REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

BERNHARD SCHULTE SHIPMANAGEMENT INTERNATIONAL (PHILIPPINES) CORP.,	**CTA EB NO. 2694** (CTA Case No. 10847)
Petitioner,	Present:
- versus -	Del Rosario, *P.J.*, Ringpis-Liban, Manahan, Bacorro-Villena, Modesto-San Pedro, Reyes-Fajardo, Cui-David, and Ferrer-Flores, *JJ.*
COMMISSIONER OF INTERNAL REVENUE,	Promulgated:
Respondent.	JUN 19 2023 9:33a.m.

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DECISION

RINGPIS-LIBAN, *J.:*

This is a Petition for Review[1] filed via registered mail on October 10, 2022 under Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) in relation to Rule 43 of the Revised Rules of Court, seeking the reversal and setting aside of the Resolution[2] dated June 7, 2022 and the Resolution[3] dated September 1, 2022 ("Assailed Resolutions"), both promulgated by the Court of Tax Appeals Second Division (Court in Division) in CTA Case No. 10847.

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[1] Court *En Banc* Docket, pp. 7-25.
[2] *Id.*, pp. 31-33.
[3] *Id.*, pp. 35-38.

The respective dispositive portions of the Assailed Resolutions are quoted hereunder:

Resolution dated June 7, 2022:

> "**WHEREFORE**, petitioner's Motion for Extension of Time to File Petition for Review is **DENIED.**
>
> The filing of the Petition for Review on 12 May 2022 is merely **NOTED.**
>
> **SO ORDERED**."

Resolution September 1, 2022:

> "**WHEREFORE**, petitioner's **Motion for Reconsideration (Of the Resolution dated June 7, 2022)** is **DENIED**.
>
> **SO ORDERED.**"

THE FACTS

On March 28, 2022, petitioner Bernhard Schulte Shipmanagement International (Philippines) Corp. received a copy of the decision of respondent Commissioner of Internal Revenue (CIR) denying petitioner's administrative claim for value-added tax (VAT) refund.[4]

On April 27, 2022, petitioner filed a Motion for Extension of Time to File Petition for Review (the "Motion") praying for an additional period of fifteen (15) days from April 27, 2022 or until May 12, 2022 within which to file its Petition for Review.[5] Petitioner alleged in its Motion that its counsel was just engaged on April 25, 2022 and that the counsel anticipates that he will not be able to finalize the Petition for Review on or before due date.[6]

On May 12, 2022, petitioner filed its Petition for Review docketed as CTA Case No. 10847.[7]

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[4] *Id.*, p. 31.
[5] Division Docket, pp. 6-9.
[6] *Id.*
[7] *Id.*, pp. 22-33.

In the first Assailed Resolution dated June 7, 2022, the Court in Division denied petitioner's Motion and merely noted the filing of the Petition for Review. The Court held that the 30-day period to appeal the denial of claims for VAT refund is mandatory and jurisdictional. Accordingly, the said period is non-extendible. The Court also added that noncompliance with the said 30-day period renders the Petition for Review filed before this Court void.[8]

On July 8, 2022, petitioner filed via registered mail its Motion for Reconsideration (Of the Resolution dated June 7, 2022)[9] which the Court in Division denied in the second Assailed Resolution dated September 1, 2022.[10]

Unperturbed, the petitioner filed the present Petition for Review via registered mail on October 10, 2022 within the extended period granted by the Court *En Banc*.[11]

In a Resolution dated December 19, 2022,[12] the Court *En Banc* ordered the respondent to file his Comment on the present Petition for Review within ten (10) days from notice.

On January 12, 2023, respondent filed his Motion to Admit Attached Comment.[13]

In a Resolution dated February 15, 2023,[14] the Court *En Banc* granted respondent's Motion to Admit Attached Comment and admitted respondent's Comment (to Petitioner's Petition for Review) as part of the case records. In the same Resolution, the Court *En Banc* likewise deemed the present Petition for Review as submitted 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:[15]

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[8] *Id.*, pp. 151-153.
[9] *Id.*, pp. 154-159.
[10] *Id.*, pp. 169-172.
[11] In the Minute Resolution dated September 29, 2022, the Court *En Banc* granted petitioner a period of fifteen (15) days from September 24, 2022 or until October 9, 2022 within which to file its Petition for Review. October 9, 2022 falls on a Sunday. Court *En Banc* Docket, p. 6.
[12] Court *En Banc* Docket, pp. 42-43.
[13] *Id.*, pp. 44-51.
[14] *Id.*, pp. 53-54.
[15] *Id.*, pp. 13-14.

V
ASSIGNMENT OF ERRORS

A. THE SECOND DIVISION ERRED IN HOLDING THAT SECTION 112(C), TAX CODE, PRE-EMPTS THE APPLICABILITY OF RULE 42, REVISED RULES OF COURT, WITH RESPECT TO THE PERIOD OF FILING OF PETITION FOR REVIEW.

B. THE SECOND DIVISION ERRED IN HOLDING THAT THE 30-DAY EXTENDIBLE PERIOD UNDER SECTION 11, CTA LAW, IS LIMITED ONLY TO CASES EMANATING FROM THE REGIONAL TRIAL COURT.

C. THE SECOND DIVISION ERRED IN HOLDING THAT THE 30-DAY PERIOD TO FILE A PETITION FOR REVIEW BEFORE THE CTA IS JURISDICTIONAL AND NON-EXTENDIBLE.

D. THE SECOND DIVISION GRAVELY ABUSED ITS DISCRETION WHEN IT DENIED THE MOTION INSPITE OF THE PROSCRIPTION IN THE CTA IN RESORTING TO RULES ON TECHNICALITY AT THE EXPENSE OF SUBSTANTIAL JUSTICE.

In its Petition for Review, petitioner asserts that the Court in Division erred in holding that Section 112(C) of the National Internal Revenue Code of 1997, as amended (1997 NIRC) pre-empts the applicability of Rule 42 of the Rules of Court with respect to the period for filing a petition for review. More particularly, petitioner insists that:

1. The Court in Division erroneously downplayed the role of Rule 42 of the Rules of Court when it held that it is only meant to be "analogously applied";

2. Section 11 of RA 1125, as amended, supplies the rule on mode of appeal to the Court of Tax Appeals (CTA), *i.e.*, the appeal must be brought via Rule 42. And because Section 11 is silent on whether the 30-day period is extendible, guidance may be had from the Supreme Court's ruling in *Coca-Cola*[16] and *SM Land*[17] cases where, by virtue of Rule 42, Section 11 of RA 1125, as amended, was deemed extendible;

3. Section 112(C) of the 1997 NIRC does not provide the mode of appeal and thus the application of Rule 42 in the present case cannot be avoided;

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[16] *The City of Manila et. al. v. Coca-Cola Bottlers Philippines, Inc.*, G.R. No. 181845, August 4, 2009.
[17] *SM Land, Inc. (Formerly Shoemart, Inc.) v. City of Manila*, G.R. No. 197151, October 22, 2012.

4. There is no irreconcilable conflict between Rule 42 and Section 112(C) of the 1997 NIRC and that the statutory history of Section 112(C) does not reveal any indication that it is a jurisdiction-giving statute;

5. On matters of procedure, RA 1125, as amended, must prevail as it is the specific law that governs proceedings before the Court on matters within its jurisdiction;

6. Even assuming that the 30-day period in Section 112(C) of the 1997 NIRC should prevail, the same does not and cannot prohibit the application of Rule 42 of the Rules of Court because there is nothing in the 1997 NIRC which specify in what mode and manner the appeal to this Court should be taken.

Petitioner also claims that the Court in Division erred in holding that the 30-day period under Section 11 of RA 1125, as amended, is limited only to cases emanating from the Regional Trial Court.

Petitioner likewise contends that the Court in Division erred in holding that the 30-day period to file a Petition for Review before this Court is jurisdictional and non-extendible. In support of this position, petitioner further argues that:

1. The Court in Division erred in relying on *RCBC*[18] and *San Roque Power*[19] cases considering that none of these cases pertain to the issue of whether the 30-day period is extendible and none of them pertains to the proper reading of Section 11 of RA 1125, as amended;

2. The legal principle which states a jurisdictional period is non-extendible finds no application when the law itself allows for the period's extension and that what is prohibited is to extend a jurisdictional period by mere judicial discretion, not by legislative action. Thus, a motion for extension could be granted without violating the nature of a jurisdictional period if it is expressly allowed by the statute.

Finally, petitioner postulates that the Court in Division gravely abused its discretion when it denied the motion in spite of the proscription against resorting to rules on technicality at the expense of substantial justice.

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[18] *Rizal Commercial Banking Corporation v. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.
[19] *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. Nos. 187485, 196113 & 197156, February 12, 2013 (EN BANC).

THE COURT *EN BANC*'S RULING

The Petition for Review is unmeritorious.

After careful review of the factual antecedents, the arguments raised, and the laws, rules, and jurisprudence material to this case, the Court *En Banc* upholds the denial of petitioner's Motion, albeit based on a slightly different reason than that of the Court in Division.

It may be recalled that the Court in Division denied petitioner's Motion based on the following reasoning:

> "Rule 8, Section 3(a) of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:
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> > Section 3. *Who May Appeal; Period to File Petition.* - (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by **petition for review filed within thirty days after receipt of a copy of such decision or ruling**, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.
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> The 30-day period to file a Petition for Review before this court has been consistently described as mandatory and jurisdictional. In *Rizal Commercial Banking Corp. vs. Commissioner of Internal Revenue,* the Supreme Court said:
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> > From the foregoing, it is clear that the jurisdiction of the Court of Tax Appeals has been expanded to include not only decisions or rulings but inaction as well of the Commissioner of Internal Revenue. The decisions, rulings or inaction of the Commissioner are necessary in order to vest the Court of Tax Appeals with jurisdiction to entertain the appeal, provided it is filed within 30 days after the receipt of such decision or ruling, or within 30 days after the expiration of the 180-day period fixed by law for the Commissioner to act on the disputed assessments. **This 30-day period within**

> **which to file an appeal is jurisdictional and failure to comply therewith would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the correctness of the assessments. Such period is not merely directory but mandatory and it is beyond the power of the courts to extend the same.**

We further note that the instant case involves refund of input VAT attributable to zero-rated sale under Section 112 of the Tax Code, as amended. It has been axiomatic and well-settled that the 30-day period to appeal denials of claim for VAT refund, known as 120+30-day period, is mandatory and jurisdictional. Thus, in *San Roque Power Corp. us. Commissioner of Internal Revenue*, the Supreme Court enunciated:

> Hence, from the effectivity of the 1997 NIRC on 1 January 1998, the procedure has always been definite: the 120-day period [now 90-day period] is mandatory and jurisdictional. Accordingly, a taxpayer can file a judicial claim **(1) only within thirty days after the Commissioner partially or fully denies the claim within the 120-day period, or (2) only within thirty days from the expiration of the 120-day period if the Commissioner does not act within such period.** This is the rule of procedure beginning 1 January 1998 as interpreted in Aichi.

In addition, petitioner's reliance on *City of Manila vs. Coca-Cola Bottlers Philippines, Inc.*, *Metro Manila Shopping Mecca Corp. vs. Toledo*, and *SM Land, Inc. vs. City of Manila* is misplaced. All cases involve local tax cases and an elevation from the Regional Trial Court to this Court.

To reiterate, the rule is that noncompliance with the mandatory 120+30-day period renders the petition before the CTA void. Being mandatory and jurisdictional, the same period is non-extendible." *(Citations omitted)*

To the Court *En Banc*'s view, the denial of petitioner's Motion is justified not because the 30-day period under Section 11 of RA 1125, as amended, is mandatory, jurisdictional, and non-extendible for it is not, as will be explained below, but because of the mandatory and jurisdictional nature of the 30-day period under Section 112(C) of the 1997 NIRC, as applied to the present case.

As stated above, petitioner received a copy of the CIR's decision denying its VAT refund claim on March 28, 2022. Counting 30 days from this date, petitioner had until April 27, 2022 within which to file its Petition for Review before this Court, pursuant to Section 112(C) of the 1997 NIRC. Instead of doing so, however, petitioner filed a Motion for Extension of Time to File

Petition for Review on April 27, 2022 praying for an additional period of 15 days or until May 12, 2022 within which to file its Petition for Review. Verily, this Court cannot grant the additional period prayed for as the same already falls outside the 30-day period mandated by Section 112(C) of the 1997 NIRC.

In the present Petition for Review, petitioner aggressively asserts that it has the right to seek extension of the period for filing its appeal before the Court in Division. To support its position, petitioner cited a number of Supreme Court cases wherein it was ruled that by virtue of Rule 42 of the Rules of Court, the 30-day period to appeal to this Court under Section 11 of RA 1125, as amended, is extendible.

The merit of petitioner's position is more apparent than real.

As plainly worded, Section 11 of RA 1125, as amended, *generally* applies to cases enumerated under Section 7(a) thereof. In *The City of Manila, et. al. v. Coca-Cola Bottlers Philippines, Inc.*,[20] the Supreme Court, in a case involving an appeal to this Court of a local tax case originating from the RTC, categorically held that the 30-day period under Section 11 of RA 1125, as amended, is extendible as construed in relation to Rule 42 of the Rules of Court, to wit:

> "The period to appeal the decision or ruling of the RTC to the CTA *via* a Petition for Review is specifically governed by Section 11 of Republic Act No. 9282, and Section 3(a), Rule 8 of the Revised Rules of the CTA.
>
> xxx xxx xxx
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> It is crystal clear from the afore-quoted provisions that to appeal an adverse decision or ruling of the RTC to the CTA, the taxpayer must file a **Petition for Review** with the CTA **within 30 days** from receipt of said adverse decision or ruling of the RTC.
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> It is also true that the same provisions are silent as to whether such 30-day period can be extended or not. However, Section 11 of Republic Act No. 9282 does state that the Petition for Review shall be filed with the CTA **following the procedure analogous to Rule 42 of the Revised Rules of Civil Procedure**. Section 1, Rule 42 of the Revised Rules of Civil Procedure provides that the Petition for Review of an adverse judgment or final order of the RTC must be filed with the Court of Appeals within: (1) the original 15-day period from receipt of the judgment or final order to be appealed; (2) an extended period of 15 days from the lapse of the original period; and (3) only **for the most compelling reasons**,

[20] G.R. No. 181845, August 4, 2009.

> another extended period not to exceed 15 days from the lapse of the first extended period.
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> Following by analogy Section 1, Rule 42 of the Revised Rules of Civil Procedure, the **30-day** original period for filing a Petition for Review with the CTA under Section 11 of Republic Act No. 9282, as implemented by Section 3(a), Rule 8 of the Revised Rules of the CTA, may be extended for a period of **15 days.** No further extension shall be allowed thereafter, except only for the most compelling reasons, in which case the extended period shall not exceed **15 days.**"

The above quoted ruling was reiterated and applied in *SM Land, Inc. v. City of Manila*[21] and *Metro Manila Shopping Mecca Corp., et. al. v. Toledo.*[22] In *SM Land*, the Supreme Court even ruled that prior cases wherein it ruled that the 30-day period for filing an appeal with this Court is jurisdictional had been superseded by its ruling in *Coca-Cola.*

Nevertheless, the 30-day period under Section 11 of RA 1125, as amended, must not be confused with the 30-day period under Section 112(C) of the 1997 NIRC. They are not exactly the same. Accordingly, the Supreme Court's ruling in *Coca-Cola*, *SM Land* and *Metro Manila Shopping Mecca* holding that the 30-day period under Section 11 of RA 1125, as amended, is subject to extension has no relevance whatsoever with respect to the 30-day period under Section 112(C) of the 1997 NIRC.

It is true that both reglementary periods involve similar number of days and substantially similar reckoning point, *i.e.*, from the receipt of the adverse decision. Their similarities, however, end there. Aside from their different statutory provenance, these periods also differ in terms of scope of application. The 30-day period under Section 11 of RA 1125, as amended, applies to the following cases:

1. Appeals of decisions (or inaction) of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, as well as other matters arising under the 1997 NIRC or other laws administered by the Bureau of Internal Revenue.

2. Appeals of decisions of Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or other matters arising under the Customs Law or other laws administered by the Bureau of Customs.

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[21] G.R. No. 197151, October 22, 2012.
[22] G.R. No. 190818, June 5, 2013 ("*Metro Manila Shopping Mecca*").

3. Appeals of decisions of the Central Board of Assessment Appeals in the exercise of its appellate jurisdiction over cases involving the assessment and taxation of real property originally decided by the provincial or city board of assessment appeals.

4. Appeals of the decisions of the Secretary of Finance on customs cases elevated to him automatically for review from decisions of the Commissioner of Customs which are adverse to the Government under Section 2315 of the Tariff and Customs Code.

5. Appeals of the decisions of the Secretary of Trade and Industry, in the case of nonagricultural product, commodity or article, and the Secretary of Agriculture in the case of agricultural product, commodity or article, involving dumping and countervailing duties under Sections 301 and 302, respectively, of the Tariff and Customs Code, and safeguard measures under Republic Act No. 8800, where either party may appeal the decision to impose or not to impose said duties.

In contrast, the 30-day period under Section 112(C) of 1997 NIRC has a much narrower scope of application since it is **solely** applicable to the filing of appeals before this Court in cases involving the denial of (or inaction on) claims for VAT refund by the CIR.

As correctly held by the Court in Division in the Assailed Resolutions, the 30-day period to file an appeal of the adverse decision or inaction of the CIR in VAT refund cases is mandatory and jurisdictional. This rule was categorically established by the Supreme Court *En Banc* in *Commissioner of Internal Revenue v. San Roque Power Corporation*[23] and then reiterated and applied in a string of subsequent cases.[24] Given that the Supreme Court has already spoken on this matter, this

[23] G.R. Nos. 187485, 196113 & 197156, February 12, 2013 (EN BANC).

[24] *Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue*, G.R. No. 193301, March 11, 2013; *Republic v. GST Philippines, Inc.*, G.R. No. 190872, October 13, 2013 (EN BANC); *Commissioner of Internal Revenue v. Visayas Geothermal Power Co., Inc.*, G.R. No. 181276, November 11, 2013; *Commissioner of Internal Revenue v. Dash Engineering Philippines, Inc.*, G.R. No. 184145, December 11, 2013; *TeaM Energy Corporation (formerly Mirant Pagbilao Corp.) v. Commissioner of Internal Revenue*, G.R. No. 190928, January 13, 2014; *CBK Power Co. Ltd. v. Commissioner of Internal Revenue*, G.R. Nos. 198729-30, January 15, 2014; *Commissioner of Internal Revenue v. Toledo Power, Inc.*, G.R. No. 183880, January 20, 2014; *Visayas Geothermal Power Company v. Commissioner of Internal Revenue*, G.R. No. 197525, June 4, 2014; *Silicon Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 184360, 184361 & 184384, February 19, 2014; *Commissioner of Internal Revenue v. Silicon Philippines, Inc.*, G.R. No. 169778, March 12, 2014; *Miramar Fish Co., Inc. v. Commissioner of Internal Revenue*, G.R. No. 185432, June 4, 2014; *San Roque Power Corporation v. Commissioner of Internal Revenue*, G.R. No. 205543, June 30, 2014; *Commissioner of Internal Revenue v. Burmeister and Wain Scandinavian Contractor Mindanao, Inc.*, G.R. No. 190021, October 22, 2014; *Taganito Mining Corporation v. Commissioner of Internal Revenue*, G.R. No. 198076, November 19, 2014; *Rohm Apollo Semiconductor Phils. Inc. v. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015; *Nippon Express (Philippines) Corp. v. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015; *Northern Mindanao Power Corp. v. Commissioner of Internal Revenue*, G.R. No. 185115, February 18, 2015;

Court has no other option but to strictly uphold and apply the same. Until and unless such doctrine is subsequently modified or reversed by the Supreme Court *En Banc*, the same remains to be binding.

In *Vinzons-Chato v. Fortune Tobacco Corporation*,[25] the Supreme Court discussed the difference between a special law and a general law as follows:

> "A general statute is one which embraces a class of subjects or places and does not omit any subject or place naturally belonging to such class. A special statute, as the term is generally understood, is one which relates to particular persons or things of a class or to a particular portion or section of the state only.
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> A general law and a special law on the same subject are statutes *in pari materia* and should, accordingly, be read together and harmonized, if possible, with a view to giving effect to both. The rule is that where there are two acts, one of which is special and particular and the other general which, if standing alone, would include the same matter and thus conflict with the special act, the special law must prevail since it evinces the legislative intent more clearly than that of a general statute and must not be taken as intended to affect the more particular and specific provisions of the earlier act, unless it is absolutely necessary so to construe it in order to give its words any meaning at all.
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> The circumstance that the special law is passed before or after the general act does not change the principle. Where the special law is later, it will be regarded as an exception to, or a qualification of, the prior general act; and where the general act is later, the special statute will be construed as remaining an exception to its terms, unless repealed expressly or by necessary implication."

Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (now TeaM Energy Corporation, G.R. No. 180434, January 20, 2016; *Silicon Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 182737, March 2, 2016; *Takenaka Corporation-Philippine Branch v. Commissioner of Internal Revenue,* G.R. No. 193321. October 19, 2016; *Commissioner of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. No. 211072, November 7, 2016; *Sitel Philippines Corporation (Formerly Clientlogic Phils., Inc.) v. Commissioner of Internal Revenue*, G.R. No. 201326, February 8, 2017; *Visayas Geothermal Power Company v. Commissioner of Internal Revenue*, G.R. No. 205279, April 26, 2017; *Marubeni Philippines Corporation v. Commissioner of Internal Revenue*, G.R. No. 198485, June 5, 2017; *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 197526, 199676-77, July 26, 2017; *Aichi Forging Company of Asia, Inc. v. Court of Tax Appeals-En Banc and Commissioner of Internal Revenue*, G.R. No. 193625, August 30, 2017; *Procter & Gamble Asia Pte. Ltd. v. Commissioner of Internal Revenue*, G.R. No. 205652, September 6, 2017; *Mindanao I Geothermal Partnership v. Commissioner of Internal Revenue*, G.R. No. 197519, November 8, 2017; *Energy Development Corporation v. Commissioner of Internal Revenue,* G.R. No. 203367, March 17, 2021; *Hedcor Sibulan, Inc. v. Commissioner of Internal Revenue*, G.R. No. 202093, September 15, 2021; *Commissioner of Internal Revenue v. Taganito Mining Corporation*, G.R. Nos. 219630-31, December 7, 2021.

[25] G.R. No. 141309, June 19, 2007.

Using the above standards, Section 11 of RA 1125, as amended, must be deemed as the *general law* governing the time, mode, and manner of appeals before the CTA. On the other hand, Section 112(C) of the 1997 NIRC serves as a *special law* specifically prescribing the applicable reglementary period for filing appeals to the CTA of the CIR's adverse decisions exclusively in VAT refund claims. Thus, insofar as the period for filing VAT refund claims before this Court is concerned, Section 112(C) of the 1997 NIRC and not Section 11 of RA 1125, as amended, shall apply. In this way, these two statutory provisions may be reasonably reconciled and harmonized with each other. To be sure, Congress had not intended to defeat compliance with the mandatory and jurisdictional nature of Section 112(C) of the 1997 NIRC by the bare invocation of Section 11 of RA 1125, as amended. As the Supreme Court had aptly explained in *Asturias Sugar Central, Inc. v. Commissioner of Customs and Court of Tax Appeals*,[26] to wit:

> "A construction of a statute which creates an inconsistency should be avoided when a reasonable interpretation can be adopted which will not do violence to the plain words of the act and will carry out the intention of Congress.
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> In the construction of statutes, the courts start with the assumption that the legislature intended to enact an effective law, and the legislature is not to be presumed to have done a vain thing in the enactment of a statute. Hence, it is a general principle, embodied in the maxim, *"ut res magis valeat quam pereat"*, that the courts should, if reasonably possible to do so without violence to the spirit and language of an act, so interpret the statute to give it efficient operation and effect as a whole. An interpretation should, if possible, be avoided under which a statute or provision being construed is defeated, or as otherwise expressed, nullified, destroyed, emasculated, repealed, explained away, or rendered insignificant, meaningless, inoperative, or nugatory."

Petitioner boldly asserts that the 30-day period in Section 112(C) of the 1997 NIRC does not and cannot prohibit the application of Rule 42 of the Rules of Court based on the belief that there is nothing in the 1997 NIRC which specify in what mode and manner the appeal to this Court should be taken.

Petitioner's assertion is untenable.

It is true that Section 112(C) is silent as regards the mode and manner of appeal to this Court in VAT refund claims and that Rule 42 of the Rules of Court applies *by analogy* in these cases. Nevertheless, Rule 42 of the Rules of Court still

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[26] G.R. No. L-19337, September 30, 1969 citing 50 Am. Jur. 358-359.

cannot be used as basis for extending the mandatory 30-day period set by Section 112(C) of the 1997 NIRC.

Bearing in mind the Supreme Court's dictum that the 30-day period under Section 112(C) of the 1997 NIRC is both mandatory and jurisdictional, the Court *En Banc* holds that a mere procedural rule such as Rule 42 of the Rules of Court cannot prevail over a substantive law such as Section 112 (C) of the 1997 NIRC. In *Treyes v. Larlar,*[27] the Supreme Court *En Banc* emphatically held that:

> "x x x [R]ules of procedure must always yield to substantive law. The Rules are not meant to subvert or override substantive law. On the contrary, procedural rules are meant to operationalize and effectuate substantive law."

It cannot be denied that Section 112(C) of the 1997 NIRC is a substantive law as it is the very provision that creates and gives the taxpayer affected the right to file an appeal before this Court of the adverse decision rendered by the CIR in VAT refund cases. This is consistent with the definition of a substantive law provided by the Supreme Court in *Bernabe v. Alejo*[28] as follows:

> "x x x Substantive law creates substantive rights and the two terms in this respect may be said to be synonymous. Substantive rights is a term which includes those rights which one enjoys under the legal system prior to the disturbance of normal relations. Substantive law is that part of the law which creates, defines and regulates rights, or which regulates the rights and duties which give rise to a cause of action; that part of the law which courts are established to administer; as opposed to adjective or remedial law, which prescribes the method of enforcing rights or obtains redress for their invasion."

Lastly, the Court finds no merit in petitioner's assertion that the Court in Division gravely abused its discretion when it denied the motion in spite of the proscription against resorting to rules on technicality at the expense of substantial justice. Petitioner's argument is evidently based on the premise that the denial of its Motion is due to a mere technicality the strict compliance to which can be dispensed with by the Court at its discretion. To reiterate, petitioner's Motion is denied by reason of Section 112(C) of the 1997 NIRC, a substantive law which even this Court is strictly bound to observe.

It is true that the Supreme Court had, in certain instances, allowed the filing of an appeal outside the period prescribed by law in the interest of justice, and in the exercise of its equity jurisdiction. In those instances, however, strong

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[27] G.R. No. 232579, September 8, 2020.
[28] G.R. No. 140500, January 21, 2002 citing *Bustos v. Lucero*, 81 Phil. 648, March 8, 1949.

compelling reasons were found by the Supreme Court that warranted the relaxation of the rule. None of those reasons is present in this case.

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

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 the 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