

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

LEAD EXPORT AND AGRO-
DEVELOPMENT CORPORATION,
Petitioner,

CTA EB No. 2458
(CTA Case No. 10075)

Present:

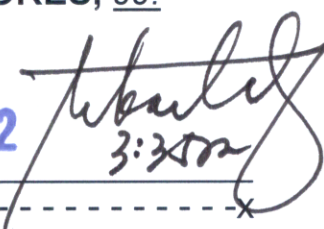
- versus -

DEL ROSARIO, P.J.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID, and
FERRER-FLORES, JJ.

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:

DEC 13 2022

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X-----

DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review (Re: Resolution dated 08 July 2020 and Resolution dated 29 January 2021)¹ filed by petitioner Lead Export and Agro-Development Corporation on May 18, 2021 pursuant to Section 4(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), seeking to reverse and set aside the Resolution dated July 8, 2020 and the Resolution dated January 29, 2021 promulgated by the Court in Division in CTA Case No. 10075, entitled *Lead Export and Agro-Development Corporation vs. Commissioner of Internal Revenue*, which dismissed petitioner's Petition for Review.

The dispositive portions of the assailed Resolutions state:

¹ CTA *En Banc* Docket, pp. 31-65.

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Resolution dated July 8, 2020

“WHEREFORE, finding that the instant petition was not timely filed and therefore, the Court has no jurisdiction over the same, respondent’s **Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court** is **GRANTED**. Accordingly, the instant Petition for Review is **DISMISSED**.

SO ORDERED.”²

Resolution dated January 29, 2021

“WHEREFORE, petitioner’s **Motion for Reconsideration (Of the Resolution dated 8 July 2020)** is **DENIED** for lack of merit.

The Court’s **Resolution dated November 17, 2020** is **RECALLED** and the petitioner’s **“Manifestation with Motion to Resolve”** is **NOTED**.

SO ORDERED.”³

THE PARTIES

Petitioner Lead Export and Agro-Development Corporation is a domestic corporation duly organized and registered under the laws of the Philippines with principal place of business at La Libertad Sto. Tomas, Davao Del Norte.⁴

Respondent Commissioner of Internal Revenue (CIR) is the chief of the Bureau of Internal Revenue (BIR),⁵ empowered to act on and approve claims for refund or tax credit certificate as provided by law.⁶

THE FACTS

For the four (4) quarters of taxable year (TY) 2010, petitioner duly filed with the BIR its Quarterly VAT Returns (BIR Form No. 2550Q), on

² CTA *En Banc* Docket, p. 75.

³ CTA *En Banc* Docket, p. 83.

⁴ Par. 1, I. Parties, Petition for Review, CTA Division Docket, Vol. 1, p. 10 vis-à-vis Par. 1, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, p. 360.

⁵ Section 4, National Internal Revenue Code of 1997, as amended.

⁶ Par. 2, I. Parties, Petition for Review, CTA Division Docket, Vol. 1, p. 11 vis-à-vis Par. 1, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, p. 360.



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the following dates:⁷

Period Covered	Date Return is Filed
1 st Quarter – 2010	April 26, 2010
2 nd Quarter – 2010	June 26, 2010
3 rd Quarter – 2010	October 22, 2010
4 th Quarter – 2010	October 11, 2011

Thereafter, it filed applications for tax credit of its excess and unutilized input value-added tax (VAT) attributable to zero-rated sales for the four (4) quarters of TY 2010 in the total amount of ₱17,739,106.46, computed as follows:⁸

Claimant Sheets for TY 2010	Date	Amount Claimed
1 st Quarter	June 9, 2011	₱ 4,074,210.85
2 nd Quarter	June 9, 2011	4,263,350.75
3 rd Quarter	June 10, 2011	6,636,502.96
4 th Quarter	August 31, 2011	2,765,041.90
TOTAL		₱ 17,739,106.46

In the Denial Letter dated September 25, 2018 which petitioner received on March 26, 2019,⁹ respondent denied petitioner's applications for VAT credit on the ground that the zero-rated sales of petitioner were not substantiated with Export Declaration and Bills of Lading/Airway Bills.¹⁰

On April 25, 2019, petitioner filed a Petition for Review¹¹ with the Court of Tax Appeals (CTA), which was raffled to the Third Division.

⁷ Par. 15, IV. Statement of Facts, Petition for Review, CTA Division Docket, Vol. 1, p. 13, which was denied in Par. 3, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, p. 360. The denial, however, is considered an ineffective denial of the matter within the knowledge of respondent.

⁸ Par. 19, IV. Statement of Facts, Petition for Review, CTA Division Docket, Vol. 1, pp. 13-14 vis-à-vis Par. 1, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, p. 360.

⁹ Annex "P-5", Petition for Review, CTA Division Docket, Vol. 1, p. 32-33.; Par. 7, IV. Timeliness of the Petition, Petition for Review, CTA Division Docket, Vol. 1, p. 11, which was denied in Par. 2, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, p. 360. The denial, however, is considered an ineffective denial of the matter within the knowledge of respondent.

¹⁰ Par. 20, IV. Statement of Facts, Petition for Review, CTA Division Docket, Vol. 1, p. 14 vis-à-vis Par. 4 and 28, Answer (to the Petition for Review dated 25 April 2019), CTA Division Docket, Vol.1, pp. 360-361 and 367-368; Annex "P-5", Petition for Review, CTA Division Docket, Vol. 1, p. 32-33.

¹¹ CTA Division Docket, Vol. 1, pp. 10-21.



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On June 17, 2019, respondent filed a Motion to Admit Attached Answer.¹² This was granted by the Court in Division in the Resolution dated September 25, 2019,¹³ and respondent's Answer (to the Petition for Review dated 25 April 2019)¹⁴ was admitted.

On November 19, 2019, respondent filed a Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court.¹⁵

On November 22, 2019, respondent filed the Offer of Testimony of Jennifer Agmata (with attached Judicial Affidavit of Jennifer Agmata) and the Respondent's Pre-Trial Brief.¹⁶

On December 9, 2019, petitioner filed its Comment/Opposition to respondent's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court.¹⁷

On July 8, 2020, the Court in Division rendered the assailed Resolution granting respondent's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court and dismissing the Petition for Review.¹⁸

On August 3, 2020, petitioner filed a Motion for Reconsideration (Of the Resolution dated 8 July 2020),¹⁹ which was, however, denied by the Court in Division in the assailed Resolution dated January 29, 2021.²⁰

On March 26, 2021, petitioner filed via email a Motion for Extension of Time to File Petition for Review (Re: Resolution dated 08 July 2022 and Resolution dated 29 January 2021).²¹

On May 18, 2021, petitioner filed before the Court *En Banc* its Petition for Review (Re: Resolution dated 08 July 2020 and Resolution

¹² CTA Division Docket, Vol. 1, pp. 355-358.

¹³ CTA Division Docket, Vol. 1, pp. 381-382.

¹⁴ CTA Division Docket, Vol. 1, pp. 360-372.

¹⁵ CTA Division Docket, Vol. 1, pp. 385-391.

¹⁶ CTA Division Docket, Vol. 1, pp. 393-400 and 401-404.

¹⁷ CTA Division Docket, Vol. 1, pp. 409-432.

¹⁸ CTA Division Docket, Vol. 1, pp. 434-439; a similar Resolution granting respondent's Motion for Early Resolution on the Issue of Jurisdiction of the Honorable Court and dismissing the Petition for Review was issued on November 7, 2020, CTA Division Docket, Vol. 1, pp. 479-484.

¹⁹ CTA Division Docket, Vol. 1, pp. 440-466.

²⁰ CTA Division Docket, Vol. 2, pp. 533-539.

²¹ CTA *En Banc* Docket, pp. 15-20.



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dated 29 January 2021), docketed as CTA EB No. 2458.²²

On June 23, 2021, the Court directed petitioner to submit proof of service of its Petition for Review.²³

On September 28, 2021, petitioner filed its Manifestation of Compliance.²⁴

On January 4, 2022, the Court granted petitioner's Motion for Extension of Time to File Petition for Review (Re: Resolution dated 08 July 2022 and Resolution dated 29 January 2021) and directed respondent to file a comment thereto.²⁵

Respondent failed to file a comment on the Petition for Review as per Records Verification dated March 11, 2022.²⁶

On April 4, 2022, the present Petition for Review was submitted for decision.²⁷

THE ASSIGNED ERRORS

Petitioner assigned the following errors allegedly committed by the Court in Division:

1. The Court in Division erred in deciding that it had no jurisdiction to rule on the BIR's Letter of Denial appealed by the petitioner within thirty (30) days from receipt thereof.
2. The Court in Division erroneously denied petitioner's entitlement to its claim for tax credit when such claim can be fully supported.²⁸

PETITIONER'S ARGUMENTS

Petitioner posits that Section 112(C) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides taxpayers with

²² CTA *En Banc* Docket, pp. 31-65.

²³ CTA *En Banc* Docket, pp. 137-138.

²⁴ CTA *En Banc* Docket, pp. 139-141.

²⁵ CTA *En Banc* Docket, pp. 149-150.

²⁶ CTA *En Banc* Docket, p. 151.

²⁷ CTA *En Banc* Docket, p. 153.

²⁸ Petition for Review, CTA *En Banc* Docket, p. 37.



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two (2) alternative remedies in the filing of a judicial claim for refund, to wit:

- a. Filing a judicial claim within the 30-day filing period from the denial or partial denial of the administrative claim; or
- b. Filing a judicial claim within a 30-day filing period from the end of the 120-day waiting period, after which the inaction of the CIR may be deemed (a) denial.

Petitioner availed of the first remedy, which is to await the decision of the CIR and validly filed its judicial claim for refund. It believes that the mandatory nature of 120+30-day period means that in case of inaction, the taxpayer must wait for the 120-day waiting period to lapse before filing a judicial claim, but the law did not exclude the available remedy of going to the CTA should the CIR issue a decision after the lapse of the 120-day period. It avers that the doctrine in *Lascona Land Co., Inc. vs. Commissioner of Internal Revenue*²⁹ (*Lascona*) is applicable in this case due to the almost identical language in Sections 228 and 112 of the NIRC of 1997, as amended, and the equivalence in the circumstances therein and in petitioner's case.

Petitioner also argues that the mandatory and jurisdictional nature of the 120+30-day period upheld in various Supreme Court decisions does not apply in cases where the CIR issues a decision on the VAT refund after the 120-day period.

Petitioner claims that the 120+30-day period under Section 112(C) of the NIRC of 1997, as amended, is a claim-processing rule which does not restrict the jurisdiction of the CTA. Thus, its failure to comply with the 120+30-day period does not deprive the CTA of its jurisdiction to adjudicate on the Denial Letter issued by respondent denying its administrative claim.

Petitioner contends that respondent CIR is deemed estopped from claiming prescription considering that the BIR still acted on petitioner's claim despite the lapse of the 120-day period.

Lastly, petitioner submits that it is entitled to its claim for tax credit certificate amounting to ₱14,989,045.45 pertaining to unutilized input VAT for the four (4) quarters of TY 2010 attributable to its zero-rated export sales.

²⁹ G.R. No. 171251, March 5, 2012.



THE COURT *EN BANC*'S RULING

The present Petition for Review is bereft of merit.

Petition for Review with the Court En Banc was timely filed

Section 3, Rule 8 of the RRCTA provides:

"Rule 8
Procedure in Civil Cases

xxx xxx xxx

SEC. 3. Who may appeal; period to file petition. –

xxx xxx xxx

(b) A party adversely affected by a decision or resolution of a Division of the Court on motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review **within fifteen days from receipt of a copy of the questioned decision or resolution.** xxx" (*Boldfacing supplied*)

Petitioner received the assailed Resolution dated January 29, 2021 of the Court in Division on March 11, 2021.³⁰ Counting fifteen (15) days therefrom, petitioner originally had until March 26, 2021 within which to file its Petition for Review before the Court *En Banc*.

On March 26, 2021, petitioner electronically filed a Motion for Extension of Time to File Petition for Review (Re: Resolution dated 08 July 2020 and Resolution dated 29 January 2021),³¹ which was granted in the Resolution dated January 4, 2022.³² Thus, the Court granted petitioner an additional period of fifteen (15) days from March 26, 2021 or until April 10, 2021 within which to file its Petition for Review before the Court *En Banc*.

Meanwhile, the Supreme Court, in addressing rising cases of COVID-19, issued several administrative circulars,³³ ordering the physical closure of courts in affected areas, and suspending the filing

³⁰ Par. 5, Petition for Review, CTA *En Banc* Docket, p. 33.

³¹ CTA *En Banc* Docket, pp. 1-4.

³² CTA *En Banc* Docket, pp. 149-150.

³³ Administrative Circular (AC) No. 14-2021 dated March 28, 2021, AC No. 15-2021 dated April 3, 2021, AC No. 21-2021 dated April 10, 2021, AC No. 22-2021 dated April 14, 2021, and AC No. 29-2021 dated April 30, 2021.



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and service of motions, pleadings, and other court submissions beginning March 29, 2021, and declaring the resumption thereof seven (7) calendar days counted from the first day of the physical reopening of the relevant court. The CTA physically reopened on May 17, 2021, pursuant to Supreme Court Administrative Circular (AC) No. 33-2021 dated May 14, 2021. Counting seven (7) calendar days from May 17, 2021, the period for filing and service of motions, pleadings, and other court submissions resumed on May 24, 2021.

Considering that petitioner had until April 10, 2021 within which to file its Petition for Review before the Court *En Banc* and that the period for filing and service of motions, pleadings, and other court submissions was suspended beginning March 29, 2021 and resumed on May 24, 2021, the Petition for Review was timely filed on May 18, 2021.³⁴

The Court in Division did not err in dismissing the Petition for Review, belatedly filed, for lack of jurisdiction

The pivotal issue in this case is whether the Court in Division has jurisdiction to take cognizance of the Petition for Review in CTA Case No. 10075, filed by petitioner on April 25, 2019, to appeal respondent's Denial Letter dated September 25, 2018.

Section 112(A) and (C) of the NIRC of 1997, as amended by Republic Act (RA) No. 9337, provides for the legal basis to claim for refund or issuance of a tax credit certificate of input VAT, including the taxpayer's remedy to appeal to the CTA the adverse decision or the inaction of the CIR, viz.:

“SEC. 112. Refunds or Tax Credits of Input Tax. –

(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 attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: xxx

xxx

xxx

xxx

³⁴ CTA *En Banc* Docket, pp. 31-65.



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(C) Period within which Refund or Tax Credit of Input Taxes shall be Made. - In proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof.**

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.” *(Boldfacing supplied)*

Section 112(C) of the NIRC of 1997, as amended, speaks of two (2) periods: (1) the 120-day period, which serves as a waiting period to give time for the CIR to act on the administrative claim for refund or credit; and, (2) the 30-day period, which refers to the period for filing a judicial claim with the CTA.³⁵ The 120+30-day period is mandatory and jurisdictional.³⁶

Anent petitioner’s argument that the mandatory and jurisdictional nature of the 120+30-day period does not apply in cases where the CIR issues a decision on the VAT refund after the 120-day period, the same is untenable.

Complementing Section 112 of the NIRC of 1997, as amended, is RA No. 1125, as amended, conferring exclusive appellate jurisdiction to CTA to review on appeal decision or inaction of the CIR in cases involving refunds of internal revenue taxes, viz.:

“Sec. 7. Jurisdiction. – The CTA shall exercise:

a. Exclusive appellate jurisdiction to review by appeal, as herein provided:

xxx

xxx

xxx

2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws

³⁵ *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.

³⁶ *Commissioner of Internal Revenue vs. San Roque Power Corporation* (G.R. No. 187485), *Taganito Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 196113) and *Philex Mining Corporation vs. Commissioner of Internal Revenue* (G.R. No. 197156) February 12, 2013; *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015.



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administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial[.]**
(*Boldfacing supplied*)

Stated otherwise, the taxpayer may file the appeal within thirty (30) days from the expiration of the 120-day period if there is inaction on the part of the CIR.³⁷

In *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue (Silicon)*,³⁸ the Supreme Court emphasized that the 30-day period commences after the receipt of respondent's decision or ruling or after the expiration of the 120-day period, **whichever is sooner**, to wit:

"Whether respondent rules in favor of or against the taxpayer - or does not act at all on the administrative claim - within the period of 120 days from the submission of complete documents, the taxpayer may resort to a judicial claim before the CTA.

xxx

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xxx

The judicial claim shall be filed within a period of 30 days after the receipt of respondent's decision or ruling or after the expiration of the 120-day period, whichever is sooner.

Aside from a specific exception to the mandatory and jurisdictional nature of the periods provided by the law, **any claim filed in a period less than or beyond the 120+30 days provided by the NIRC is outside the jurisdiction of the CTA.**"

The inaction of the CIR on a claim during the 120-day period is, by express provision of law, "**deemed a denial**" of a claim, and the taxpayer has thirty (30) days from the expiration of the 120-day period to file its judicial claim with the CTA; otherwise, its failure to do so renders the "deemed a denial" decision of the CIR final and unappealable.³⁹

When the 120-day period lapses and there is inaction on the part of the CIR, **the taxpayer must no longer wait for the CIR to come**

³⁷ *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015, citing *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. No. 187485, February 12, 2013.

³⁸ G.R. No. 182737, March 2, 2016.

³⁹ *Commissioner of Internal Revenue vs. San Roque Power Corporation*, G.R. No. 187485, February 12, 2013.



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up with a decision as the inaction is the decision itself.⁴⁰ By operation of law, the refund claim is deemed denied by the CIR's inaction. Thus, the taxpayer must file an appeal within thirty (30) days from the lapse of the 120-day waiting period. Any claim filed beyond the 120+30-day period provided by the NIRC is outside the jurisdiction of the CTA.⁴¹

Anent petitioner's contention that the doctrine in *Lascona* must be applied in this case, the same is bereft of merit.

Lascona involves the interpretation and application of Section 228 of the NIRC of 1997, as amended. Particularly, it pertains to the period for respondent to decide a taxpayer's disputed assessment. It is therefore erroneous for petitioner to insist on the application of said jurisprudence in this case, considering that the present case involves claims for tax credit or refund under Section 112 of the NIRC of 1997, as amended, and not a disputed assessment under the said Section 228.

Further, in *Lascona*, one of the bases of its ruling is Section 3(a)(2), Rule 4 of the RRCTA which provides:

"SEC. 3. Cases within the jurisdiction of the Court in Divisions.

– The Court in Divisions shall exercise:

(a) Exclusive original or appellate jurisdiction to review by appeal the following:

(1) xxx xxx

(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 or other applicable law provides a specific period for action: *Provided*, that **in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial** for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case;

⁴⁰ *Rohm Apollo Semiconductor Philippines vs. Commissioner of Internal Revenue*, G.R. No. 168950, January 14, 2015; *Lapanday Foods Corporation vs. Commissioner of Internal Revenue*, G.R. No. 252821, September 2, 2020 Resolution.

⁴¹ *Silicon Philippines, Inc. (Formerly Intel Philippines Manufacturing, Inc.) vs. Commissioner of Internal Revenue*, G.R. No. 182737, March 2, 2016.



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Provided, further, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and Provided, still further, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;" (Boldfacing supplied)

Unlike the aforesaid provision wherein the taxpayer can wait for the decision of the respondent on disputed assessment, the RRCTA does not provide for an equivalent provision for cases involving claims for refund or credit particularly on input VAT. Hence, *Lascona* is not applicable in this case.

With respect to the timeliness of the judicial claim, it is indispensable to ascertain the expiry of the 120-day period as the said period is crucial in determining the timeliness of an appeal with the CTA.⁴² The running of the 120-day period is reckoned from the date of submission of complete documents in support of the application for refund or issuance of tax credit pursuant to the first paragraph of Section 112(C) of the NIRC of 1997, as amended. The taxpayer, however, is not without any limitation as to the period of submission of complete documents in support of its claim.

In *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*,⁴³ the Supreme Court ruled that the 120-day period may be reckoned from any of the following dates, whichever may be applicable:

1. Date of filing the administrative claim in cases where submission of complete documents was made upon such filing, or when the taxpayer plainly manifests that it no longer wishes to submit any other additional documents to complete its administrative claim; or
2. Date of submission of documents, which may be made within 30 days from the date of filing of the taxpayer's administrative claim, unless given further extension by the CIR; or

⁴² *Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.*, G.R. No. 184823, October 6, 2010.

⁴³ G.R. No. 207112, December 8, 2015.



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3. Date of expiration of 30 days from filing of the administrative claim, when complete documents did not accompany the administrative claim.

In *Silicon*, however, the Supreme Court held that if there is no evidence showing that the taxpayer was required to submit - or actually submitted - additional documents after the filing of the administrative claim, it is presumed that the complete documents accompanied the claim when it was filed.⁴⁴

In this case, there is no evidence showing that petitioner was required to submit or actually submitted additional documents after the filing of is administrative claims for refund, thus, the 120-day period is reckoned from the date of filing of petitioner’s administrative claims:

TY 2010 Taxable Quarter	Date of Filing Administrative Claim	End of 120-day Period	End of 30-day Period	Date of Filing Judicial Claim	Number of Days Late
1 st Quarter	June 9, 2011	October 7, 2011	November 6, 2011	April 25, 2019	2,727
2 nd Quarter	June 9, 2011	October 7, 2011	November 6, 2011		2,727
3 rd Quarter	June 10, 2011	October 8, 2011	November 7, 2011		2,726
4 th Quarter	August 31, 2011	December 29, 2011	January 28, 2012		2,644

The 120-day period started to run from the time petitioner’s administrative claims were filed. Due to respondent’s inaction within the 120-day period, there is a “deemed denial decision”. Petitioner should have appealed the “deemed denial decision” by filing its Petition for Review before the Court in Division not later than November 6, 2011 for the 1st and 2nd quarters, November 7, 2011 for the 3rd quarter, and January 28, 2012 for the 4th quarter of TY 2010. Clearly, the filing of the Petition for Review with the Court in Division on April 25, 2019 was made beyond the period prescribed by law. In fact, petitioner’s judicial claim was filed 2,727 days late for the 1st and 2nd quarters, 2,726 days late for the 3rd quarter, and 2,644 days late for the 4th quarter of TY 2010.

Since the Petition for Review was filed with the Court in Division beyond the period prescribed by law, the CTA is without jurisdiction to take cognizance of the case. The Court in Division judiciously declared that it had no jurisdiction to rule on petitioner’s judicial claim even if the same was filed within thirty (30) days from receipt of respondent’s Denial Letter dated September 25, 2018 as the said Denial Letter is inconsequential.

⁴⁴ *Supra*, Note 39.

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It is a well-settled that 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 on the merits.⁴⁵ Hence, it was proper for the Court in Division to dismiss petitioner's Petition for Review.

In sum, there being no reversible errors committed by the Court in Division, the Court *En Banc* finds no cogent reason to reverse and set aside the assailed Resolutions dated July 8, 2020 and January 29, 2021.

WHEREFORE, premises considered, the present Petition for Review is **DENIED** for lack of merit. Accordingly, the Court in Division's assailed Resolutions dated July 8, 2020 and January 29, 2021 in CTA Case No. 10075 are **AFFIRMED**.

SO ORDERED.



ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:



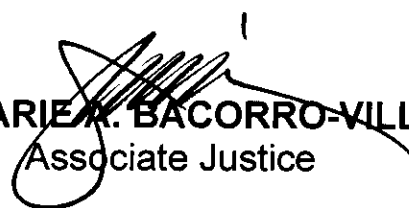
ERLINDA P. UY
Associate Justice



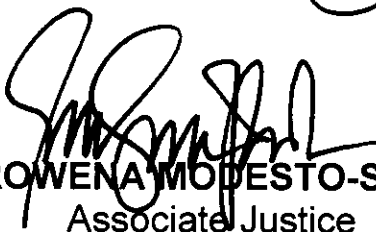
MA. BELEN M. RINGPIS-LIBAN
Associate Justice



CATHERINE T. MANAHAN
Associate Justice



JEAN MARIE R. BACORRO-VILLENA
Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

⁴⁵ *Nippon Express (Philippines) Corp. vs. Commissioner of Internal Revenue*, G.R. No. 185666, February 4, 2015.

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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