**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***EN BANC***

**PMFTC, INC.,**
*Petitioner,*

**CTA EB NO. 2613**
(CTA Case No. 10110)

Present:

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

*- versus -*

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

Promulgated:
MAY 18 2023 3:44pm

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

# DECISION

**RINGPIS-LIBAN, *J.:***

This is a Petition for Review[1] filed on May 26, 2022 under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking the reconsideration, reversal, and setting aside of the Decision,[2] dated November 25, 2021 ("Assailed Decision") and the Resolution[3] dated April 21, 2022 ("Assailed Resolution"), both promulgated by the Court of Tax Appeals Second Division (Court in Division).

---

[1] Court *En Banc* Docket, pp.7-37.
[2] *Id.*, pp. 43-66.
[3] *Id.*, pp. 68-73.

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

**Assailed Decision:**

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

**Assailed Resolution:**

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

## THE FACTS

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

> "On December 20, 2012, President Benigno S. Aquino III signed Republic Act (RA) No. 10351, otherwise known as the Sin Tax Reform Law. RA No. 10351 restructured the excise tax on alcohol and tobacco products by amending pertinent provisions of RA No. 8424, known as the Tax Reform Act of 1997 or the National Internal Revenue Code (NIRC) of 1997.
>
> Section 5 of RA No. 10351, which amended Section 145(C) of the NIRC of 1997, increased the excise tax rate of cigars and cigarettes and allowed cigarettes packed by machine to be packed in other packaging combinations of not more than 20.
>
> On December 21, 2012, the Secretary of Finance (SOF), upon recommendation of respondent, issued Revenue Regulations (RR) No. 17-2012. Section 11 thereof imposes an excise tax on individual cigarette pouches of 5's and 10's even if they are bundled or packed in packaging combinations not exceeding 20 cigarettes.

[4] *Id.*, pp. 44-49.

Pursuant to Section 11 of RR No. 17-2012, respondent issued Revenue Memorandum Circular (RMC) No. 90-2012 dated December 27, 2012. Annex 'D-1' of RMC No. 90-2012 provides for the initial classifications in tabular form, effective January 1, 2013, of locally-manufactured cigarette brands packed by machine according to the tax rates prescribed under RA No. 10351 based on the (1) 2010 BIR price survey of these products, and (2) suggested net retail price declared in the latest sworn statement filed by the local manufacturer or importer.

On January 16, 2013, prior to the payment of excise tax on its cigarette packs of 10's, petitioner wrote the BIR stating that the payment was being made under protest and without prejudice to its right to question the issuances through remedies available under the law.

Petitioner then paid excise taxes on the 20's cigarette packs and 2x10's cigarette packaging combinations from February 20, 2014 until December 17, 2015.

On February 26, 2013, PTI filed a petition for declaratory relief with an application for writ of preliminary injunction with the Regional Trial Court (RTC). PTI sought to have RR No. 17-2012 and RMC No. 90-2012 declared null and void for allegedly violating the Constitution and imposing tax rates not authorized by RA No. 10351. PTI stated that the excise tax rate of either ₱12 or ₱25 under RA No. 10351 should be imposed only on cigarettes packed by machine in packs of 20's or packaging combinations of 20's and should not be imposed on cigarette pouches of 5's and 10's.

In the Decision dated October 7, 2013, the RTC granted the petition for declaratory relief. The dispositive portion of the Decision states:

> 'WHEREFORE, premised on the foregoing, the Petition for Declaratory Relief is GRANTED. The assailed portions of Revenue Regulations 17-2012 and Revenue Memorandum Circular 90-2012 are declared NULL AND VOID and OF NO FORCE AND EFFECT. Respondents are to immediately cease and desist from implementing Sec. 11 of Revenue Regulations 17-2012 and Revenue Memorandum Circular 90-2012 insofar as the cigarettes packed by machine are concerned.
>
> The tax rates imposed by RA No. 10351 should be imposed on the whole packaging combinations of 20's, regardless of whether they are packed by pouches of 2x10's or 4x5's, etc.

SO ORDERED.'

Hence, the then SOF Cesar V. Purisima and then Commissioner of Internal Revenue Kim S. Jacinto-Henares, through the Office of the Solicitor General, filed a petition for review on *certiorari* before the Supreme Court, assailing the said RTC Decision dated October 7, 2013. The case was docketed as G.R. No. 210251, entitled *Secretary of Finance Cesar V. Purisima and Commissioner of Internal Revenue Kim S. Jacinto-Henares, Petitioners, versus Philippine Tobacco Institute, Inc., Respondent* ('*Purisima* case'). The High Court then issued a temporary restraining order against PTI and the RTC, the dispositive portion of which states:

> 'NOW, THEREFORE, effective immediately and continuing until further orders from this Court, You, the respondent, the RTC, Br. 253, Las Piñas City, their representatives, agents or other persons acting on their behalf are hereby RESTRAINED from enforcing the assailed Decision dated 7 October 2013 of the RTC, Br. 253, Las Piñas City in SCA Case No. 13-0003.
>
> GIVEN by the HONORABLE SENIOR ASSOCIATE JUSTICE ANTONIO T. CARPIO, Chairperson of the Second Division of the Supreme Court of the Philippines, on 09 June 2014.'

On April 17, 2017, the Supreme Court denied the said petition for review on *certiorari*, and affirmed the RTC Decision dated October 7, 2013. This judgment of the Supreme Court became final and executory on July 12, 2017.

On June 13, 2019, petitioner filed with the BIR, an *Application for Tax Credits/Refunds* (BIR Form No. 1914), and the letter dated June 11, 2019, requesting for the refund and/or issuance of a tax credit certificate, representing alleged erroneous excise tax payments for calendar years 2014 and 2015, in the aggregate amount of ₱2,747,529,700.00.

Petitioner filed the present *Petition for Review* on July 11, 2019.

Respondent filed his *Answer* on September 24, 2019, interposing certain special and affirmative defenses, to wit: (1) both the administrative and judicial claims for refund were filed out of time; and (2) petitioner is not entitled to the claim for refund or issuance of tax credit for alleged erroneously/excessively paid excise taxes.

Petitioner filed its *Reply (To: Respondent's Answer dated 23 September 2019)* on October 10, 2019.

The pre-trial conference was set and held on October 24, 2019. Prior thereto, petitioner's *Pre-Trial Brief* was filed on October 21, 2019, while *Respondents' Pre-Trial Brief* was submitted on October 22, 2019.

On November 13, 2019, the parties submitted their *Joint Stipulation of Facts and Issues* (JSFI). The Pre-Trial Order was then issued on November 27, 2019, thereby approving and adopting the said JSFI, and deeming the termination of the pre-trial.

Trial then proceeded.

During trial, petitioner presented its documentary and testimonial evidence. It offered the testimonies of: (1) Mr. Charleston Amurao, petitioner's Head of Tax Cluster; (2) Atty. Carmen Mercedes Herce, Director for External Affairs of petitioner; (3) Mr. Luhung Hsu, Manager Factory Logistics of the Batangas Plant of petitioner; (4) Mr. Aneo C. Panis, Manager Factory Logistics of the Marikina Plant of petitioner; and (5) Atty. Ma. Cecilia C. Katigbak, the Court-commissioner Independent Certified Public Accountant (ICPA).

The ICPA *Report* was submitted on January 14, 2020.

On March 2, 2020, *Formal Offer of Evidence for Petitioner* was filed. Respondents submitted his *Comment* on June 10, 2020. In the Resolution dated June 24, 2020, the Court admitted petitioner's Exhibits, *except* for: (1) Exhibits 'P-10' and 'P-10-1', for failure to present originals for comparison; and (2) Exhibits 'P-29-56', 'P-35-186', 'P-35-322', 'P-35-360', 'P-35-438', 'P-35-498', and 'P-36-605', for not being found in the records of the case. In the same Resolution, the Court ordered respondent to transmit the *BIR Records* of the case.

During the hearing held on July 27, 2020, respondent's counsel manifested that there is no report of investigation, thus, she will no longer present any evidence. On the other hand, petitioner's counsel manifested that she will be filing a motion for reconsideration on the Resolution on its formal offer of evidence.

The Court received the *BIR Records* for the instant case on July 29, 2020.

On August 24, 2020, petitioner filed a *Partial Motion for Reconsideration (Re: Resolution dated 24 June 2019).* Respondent failed to file his comment thereon. In the Resolution dated October 30, 2020, the Court granted the said *Partial Motion for Reconsideration* of

petitioner, and resolved to admit Exhibits 'P-29-56', 'P-35-186', 'P-35-322', 'P-35-360', 'P-35-438', 'P-35-498' and 'P-36-605'.

On December 7, 2020, respondents' *Memorandum* was posted; and on January 8, 2021, the *Memorandum for the Petitioner* was filed.

The instant case was considered submitted for decision on January 15, 2021." *(Citations omitted)*

On November 25, 2021, the Court in Division dismissed the Petition for Review for lack of jurisdiction.

On December 15, 2021, petitioner filed its *Motion for Reconsideration (of the Decision dated 25 November 2021)* which the Court in Division denied in the Assailed Resolution.

Aggrieved, the petitioner filed the present Petition for Review on May 26, 2022 within the extended period granted by this Court.[5]

In a Resolution dated July 11, 2022,[6] the Court *En Banc* directed the respondent to file his Comment on the present Petition for Review within ten (10) days from notice.

On July 26, 2022, respondent filed his Comment.[7]

In a Resolution dated August 30, 2022,[8] the Court *En Banc* noted the filing of respondent's Comment and thus submitted the present Petition for Review for decision.

## THE ISSUES

In its Petition for Review, petitioner has raised the following assignment of errors for the Court *En Banc*'s decision, to wit:[9]

[5] Minute Resolution dated May 16, 2022, Court *En Banc* Docket, p. 6.
[6] Court *En Banc* Docket, pp. 77-78.
[7] *Id.*, pp. 79-81.
[8] *Id.*, pp. 84-85.
[9] *Id.*, p. 12.

## ASSIGNMENT OF ERRORS

A.

THE CTA 2ND DIVISION ERRED IN RULING THAT PETITIONER'S ADMINISTRATIVE AND JUDICIAL CLAIMS FOR REFUND WERE FILED OUT OF TIME.

B.

THE CTA 2ND DIVISION ERRED IN RULING THAT THE TEMPORARY RESTRAINING ORDER ISSUED BY THE SUPREME COURT IN THE *PURISIMA CASE* DID NOT SUSPEND THE TWO-YEAR PRESCRIPTIVE PERIOD UNDER SECTION 229 OF THE NIRC.

C.

THE CTA 2ND DIVISION ERRED IN RULING THAT PETITIONER IS NOT ENTITLED TO A REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE TOTAL AMOUNT OF P2,747,529,700.00, REPRESENTING OVERPAID EXCISE TAX ON CIGARETTE PACKS OF 10'S WITHDRAWN FROM ITS PRODUCTION PLANTS FROM 1 JANUARY 2014 UNTIL 31 DECEMBER 2015 BASED ON THE PRINCIPLE OF *SOLUTIO INDEBITI.*

## THE COURT *EN BANC*'S RULING

The Petition for Review is denied.

After thorough evaluation of the factual antecedents of the present case, the arguments of the parties, 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. Notably, petitioner's assertions in the present Petition for Review are mere restatements of those which were previously raised in petitioner's prior pleadings and which had already been correctly and adequately discussed by the Court in Division in the Assailed Decision.

**The two-year prescriptive period under Section 229 is mandatory and jurisdictional**

Section 229 of the National Internal Revenue Code of 1997, as amended (1997 NIRC) provides:

> "**SEC. 229.** ***Recovery of Tax Erroneously or Illegally Collected.*** - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment:** *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphasis added)*

In its Petition for Review, petitioner posits that the two-year prescriptive period for filing of claims for refund under Section 229 of the 1997 NIRC is not jurisdictional and may be suspended for reasons of equity and other special circumstances or may be tempered on moral and equitable grounds.[10] Respondent, on the other hand, asserts that the provisions of Sections 204(C) and 229 of the 1997 NIRC explicitly state that both the administrative and judicial claim for alleged erroneously or excessively paid taxes should be filed within two years from date of payment.[11]

Petitioner's assertion is unmeritorious.

In a number of cases, the Supreme Court categorically held that the two-year prescriptive period under Section 229 of the 1997 NIRC is **mandatory and jurisdictional**.[12] Such a period is not subject to any qualification and it applies regardless of the conditions under which the payment has been made.[13] In *Commissioner of Internal Revenue v. San Miguel Corporation,*[14] the Supreme Court ruled as follows:

---

[10] Court *En Banc*'s Docket, p. 14.
[11] *Id.*, p. 79.
[12] *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, G.R. No. 226592, July 27, 2021 (EN BANC); *Commissioner of Internal Revenue v. San Miguel Corporation*, G.R. Nos. 180740 & 180910, November 11, 2019; *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016; *Commissioner of Internal Revenue v. Manila Electric Company*, G.R. No. 181459, June 9, 2014; *Guagua Electric Light Plant Co. v. Collector of Internal Revenue*, G.R. No. L-14421, April 29, 1961.
[13] *The Guagua Electric Light Plant Company, Inc. v. The Collector of Internal Revenue*, G.R. No. L-14421, April 29, 1961.
[14] G.R. Nos. 180740 & 180910, November 11, 2019.

> "The aforequoted provisions are clear: within two (2) 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 (2)-year reglementary period. **Timeliness of the filing of the claim is mandatory and jurisdictional, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time.** It is worthy to stress that as for the judicial claim, tax law even explicitly provides that it be filed within two (2) years from payment of the tax 'regardless of any supervening cause that may arise after payment.'" *(Emphasis supplied and citations omitted)*

As duly found by the Court in Division in the Assailed Decision, the payments of excise taxes were made from February 20, 2014 until December 17, 2015. Counting 2 years from these dates, both the administrative and judicial claims for refund should have been filed on or before February 20, 2016, at the earliest, and on or before December 17, 2017, at the latest. Given that petitioner's administrative claim was filed only on June 13, 2019 while the judicial claim was filed only on July 11, 2019, petitioner's refund claim is clearly time-barred.

**Section 229 mandatorily applies notwithstanding any supervening cause that may arise after payment**

Petitioner claims that the issuance of a temporary restraining order (TRO) by the Supreme Court in *Secretary of Finance Cesar V. Purisima and Commissioner of Internal Revenue Kim S. Jacinto-Henares, v. Philippine Tobacco Institute, Inc.*[15] is a special circumstance that warrants the suspension of the two-year prescriptive period.[16] Petitioner also contends that the two-year prescriptive period commenced to run only upon the finality of the *Purisima* case[17] and that the TRO issued by the Supreme Court in the said case prevented petitioner from pursuing a claim for refund because the *status quo* meant that excise tax payments must continue on the assumption that Revenue Regulations (RR) No. 17-2012 and Revenue Memorandum Circular (RMC) No. 90-2012 are both valid.[18]

Petitioner's position is untenable.

---

[15] G.R. No. 210251, April 17, 2017.
[16] Court *En Banc*'s Docket, pp. 15-31.
[17] *Id.*
[18] *Id.*

Section 229 not only provides for the mandatory two-year prescriptive period for filing of refund claims reckoned from the date of payment but also plainly states that such period is not affected by any supervening cause that may arise after the payment of the taxes sought to be refunded. To get a better grasp of the full import of this statutory provision, a brief discussion on its legislative history is in order.

Claims for refund of internal revenue taxes were originally governed by Section 306 of the National Internal Revenue Code of 1939 (1939 NIRC).[19] This provision states:

> SEC. 306. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Collector of Internal Revenue; 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 begun after the expiration of two years from the date of payment of the tax or penalty.

In 1972, Section 306 was amended by Presidential Decree (PD) No. 69[20] to read as follows:

> Sec. 306. *Recovery of tax erroneously or illegally collected.* No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress. In any case, no such suit or proceeding shall be begun after the expiration of two 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**

[19] Commonwealth Act 466 (AN ACT TO REVISE, AMEND AND CODIFY THE INTERNAL REVENUE LAWS OF THE PHILIPPINES) Enacted on June 15, 1939.
[20] AMENDING CERTAIN SECTIONS OF THE NATIONAL INTERNAL REVENUE CODE (Signed on November 24, 1972).

> **face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.** *(Emphasis and underscoring supplied)*

Upon re-codification of the Tax Code in 1977 under PD 1158,[21] Section 306 was re-numbered as Section 292 but the contents thereof remain substantially unchanged, to wit:

> SEC. 292. *Recovery of tax erroneously or illegally collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal-revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be begun after the expiration of two 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.

When the present Tax Code was enacted in 1997,[22] the above provision was re-numbered as Section 229 but the wording thereof was not changed.

As may be gleaned from above, the statutory provision governing claims for refund of internal revenue taxes underwent substantial amendments only in 1972 when PD 69 was enacted. More particularly, it was during that time when the phrase **"regardless of any supervening cause that may arise after payment"** was first inserted in Section 306 (now Section 229).[23] Accordingly, the meaning attached by the law-making body to the said statutory provision, as duly amended by PD 69, is logically carried over to its present form.

---

[21] A DECREE TO CONSOLIDATE AND CODIFY ALL THE INTERNAL REVENUE LAWS OF THE PHILIPPINES (Enacted on June 3, 1977); Section 292 was subsequently re-numbered as Section 230.

[22] RA 8424 (AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES) enacted on December 11, 1997.

[23] The Court in Division erroneously held in the Assailed Decision that this phrase was first introduced by PD 1158. (Court *En Banc* Docket, p. 55.).

The underlying rationale for such an amendment is not really hard to discern.

Taxes are the lifeblood of the government.[24] Without taxes, the government can neither exist nor endure.[25] Revenues derived from tax collection are of vital necessity in order for the government to fulfill its mandate of promoting the general welfare and well-being of the people.

In line with the above doctrine, the taxpayer's right to seek refund of internal revenue taxes paid must be exercised within the definite period fixed by law independent of whether the basis or cause for the taxpayer's right to claim refund has materialized before or after the payment. If the rule is otherwise, the two-year prescriptive period provided by law would be illusory and meaningless. Worse yet, the availability of government funds derived from internal revenue tax collection would indefinitely be contingent upon the possibility of refund, with dire consequences to proper tax administration and the financial stability of the government.

**The principle of *solutio indebiti* cannot suspend the operation of, or supplant the mandatory application of Section 229 in tax refund cases**

Petitioner postulates that it is entitled to the refund on the basis of the principle of *solutio indebiti*.[26] It contends that the two-year prescriptive period must be suspended in the present case to avoid unjust enrichment on the part of the government at the expense of the taxpayer.[27]

In response, the CIR points out that such issue is not novel as the same has been addressed by the Supreme Court in *Commissioner of Internal Revenue v. Manila Electric Company*.[28] In the said case, the Supreme Court ruled that the two-year prescriptive period is mandatory regardless of any supervening event.

The Court *En Banc* agrees with the respondent.

---

[24] *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation*, G.R. Nos. 210501, 211294 & 212490, March 15, 2021;; *Commissioner of Internal Revenue v. Standard Insurance Co., Inc.*, G.R. No. 219340, November 7, 2018; *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, July 7, 2010; *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012; *Commissioner of Internal Revenue v. Algue, Inc.*, G.R. No. L-28896, February 17, 1988.

[25] *National Power Corporation v. City of Cabanatuan*, G.R. No. 149110, April 9, 2003.

[26] Court *En Banc*'s Docket, pp. 31- 35.

[27] *Id.*

[28] *Id.*, p. 80.

As correctly pointed out by the respondent, the Supreme Court already ruled in *Commissioner of Internal Revenue v. Manila Electric Company (MERALCO)*[29] on the non-applicability of the principle of *solutio indebiti* with regard to the period for filing internal revenue tax refund claims. The Supreme Court held that:

> "In this regard, petitioner is misguided when it relied upon the six (6)-year prescriptive period for initiating an action on the ground of quasi-contract or *solutio indebiti* under Article 1145 of the New Civil Code. There is *solutio indebiti* where: (1) payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and (2) the payment is made through mistake, and not through liberality or some other cause. Here, there is a binding relation between petitioner as the taxing authority in this jurisdiction and respondent MERALCO which is bound under the law to act as a withholding agent of NORD/LB Singapore Branch, the taxpayer. Hence, the first element of *solutio indebiti* is lacking. **Moreover, such legal precept is inapplicable to the present case since the Tax Code, a special law, explicitly provides for a mandatory period for claiming a refund for taxes erroneously paid.**
>
> Tax refunds are based on the general premise that taxes have either been erroneously or excessively paid. **Though the Tax Code recognizes the right of taxpayers to request the return of such excess/erroneous payments from the government, they must do so within a prescribed period. Further, 'a taxpayer must prove not only his entitlement to a refund, but also his compliance with the procedural due process as non-observance of the prescriptive periods within which to file the administrative and the judicial claims would result in the denial of his claim.'"** *(Emphasis supplied and citations omitted)*

The ruling in *MERALCO* was reiterated in *Metropolitan Bank & Trust Company v. The Commissioner of Internal Revenue*[30] and more recently in *Commissioner of Internal Revenue v. San Miguel Corporation*[31] where the Supreme Court further held that there can be no exception from the application of the two-year prescriptive period based on equity considerations because **equity cannot be applied when there is clear statutory law governing the matter**. It explained:

---

[29] G.R. No. 181459, June 9, 2014.
[30] G.R. No. 182582, April 17, 2017.
[31] G.R. Nos. 180740 & 180910, November 11, 2019.

"**SMC's argument that its claims should be excepted from the two (2)- year prescriptive period based on equity considerations is untenable; the Court cannot resort to equity when there is clear statutory law governing the matter.** Relevant herein are the following pronouncements of the Court in *Republic v. Provincial Government of Palawan*:

> The Court finds the submission untenable. Our courts are basically courts of law, not courts of equity. Furthermore, for all its conceded merits, equity is available only in the absence of law and not as its replacement. As explained in the old case of *Tupas v. Court of Appeals*:
>
> > Equity is described as justice outside legality, which simply means that it cannot supplant although it may, as often happens, supplement the law. We said in an earlier case, and we repeat it now, that all abstract arguments based only on equity should yield to positive rules, which [preempt] and prevail over such persuasions. Emotional appeals for justice, while the may wring the heart of the Court, cannot justify disregard of the mandate of the law as long as it remains in force. The applicable maxim, which goes back to the ancient days of the Roman jurists - and is now still reverently observed - is *'aequetas nunquam contravenit legis.'* (Citations omitted)" *(Emphasis supplied)*

In sum, the Court *En Banc* finds no compelling reason to disturb the Court in Division's findings in the Assailed Decision and Resolution.

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

**SO ORDERED.**

**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

*WE CONCUR:*

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Presiding Justice

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

**LANEE S. CUI-DAVID**
Associate Justice

**CORAZON G. FERRER-FLORES**
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