service of the denial letter is ineffectual because it was served directly to it rather than to its authorized representative is baseless. Petitioner failed to show any provision of law or rule that when a taxpayer has appointed a tax agent or counsel, service of BIR notices or any other communication must be made only to the latter, and the periods to act or respond to BIR decisions or communications, should be reckoned only from the latter's receipt of such decision or communication.
>
> Moreover, the Court finds the following allegation of petitioner as specious, to wit:

> '19. The petitioner appointed the firm because of the complexities of the tax-refund process and timelines. In bypassing the firm, the BIR effectively deprived the petitioner of the benefits of counsel.'

As the Court sees it, this case involves plain negligence on the part of petitioner. Upon its receipt, petitioner could have simply and immediately furnished the BIR's letter to its counsel informing it that its refund/tax credit claim has been denied. There is nothing complex in handing over or forwarding the denial letter to its counsel as soon as it receives the same for the latter to act on it. After all, as the taxpayer affected, petitioner cannot claim ignorance of the 30-day prescriptive period of appeal under Section 112 (C) of the NIRC of 1997, as amended, since that cannot be considered an excuse in observing the same. By not immediately furnishing its counsel, petitioner is clearly at fault. It is also noted that petitioner offered no explanation or reason in failing to immediately furnish its counsel with the denial letter after receipt thereof. Thus, if indeed petitioner was deprived of the benefits of counsel, it was not the BIR's fault. Instead, petitioner's inept inaction or lack of assiduousness is why the present Petition for Review was not filed on time.

It has long been settled that the thirty (30)-day period prescribed by Section 11 of RA No. 1125, as amended, within which a party adversely affected by a decision of respondent should file his appeal with this Court, is a jurisdictional requirement, and the failure of a taxpayer to lodge his or her appeal within the prescribed period bars his or her appeal and renders the questioned decision final and executory.

Indeed, Section 112 (C) of the NIRC of 1997, as amended, and Section 11 of RA No. 1125, as amended, clearly provide that the appeal to the CTA must be filed by the taxpayer affected or party adversely affected within 30 days from receipt of such decision or ruling.

It is fundamental that where the law is clear and free from ambiguity, 'there is no room for interpretation or construction. There is only room for application.' When the provisions of law are clear, plain, and free from ambiguity, they must be given their literal meaning and applied without any interpretation.

Correspondingly, given petitioner's failure to appeal respondent's denial of its administrative claim within the prescribed period, this Court is bereft of jurisdiction to entertain the present Petition for Review." *(Citations omitted)*

xxx xxx xxx

Service to petitioner itself is valid, even though petitioner appointed a counsel. Accordingly, the 30-day period to file a Petition for Review before the Court is counted from its receipt of the letter informing it that its claim for refund has been denied.

First, as stated in the assailed *Decision*, Section 2 of Rule 13 of the Rules of Court governs judicial proceedings and finds no applicability in administrative proceedings before the Bureau of Internal Revenue (BIR).

Second, the *Heirs of Mendoza* and the *Soriano* cases are thus inapplicable. Said cases involve a judicial proceeding, particularly before the Municipal Trial Court in Cities and the Regional Trial Court.

Third, the SSS case is likewise inapplicable. In noting that the decision of the Regional Director of the Commission of Audit (COA-RD) should be received by the counsel and not of petitioner itself, the Supreme Court discussed:

> Respondent's contention that Section 7, Rule IV of the COA Rules is the applicable rule in the service of the COA-RD Decision to petitioner rather than Section 2, Rule 13 of the Rules of Court, is not well taken. Rule IV is entitled 'Proceedings before the Auditor.' As such, the provision on service of copies of orders or decisions pertains to those issued by the Auditor and not by the COA Regional Director. This is evident from Section 6 thereof which clearly refers to 'ND, NC, NS or other order or decision of the Auditor.' **Considering that Rule V of the COA Rules, which governs proceedings before the Regional Director, does not specifically provide for the procedure by which a decision of the Regional Director shall be served on a party who is represented by counsel, the Rules of Court will apply**. *[Emphasis and underscoring supplied.]*

Accordingly, it is only in the absence of a rule pertaining to the receipt of decisions that the Rules of Court will find suppletory applicability. It is to be noted that the NIRC of 1997, as amended, and pertinent BIR regulations provide rules regarding the receipt of decisions.

Primarily, Section 112 (C) of the NIRC of 1997, as amended, provides:

> SEC. 112. Refunds or Tax Credits of Input Tax. —
>
> ... ...
>
> (C) Period within which Refund or Tax Credit of Input Taxes shall be Made. — In proper cases, the Commissioner shall grant a refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Subsections (A) and (B) hereof: Provided, That should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

> **In case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals**: Provided, however, That failure on the part of any official, agent, or employee of the BIR to act on the application within ninety (90) days period shall be punishable under Section 269 of this Code. *[Emphasis and underscoring supplied.]*

The phraseology of Section 112 (C) provides that the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the CTA. While the indirect object of the verb 'receipt' is not explicitly stated, the reasonable interpretation would be to pertain to the subject of the sentence, *i.e.*, the taxpayer as the party who is, as a general rule, entitled to receive the decision.

Even without resorting to ordinary rules of grammar, Item 1.18 of Revenue Memorandum Order (RMO) No. 23-2023 merely speaks of communication to the taxpayer-claimant, *viz.*:

> The result of the verification of the claim, whether approval or denial, **shall be communicated to the taxpayer-claimant**, which shall be signed by the authorized revenue official and shall be served by the originating processing office. *[Emphasis and underscoring supplied.]*

The same is echoed by Item II.10 of RMO No. 47-2020 and Item II.B (12) of RMO No. 25-2019, the latter being the applicable RMO when petitioner received the decision.

Thus, unlike in the *SSS case* where the COA Rules are silent, the NIRC of 1997, as amended, and the RMOs are explicit that the decision is to be communicated to the taxpayer-claimant who, in this case, is petitioner.

Fourth, We find no merit in petitioner's argumentation that the SPA requirement would be rendered a mere surplusage. It must be underscored that the execution of a SPA under Article 1878 of the Civil Code is a contract of agency. By the contract of agency, a person binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter. There is a rationale in the contract of agency, which flows from the 'doctrine of representation,' that notice to the agent is notice to the principal. However, nowhere in jurisprudence does it provide that a lack of notice to the agent is a lack of notice to the principal when the principal has had actual notice. Precisely, the purpose of the agency is to *extend* the personality of the principal through the facility of the agent. It does not operate to *divest* the principal entirely of personality to transact, or in this case, to divest petitioner of personality to receive notices from respondent." *(Citations omitted)*

WHEREFORE, the present Petition for Review is **DENIED** for lack of merit.

SO ORDERED.

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice