



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

COMMISSIONER OF INTERNAL
REVENUE,

Petitioner,

- versus -

DOHLE SHIPMANAGEMENT
PHILIPPINES CORPORATION,

Respondent.

G.R. No. 246379

Present:

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

Promulgated:

August 19, 2024

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DECISION

CAGUIOA, J.:

Before the Court is the Petition for Review on *Certiorari*¹ (Petition) filed by petitioner Commissioner of Internal Revenue (CIR), assailing the Decision² dated July 26, 2018 and Resolution³ dated April 1, 2019 of the Court of Tax Appeals *En Banc* (CTA EB) in CTA EB No. 1665. The CTA EB affirmed the Decision⁴ dated December 16, 2016 of the CTA Second Division in CTA Case No. 8960, which partially granted respondent Dohle Shipmanagement Philippines Corporation's (Dohle) claim for refund in the amount of PHP 7,196,472.58, representing unutilized excess input Value-Added Tax (VAT) attributable to its zero-rated sales for the four quarters of calendar year 2012.⁵

¹ *Rollo*, pp. 12–51.
² *Id.* at 53–65. Penned by Associate Justice Erlinda P. Uy and concurred in by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Caesar A. Casanova, and Catherine T. Manahan; Presiding Justice Roman G. Del Rosario (with Dissenting Opinion, *id.* at 66–70), Associate Justices Esperanza R. Fabon-Victorino and Cielito N. Mindaro-Grulla joined in the Dissenting Opinion of Presiding Justice Del Rosario, and Associate Justice Ma. Belen M. Ringpis-Liban took no part.
³ *Id.* at 72–81. Penned by Associate Justice Erlinda P. Uy and concurred in by Associate Justices Juanito C. Castañeda, Jr. and Catherine T. Manahan; Presiding Justice Roman G. Del Rosario (with Dissenting Opinion, *id.* at 82–85), Associate Justices Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla dissenting, and Associate Justice Ma. Belen M. Ringpis-Liban took no part.
⁴ *Id.* at 87–115. Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justice Caesar A. Casanova
⁵ *Id.* at 54, CTA *En Banc* Decision.

Facts

On March 31, 2014, Dohle filed an application for refund or issuance of tax credit certificate (TCC) of its unutilized input VAT covering the four quarters of calendar year 2012.⁶

On July 28, 2014, Dohle submitted additional documents in support of its application for refund or issuance of TCC.⁷

There being no action taken by the CIR on Dohle's administrative claim for refund or issuance of TCC, Dohle filed a Petition for Review before the CTA Second Division on December 23, 2014. The case was docketed as CTA Case No. 8960.⁸

In a Decision dated December 16, 2016, the CTA Second Division, partially granted Dohle's petition and ordered the CIR to refund or issue a TCC in favor of Dohle in the amount of PHP 7,196,472.58, representing unutilized excess input VAT attributable to Dohle's zero-rated sales/receipts for the four quarters of calendar year 2012.⁹

The CTA Second Division found that Dohle's judicial claim for refund was timely filed within the 120+30-day periods under Section 112(C) of the National Internal Revenue Code of 1997, as amended (1997 Tax Code). According to the CTA Second Division, the 120-day period begins to run from the date of submission of complete documents supporting the administrative claim.¹⁰

However, the CTA Second Division found that Dohle fell short of proving its entitlement to the entire amount of its refund claim.¹¹

Aggrieved, the CIR moved for reconsideration assailing mainly the probative value of some of the documentary exhibits submitted by Dohle. The CIR insisted that Dohle failed to substantially prove its entitlement to the refund claim.¹²

In its Resolution¹³ dated May 22, 2017, the CTA Special Second Division denied the CIR's motion.

⁶ *Id.* at 55.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.* at 114.

¹⁰ *Id.* at 97–98.

¹¹ *Id.* at 98–114.

¹² *See id.* at 118–119, CTA Special Second Division Resolution.

¹³ *Id.* at 117–126. Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justice Caesar A. Casanova.



The CIR elevated the case to the CTA EB and mainly argued that (1) Dohle's invoices and official receipts failed to comply with the mandatory requirements under the law, and (2) the documentary exhibits presented by Dohle were all hearsay and have no probative value.¹⁴

CTA EB Ruling

In the assailed Decision, the CTA EB denied the CIR's petition and affirmed the CTA Second Division's findings.¹⁵ Essentially, the CTA EB held that the CIR failed to rebut the factual findings of the CTA Second Division.¹⁶

The CIR moved for reconsideration and argued that following the case of *Pilipinas Total Gas, Inc. v. CIR*¹⁷ (*Pilipinas Total Gas*), Dohle's judicial claim for refund was belatedly filed, which deprived the CTA Second Division of the jurisdiction to take cognizance of the case.¹⁸ On the other hand, Dohle asserted the timeliness of its petition filed with the CTA Second Division explaining that the 120-day period for the CIR to act on a refund claim is reckoned from the taxpayer's submission of complete documents, and the 30-day period to appeal to the CTA is reckoned from the lapse of the 120-day period in case of the CIR's inaction.¹⁹

In its Resolution dated April 1, 2019, the CTA EB denied the CIR's motion for reconsideration.²⁰ The CTA EB ruled that Dohle's judicial claim was timely filed.²¹

Hence, this Petition.

In its Petition, the CIR alleges that the CTA Second Division erred in exercising jurisdiction over Dohle's judicial claim for VAT refund because the same was filed beyond the 120+30-day prescriptive periods under Section 112 of the 1997 Tax Code.²² The CIR explains that following the case of *Pilipinas Total Gas*, which the CTA Division erroneously disregarded in this case: (1) Dohle had only 30 days from March 31, 2014, the date its administrative claim was filed, or until April 30, 2014, within which to submit supporting documents; (2) then, the CIR had until August 28, 2014 or 120 days to act on Dohle's administrative claim; and (3) Dohle had 30 days or until September 27, 2014 only to elevate its VAT refund claim to the CTA.²³ Thus, the CIR concludes that Dohle's petition for review filed only on December 23, 2014, was way beyond the period allowed by law and

¹⁴ *Id.* at 325–339, Petition for Review.

¹⁵ *Id.* at 64, CTA *En Banc* Decision.

¹⁶ *Id.* at 60–63.

¹⁷ 774 Phil. 473 (2015) [Per J. Mendoza, *En Banc*].

¹⁸ *Rollo*, p. 73, CTA *En Banc* Resolution.

¹⁹ *Id.*

²⁰ *Id.* at 81.

²¹ *Id.* at 77–79.

²² *Id.* at 24, Petition for Review on *Certiorari*.

²³ *Id.* at 30–32.



prevailing jurisprudence, and could no longer be taken cognizance of by the CTA Division.²⁴

In its Comment,²⁵ Dohle insists that it had timely filed the judicial claim for refund within the prescriptive periods under Section 112(C) of the 1997 Tax Code.²⁶ Dohle asserts that following the Court's ruling in *Pilipinas Total Gas*, the 120-day period should be counted from the date of submission of complete documents and it is the taxpayer who determines when complete supporting documents have been submitted for purposes of commencing the running of the 120-day period.²⁷

Dohle further argues that the CTA EB correctly applied the ruling of *Pilipinas Total Gas* to this case considering that the cases have the same factual milieu—the taxpayer filed supporting documents more than 30 days from the filing of the claim for refund.²⁸ According to Dohle, *Pilipinas Total Gas* did not rule that complete supporting documents must be submitted within 30 days from the filing of the application for refund. To be sure, Section 112(C) of the 1997 Tax Code clearly states that the 120-day period is counted from the date of the submission of complete documents.²⁹ Dohle claims that even assuming that the ruling in *Pilipinas Total Gas* can be read as embodying this rule, it is at most, *obiter dictum*, and cannot be relied upon as a binding precedent.³⁰

In its Reply,³¹ the CIR maintains that the CTA did not acquire jurisdiction over Dohle's judicial claim for VAT refund. The CIR contends that applying the relevant provisions of the 1997 Tax Code, as well as Revenue Memorandum Circular No. (RMC) 49-2003, and the Court's pronouncement in *Pilipinas Total Gas*, Dohle's judicial claim for VAT refund was filed beyond the prescriptive periods provided under the law.³² Finally, the CIR argues that the Court's pronouncement in *Pilipinas Total Gas*—that from the date an administrative claim for VAT refund is filed, a taxpayer has 30 days within which to submit the documentary requirements sufficient to support its claim—is not an *obiter dictum* because such pronouncement is necessary in the resolution of the case. Irrespective of the outcome of the case in *Pilipinas Total Gas*, the procedure laid down therein must be followed as *stare decisis*.³³

²⁴ *Id.* at 32 and 36.

²⁵ *Id.* at 367–390, Comment (on the *Petition for Review of Certiorari* dated May 20, 2019).

²⁶ *Id.* at 376–381.

²⁷ *Id.* at 380.

²⁸ *Id.* at 382–383.

²⁹ *Id.* at 384.

³⁰ *Id.* at 385.

³¹ *Id.* at 415–435.

³² *Id.* at 417–425.

³³ *Id.* at 427–428.



Issue

Whether Dohle's judicial claim for VAT refund was filed beyond the prescriptive periods under Section 112 of the 1997 Tax Code.

The Court's Ruling

The crux of the controversy in this case is the interpretation of Section 112 of the 1997 Tax Code in the case of *Pilipinas Total Gas*. For the CIR, *Pilipinas Total Gas* implies that the 120-day period for the CIR to act on the claim should be counted from the submission of the supporting documents or the lapse of the 30-day period under RMC 49-2003, whichever comes first. On the other hand, for Dohle, from the plain language of Section 112(C) of the 1997 Tax Code the 120-day period for the CIR to act on the administrative claim commences to run only upon submission by the taxpayer of the supporting documents. Thus, a review of the facts and ruling of the Court in *Pilipinas Total Gas* is imperative in the resolution of the present case.

Interpretation of Section 112 of the 1997 Tax Code in the case of Pilipinas Total Gas

Section 112 of the 1997 Tax Code, as amended, provides:

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

....

(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. (Emphasis supplied)

The law categorically provides that the 120-day period for the CIR to decide the administrative claim for VAT refund runs from the date the taxpayer submits “complete documents” in support of its application for refund.

In relation to the foregoing, in *Pilipinas Total Gas*, the Court was confronted with the issue of “when should the submission of documents be deemed ‘completed’ for purposes of determining the running of the 120-day period.”³⁴

Pertinent portions of the Court *En Banc*’s ruling in *Pilipinas Total Gas* are quoted below:

Indeed, the 120-day period granted to the CIR to decide the administrative claim under . . . Section 112 is primarily intended to benefit the taxpayer, to ensure that his claim is decided judiciously and expeditiously. After all, the sooner the taxpayer successfully processes his refund, the sooner can such resources be further reinvested to the business translating to greater efficiencies and productivities that would ultimately uplift the general welfare. To allow the CIR to determine the completeness of the documents submitted and, thus, dictate the running of the 120-day period, would undermine these objectives, as it would provide the CIR the unbridled power to indefinitely delay the administrative claim, which would ultimately prevent the filing of a judicial claim with the CTA.

A hypothetical situation illustrates the hazards of granting the CIR the authority to decide when complete documents have been submitted — A taxpayer files its administrative claim for VAT refund/credit with supporting documents. After 121 days, the CIR informs the taxpayer that it must submit additional documents. Considering that the CIR had determined that complete documents have not yet been submitted, the 120-day period to decide the administrative claim has not yet begun to run. In the meantime, more than 120 days have already passed since the application with the supporting documents was filed to the detriment of the taxpayer, who has no opportunity to file a judicial claim until the lapse of the 120+30[-]day period in Section 112(C). With no limitation to the period for the CIR to determine when complete documents have been submitted, the taxpayer may be left in a limbo and at the mercy of the CIR, with no adequate remedy available to hasten the processing of its administrative claim.

³⁴ *Pilipinas Total Gas, Inc. v. CIR*, *supra* note 17, at 488.



Thus, the question must be asked: In an administrative claim for tax credit or refund of creditable input VAT, from what point does the law allow the CIR to determine when it should decide an application for refund? **Or stated differently: Under present law, when should the submission of documents be deemed “completed” for purposes of determining the running of the 120-day period?**

Ideally, upon filing his administrative claim, a taxpayer should complete the necessary documents to support his claim for tax credit or refund or for excess utilized VAT. After all, should the taxpayer decide to submit additional documents and effectively extend the 120 [day]-period, it grants the CIR more time to decide the claim. Moreover, it would be prejudicial to the interest of a taxpayer to prolong the period of processing of his application before he may reap the benefits of his claim. Therefore, ideally, the CIR has a period of 120 days from the date an administrative claim is filed within which to decide if a claim for tax credit or refund of excess unutilized VAT has merit.

Thus, when the VAT was first introduced through Executive Order No. 273, the pertinent rule was that:

(e) Period within which refund of input taxes may be made by the Commissioner. The Commissioner shall refund input taxes within 60 days from the date the application for refund was filed with him or his duly authorized representative. No refund or input taxes shall be allowed unless the VAT-registered person files an application for refund within the period prescribed in paragraphs (a), (b) and (c), as the case may be.

[Emphasis Supplied]

Here, the CIR was not only given 60 days within which to decide an administrative claim for refund of input taxes, but the beginning of the period was reckoned “from the date the application for refund was filed.”

When Republic Act (R.A.) No. 7716 was, however, enacted on May 5, 1994, the law was amended to read:

(d) Period within which refund or tax credit of input taxes shall be made. — In proper cases, [t]he Commissioner shall grant a refund or issue the tax credit for creditable input taxes within sixty (60) days **from the date of submission of complete documents in support of the application** filed in accordance with sub-paragraphs (a) and (b) 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 sixty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals.

[Emphasis Supplied]



Again, while the CIR was given only 60 days within which to act upon an administrative claim for refund or tax credit, the period came to be reckoned "from the date of submission of complete documents in support of the application." With this amendment, the date when a taxpayer made its submission of complete documents became relevant. In order to ensure that such date was at least determinable, RMO No. 4-94 provides:

REVENUE MEMORANDUM ORDER NO. 40-94

SUBJECT: *Prescribing the Modified Procedures on the Processing of Claims for Value-Added Tax Credit/Refund*

III. Procedures

REGIONAL OFFICE

A. Revenue District Office

In General:

1. Ascertain the completeness of the supporting documents prior to the receipt of the application for VAT credit/refund from the taxpayer.
2. Receive application for VAT Credit/Refund (BIR Form No. 2552) in three (3) copies in the following manner:
 - a. stamp the word "RECEIVED" on the appropriate space provided in all copies of application;
 - b. indicate the claim number;
 - c. indicate the date of receipt; and
 - d. initial by receiving officer.

The application shall be received only if the required attachments prescribed in RAMO 1-91 have been fully complied with.

Then, when the NIRC was enacted on January 1, 1998, the rule was once more amended to read:

(D) 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 Subsections (A) and (B) 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.

[Emphasis Supplied]

This time, the period granted to the CIR to act upon an administrative claim for refund was extended to 120 days. The reckoning point however, remained “from the date of submission of complete documents.”

Aware that not all taxpayers were able to file the complete documents to allow the CIR to properly evaluate an administrative claim for tax credit or refund of creditable input taxes, the CIR issued RMC No. 49-2003, which provided:

Q-18: For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?

A-18: For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.

For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.

For current and future claims for tax credit/refund, the same shall be processed within one hundred twenty (120) days from receipt of the complete documents. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office, which shall be construed as within the one hundred twenty (120)[-]day period.

....

Consequently, upon filing of his application for tax credit or refund for excess creditable input taxes, the taxpayer-claimant is given thirty (30) days within which to complete the required documents, unless given further



extension by the head of the processing unit. *If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. Notice, by way of a request from the tax collection authority to produce the complete documents in these cases, became essential. It is only upon the submission of these documents that the 120-day period would begin to run.*

Then, when R.A. No. 9337 was passed on July 1, 2005, the same provision under the NIRC was retained. With the amendment to Section 112, particularly the deletion of what was once Section 112 (B) of the NIRC, Section 112 (D) was amended and renamed 112(C). Thus:

(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.

With the amendments only with respect to its place under Section 112, the Court finds that RMC No. 49-2003 should still be observed. Thus, taking the foregoing changes to the law altogether, it becomes apparent that, for purposes of determining when the supporting documents have been completed — **it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period.** After all, he may have already completed the necessary documents the moment he filed his administrative claim, in which case, the 120-day period is reckoned from the date of filing. The taxpayer may have also filed the complete documents on the 30th day from filing of his application, pursuant to RMC No. 49-2003. He may very well have filed his supporting documents on the first day he was notified by the BIR of the lack of the necessary documents. **In such cases, the 120-day period is computed from the date the taxpayer is able to submit the complete documents in support of his application.**

Then, *except in those instances where the BIR would require additional documents in order to fully appreciate a claim for tax credit or refund, in terms what additional document must be presented in support of a claim for tax credit or refund — it is the taxpayer who has that right and the burden of providing any and all documents that would support his claim for tax credit or refund.* After all, in a claim for tax credit or refund, it is the



taxpayer who has the burden to prove his cause of action. As such, he enjoys relative freedom to submit such evidence to prove his claim.

The foregoing conclusion is but a logical consequence of the due process guarantee under the Constitution. Corollary to the guarantee that one be afforded the opportunity to be heard, it goes without saying that the applicant should be allowed reasonable freedom as to when and how to present his claim within the allowable period.

Thereafter, whether these documents are actually complete as required by law — is for the CIR and the courts to determine. Besides, as between a taxpayer-applicant, who seeks the refund of his creditable input tax and the CIR, it cannot be denied that the former has greater interest in ensuring that the complete set of documentary evidence is provided for proper evaluation of the State.

Lest it be misunderstood, *the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential.***

Moreover, under Section 112(A) of the NIRC, as amended by RA 9337, a taxpayer has two (2) years, after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. Thus, before the administrative claim is barred by prescription, the taxpayer must be able to submit his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, “officially received” as provided under RMC No. 49-2003.

To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120[-]day period allowed to the CIR begins to run from the date of filing.

In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112(A) of the NIRC. The 30-day period from denial of the claim or from the expiration of the 120-day period within which to appeal the



*denial or inaction of the CIR to the CTA must also be respected.*³⁵
(Emphasis supplied; citations omitted)

Simplifying the foregoing ruling, the following are fundamental precepts underscored by the Court in *Pilipinas Total Gas*:

First, the 120-day period, which is primarily for the benefit of the taxpayer, is reckoned from the submission by the taxpayer of complete documents supporting the administrative claim for refund.

Second, it is the taxpayer, and not the CIR, who ultimately determines the completeness of the documents supporting the claim for refund.

Third, the 30-day period under RMC 49-2003 is triggered only when the CIR gives notice to the taxpayer that additional documents are required to properly determine the merits of the refund claim.

Fourth, the two-year prescriptive period under Section 112(A) and the 120+30-day periods under Section 112(C) must be complied with.

Applying these principles, the Court in *Pilipinas Total Gas* found that the judicial claim of the taxpayer therein was timely filed, viz.:

Applying the foregoing precepts to the case at bench, *it is observed that the CIR made no effort to question the inadequacy of the documents submitted by Total Gas. It neither gave notice to Total Gas that its documents were inadequate, nor ruled to deny its claim for failure to adequately substantiate its claim. Thus, for purposes of counting the 120-day period, it should be reckoned from August 28, 2008, the date when Total Gas made its "submission of complete documents to support its application" for refund of excess unutilized input VAT.* Consequently, counting from this later date, the BIR had 120 days to decide the claim or until December 26, 2008. With absolutely no action or notice on the part of the BIR for 120 days, Total Gas had 30 days or until January 25, 2009 to file its judicial claim.

Total Gas, thus, timely filed its judicial claim on January 23, 2009.³⁶
(Emphasis supplied)

It must be underscored that the taxpayer in *Pilipinas Total Gas* filed its administrative claim for refund of unutilized input VAT, inclusive of supporting documents, on May 15, 2008. On August 28, 2008, or more than 30 days from the filing of its administrative claim, the taxpayer submitted additional supporting documents. Finding that the CIR, from the filing of the administrative claim on May 15, 2008, until the submission of additional documents on August 28, 2008, did not give the taxpayer any notice whether the documents initially submitted were inadequate and did not rule on the

³⁵ *Id.* at 488–495.

³⁶ *Id.* at 497.



propriety of its claim for refund, the Court, for purposes of determining whether the judicial claim was timely filed, reckoned the 120-day period from August 28, 2008, or the date the taxpayer completed the submission of supporting documents, and not on June 13, 2008 or the expiration of the 30-day period under RMC 49-2003. Simply put, the Court in *Pilipinas Total Gas* did not apply the 30-day period under RMC 49-2003 because the CIR did not give the taxpayer any notice during the investigation of the administrative claim for refund. Thus, the 120-day period was reckoned from the date the taxpayer subsequently submitted complete supporting documents.

Again, to emphasize, *Pilipinas Total Gas* clarified that the 120-day period under Section 112(C) of the 1997 Tax Code is reckoned from the date the taxpayer submits complete documents in support of the administrative claim. This period is essentially made for the benefit of the taxpayer to ensure that the latter's claim is duly acted upon by the CIR. Thus, it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. This has been reiterated in the recent cases of *Zuellig-Pharma Asia Pacific Ltd. Phils. ROHQ v. CIR*³⁷ (*Zuellig-Pharma*), *CIR v. Philex Mining Corp.*,³⁸ and *CIR v. Taganito Mining Corp.*³⁹

However, under RMC 49-2003, if the CIR during its investigation finds the documents submitted with the administrative claim insufficient to determine the propriety of the refund, the CIR shall notify the taxpayer thereof, and the taxpayer has 30 days or more depending on the CIR's notice to submit additional supporting documents. In fact, in *Zuellig-Pharma*, the Court stressed anew that "what is 'essential' [under RMC 49-2003] is that there must be 'a request from the tax collection authority to produce the complete documents' given to the taxpayer-claimant."⁴⁰ In such a case—that is, when the CIR sends notice to the taxpayer for insufficiency of documents—the 120-day period commences to run from the taxpayer's compliance or expiration of the period given, whichever comes first. In other words, the 30-day period under RMC 49-2003 becomes relevant only when the CIR gives notice to the taxpayer of insufficiency of documents in its application for refund.

In all cases, the taxpayer must submit complete documents within the two-year prescriptive period under Section 112(A) of the 1997 Tax Code.

Relevantly, in Revenue Regulations No. 01-2017,⁴¹ the CIR acknowledged the above guidelines set forth in *Pilipinas Total Gas* and

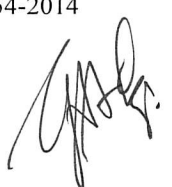
³⁷ 877 Phil. 903 (2020) [Per J. Perlas-Bernabe, Second Division].

³⁸ G.R. No. 218057, January 18, 2021, 969 SCRA 228 [Per J. Hernando, Third Division].

³⁹ G.R. Nos. 219630-31 & 219635-36, December 7, 2021 [Per C.J. Gesmundo, First Division], available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67967>.

⁴⁰ *Supra* note 37, at 917.

⁴¹ Prescribing the Regulations Governing Applications for Value-Added Tax (VAT) Credit/Refund Filed under Section 112 of the Tax Code, as Amended, Prior to Revenue Memorandum Circular No. 54-2014 dated June 11, 2014, January 3, 2017.



directed the concerned revenue officers to respect the taxpayer's right to submit additional supporting documents within the two-year prescriptive period, to wit:

SEC. 3. PROCESSING OF ADMINISTRATIVE CLAIMS. —

VAT claims filed and pending prior to the effectivity of RMC 54-2014, the claims solely covered by these Regulations, shall be processed and approved in accordance with the following rules:

1. The claimant-taxpayer, under Section 112 (A) of the Tax Code, as amended, has two (2) years after the close of the taxable quarter when the sales were made, to apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales. *Thus, before the administrative claim is barred by prescription, the taxpayer must have submitted his complete documents in support of the application filed. This is because, it is upon the complete submission of his documents in support of his application that it can be said that the application was, "officially received" as clarified under RMC No. 49-2003.*
2. *In all cases, whatever documents a taxpayer intends to file to support his claim must be completed within the two-year period under Section 112 (A) of the Tax Code, as amended, and the Commissioner, or his duly authorized representative, should have decided on the claim for tax credit or refund within 120 days from the date of submission of complete documents, or from the date filing of the application, if the claimant-taxpayer did not submit additional documents.*

Hence, pending administrative claims prior to the effectivity of RMC No. 54-2014 shall be processed by the concerned offices based on available documents submitted by the claimant-taxpayer within the aforesaid statutory two-year period. For this purpose, the result shall be communicated in writing by the concerned revenue official. (Emphasis supplied)

It must be noted that the foregoing rule applies only for claims for tax refund or credit filed prior to June 11, 2014—***such as the present refund claim.*** As highlighted in *Pilipinas Total Gas*, under RMC 54-2014,⁴² which was issued on June 11, 2014, a taxpayer is mandated to submit all necessary documents upon submission of the application for refund and is barred from submitting additional documents after the filing of the administrative claim, *viz.*:

II. Filing and Processing of Administrative Claims —

The application for VAT refund/tax credit **must be accompanied by complete supporting documents** as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach **a statement under oath** attesting to the completeness of the submitted documents (Annex "B"). The affidavit shall further state that the said documents are the only documents which the

⁴² Clarifying Issues Relative to the Application for Value Added Tax (VAT) Refund/Credit under Section 112 of the Tax Code, as amended, June 11, 2014.

taxpayer will present to support the claim. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (i.e., at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.

Upon submission of the administrative claim and its supporting documents, the claim shall be processed and no other documents shall be accepted/required from the taxpayer in the course of its evaluation. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/claimant.

Based on the foregoing, for administrative claims for VAT refund/tax credit filed beginning June 11, 2014, the 120-day period commences to run from the filing of the administrative claim for VAT refund/tax credit only, as no other documents are to be accepted thereafter.

Section 112(C) of the 1997 Tax Code was thereafter amended by Republic Act No. 10963⁴³ (TRAIN Law), which took effect on January 1, 2018. The TRAIN Law shortened the 120-day period for the CIR to process administrative claims for VAT refund to 90 days. The amendatory provision further states that 90-day processing period commences to run only upon the taxpayer's submission of supporting documents, official receipts, or invoices. The BIR, under pain of criminal and/or administrative penalty, is mandated to act and decide on administrative claim for refund within the 90-day period.⁴⁴ All these were reiterated in Revenue Regulations No. 13-2018,⁴⁵ as amended

⁴³ Tax Reform for Acceleration and Inclusion (TRAIN), December 19, 2017.

⁴⁴ Republic Act No. 10963, Sec. 36 states:

SEC. 36. Section 112 of the NIRC, as amended, is hereby further amended to read as follows:

“SEC. 112. *Refunds or Tax Credits of Input Tax.* —

... .

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

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

⁴⁵ Regulations Implementing the Value-Added Tax Provisions under the Republic Act (RA) No. 10963, or the “Tax Reform for Acceleration and Inclusion (TRAIN),” Further Amending Revenue Regulations (RR) No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005), as Amended, March 15, 2018.

by Revenue Regulations No. 26-2018,⁴⁶ the implementing rules and regulations of the TRAIN Law.⁴⁷

In addition, the BIR issued RMC 47-2019⁴⁸ providing for uniform guidelines and revised mandatory documentary requirements in the processing and grant of VAT refund claims under Section 112 of the Tax Code of 1997, as amended. The Circular reminded taxpayers that the application for VAT refund must be accompanied by complete supporting documents because no additional documents will be requested from the taxpayer upon filing of the application. Applications for VAT refund without or with insufficient documentary requirements shall not be accepted or will be outrightly disallowed.

Pertinent portions of RMC 47-2019 reads:

I. GENERAL POLICIES

1. Pursuant to Section 2 of Revenue Regulations (RR) No. 26-2018, which amended Sections 4.106-5, 4.108-5, 4.112-1 and 13 of RR No. 13-2018, the time frame to process and grant claims for VAT refund is ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with Sections 112 (A) and (B) of the Tax Code of 1997, as amended, up to the release of the payment for the approved amount of the refund.

....

⁴⁶ Amends Certain Provisions of Revenue Regulations No. 13-2018 to Implement the 90-Day Processing of Claim for VAT Refund Under Section 112(C) of the Tax Code of 1997, as amended by Republic Act (R.A.) No. 10963, Otherwise Known as the Tax Reform for Acceleration and Inclusion or TRAIN, December 21, 2018.

⁴⁷ SEC. 4.112-1. Claims for Refund/Credit of Input Tax. –

....
(d) **Period within which refund/credit of input taxes shall be made**

In proper cases, the Commissioner of Internal Revenue shall grant refund for creditable input taxes within ninety (90) days from the date of submission of the official receipts or invoices and other documents in support of the application filed in accordance with subsections (a) and (b) hereof; Provided, That, should the Commissioner find that the grant of refund is not proper, the Commissioner must state in writing the legal and factual basis for the denial.

The 90-day period to process and decide shall start from the filing of the claim up to the release of the payment of the VAT refund. Provided, That, the claim/application is considered to have been filed only upon submission of the official receipts or invoices and other documents in support of the application as prescribed under pertinent revenue issuances.

In case of full or partial denial of the claim for tax refund, the taxpayer affected, may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals (CTA): Provided, that failure on the part of any official, agent, or employee of the BIR to act on the application within the ninety (90)-day period shall be punishable under Section 269 of the Tax Code, as amended. Provided further, That, in the event that the 90-day period has lapsed without having the refund released to the taxpayer-claimant, the VAT refund claim may still continue to be processed administratively. Provided, however, That the BIR official, agent, or employee who was found to have deliberately caused the delay in the processing of the VAT refund claim may be subjected to penalties imposed under said section.

⁴⁸ Revised Guidelines and Mandatory Requirements for the Processing and Grant of Value-Added Tax (VAT) Refund Claims Within the 90-Day Period Pursuant to Section 112 of the Tax Code of 1997, as Amended, April 16, 2019.

3. Subject to the provisions of Sec. 4.112-1(b) of RR No. 13-2018, the filing of the claim for VAT refund of a VAT-registered person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 106(C) of the Tax Code shall be at the Bureau of Internal Revenue (BIR) office which has jurisdiction over the taxpayer, within two (2) years from the date of issuance of the tax clearance by the BIR.

....

5. *The taxpayer-claimant shall ensure the completeness and authenticity of the documentary requirements upon filing of the application for VAT refund. Failure on the part of the taxpayer-claimant to submit the complete documents in support of the claim shall result in non-acceptance of the applications. Due to the very limited time for processing the VAT refunds, no additional document/s shall be subsequently requested/required from the taxpayer-claimant. Any unsupported claim shall be outrightly disallowed, resulting in full/partial denial of the claim.* (Emphasis supplied)

To summarize, the 120-day processing period applies to administrative claims for VAT refund filed prior to January 1, 2018. For VAT refund claims filed beginning January 1, 2018, the 90-day processing period under the TRAIN Law applies.

In determining the reckoning of the processing periods, the following rules shall be observed:

A. For administrative claims for VAT refund/credit filed **prior to June 11, 2014:**

1. The 120-day period is reckoned from the date of the filing of the administrative claim when (a) the taxpayer submits complete documents with the administrative claim or (b) the taxpayer manifests that the taxpayer will no longer submit additional supporting documents;
2. If the BIR, pursuant to RMC 49-2003, finds that the documents submitted are insufficient, it shall notify the taxpayer of such and the taxpayer has 30 days to submit the requested documents unless given further extension by the BIR. The 120-day period is reckoned from the submission of the requested documents or lapse of the period given;
3. If the BIR did not notify the taxpayer of insufficiency of the documents already submitted, and the taxpayer submits additional supporting documents, the 120-day period is reckoned from the submission of said supporting documents;



4. The filing of the administrative claim for refund and submission of supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112(A) of the 1997 Tax Code.

B. For administrative claims for VAT refund/credit filed from June 11, 2014 until December 31, 2017:

1. The filing of the administrative claim with supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112(A) of the 1997 Tax Code.
2. The 120-day period is reckoned from the date of the filing of the administrative claim with complete supporting documents;
3. Pursuant to RMC 54-2014, the taxpayer is barred from submitting additional documents after the filing of the administrative claim for refund.

C. For administrative claims for VAT refund filed beginning January 1, 2018:

1. The filing of the administrative claim with supporting documents must be done within two years from the close of the taxable quarter pursuant to Section 112(A) of the 1997 Tax Code or issuance of tax clearance by the BIR in case of cancellation of registration or cessation of business under Section 106(C) of the Tax Code.
2. The 90-day processing period is reckoned from the submission of the official receipts or invoices and other documents in support of the application for VAT refund.
3. Pursuant to RMC 47-2019, once an administrative claim for VAT refund is filed and duly received by the BIR, no additional document/s shall be subsequently requested/required from the taxpayer. Failure on the part of the taxpayer-claimant to submit the complete documents in support of the claim shall result in non-acceptance of the applications. Any unsupported claim shall be outrightly disallowed, resulting in full/partial denial of the claim.

CTA EB correctly applied Pilipinas Total Gas; Dohle's judicial claim was timely filed.

As earlier stated, the present case involves administrative claim for VAT refund filed prior to June 11, 2014.



Applying the foregoing guidelines, the CTA EB correctly applied *Pilipinas Total Gas* to this case and ruled that Dohle’s judicial claim was timely filed. To be sure, as aptly recognized by the CTA EB, the factual milieu of this case is similar to *Pilipinas Total Gas*. Thus, it is but appropriate to apply the similar reasoning and ruling of the Court in *Pilipinas Total Gas* in determining the timeliness of Dohle’s judicial claim for refund.

We quote with approval the CTA EB’s ruling on this matter, viz.:

Based on the foregoing jurisprudential pronouncements, the Supreme Court held that Total Gas timely filed its judicial claim before this Court; and that the 120+30[-]day period was, in fact, complied with. This, notwithstanding the fact that there was gap (*i.e.*, 105 days) between the filing of the administrative claim and the later submission of additional documents. Moreover, worthy of note is that the Supreme Court reckoned the 120-day period from the submission of additional documents, and not on the day of the filing of the administrative claim, nor on any day thereafter before such submission—this is for the simple reason that petitioner did not give notice to Total Gas that its documents were inadequate, nor ruled to deny its claim for failure to adequately substantiate its claim.

Simply put, in ruling that the judicial claim was timely filed in the *Pilipinas Total Gas* case, the Supreme Court applied the 120+30[-]day period under Section 112 of the National Internal Revenue Code of 1997, as amended, in this wise:

Date of Filing of Administrative Claim	Date of Submission of Complete Documents	End of 120 days	End of 30 days	Date of filing of Petition for Review
May 15, 2008	August 28, 2008	December 26, 2008	January 25, 2009	January 23, 2009

The facts of the instant case relative to the filing of the administrative and judicial claims are similar to the *Pilipinas Total Gas* case.

In this case, it is clear that: (1) respondent filed its administrative claim on March 31, 2014, and it attached supporting documents thereto; (2) after such date, respondent submitted additional supporting documents on July 28, 2014; (3) there is an interval between the filing of the said administrative claim and the submission of additional supporting documents, *i.e.*, 119 days; and (4) after the said submission of additional supporting documents, respondent only elevated its judicial claim on December 23, 2014, or within 30 days after the lapse of the 120-day period, which was reckoned from the said date of submission of additional supporting documents, *i.e.*, on July 28, 2014.

To summarize, insofar as the filing of the administrative and judicial claims in this case are concerned, the following events happened, to wit:



Date of Filing of Administrative Claim	Date of Submission of Complete Documents	End of 120 days	End of 30 days	Date of filing of Petition for Review
March 31, 2014	July 28, 2014	November 25, 2014	December 25, 2014	December 23, 2014

It is also worthy of note that just as in the Pilipinas Total Gas case, there is no indication herein that petitioner gave notice to respondent that its documents were inadequate; nor did he rule to deny its claim for failure to adequately substantiate its claim.

Considering that the factual milieu in the Pilipinas Total Gas case are similar to the instant case, the conclusion reached in the former case of the timely filing of the judicial claim may also be applied herein.


Correspondingly, contrary to the assertion of petitioner, respondent’s judicial claim was timely filed. Such being the case, the Court in Division had jurisdiction to take cognizance of respondent’s *Petition for Review* in CTA Case No. 8960.⁴⁹ (Emphasis supplied)

Clearly, similar to *Pilipinas Total Gas*, the CIR in this case did not notify Dohle of the inadequacy of the documents initially submitted with its administrative claim nor did it deny its administrative claim for refund. Consequently, the 120-day period should be reckoned from July 28, 2014, the date when Dohle made its submission of complete documents in support of its application for refund. Counting from this date, the CIR had 120 days to decide the claim or until November 25, 2014. With the CIR’s inaction, Dohle had 30 days from the expiration of the 120-day period or until December 25, 2014 to file its judicial claim. Dohle’s petition filed with the CTA on December 23, 2014 is therefore within the said period.

All told, the Court finds no reason to disturb the findings of the CTA EB. The assailed Decision and Resolution should perforce be affirmed.

ACCORDINGLY, the instant Petition is **DENIED**. The Decision dated July 26, 2018 and Resolution dated April 1, 2019 of the Court of Tax Appeals *En Banc* in CTA EB No. 1665 are hereby **AFFIRMED**.

SO ORDERED.




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴⁹ Rollo, pp. 78–79, CTA *En Banc* Resolution.

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice




JAFAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

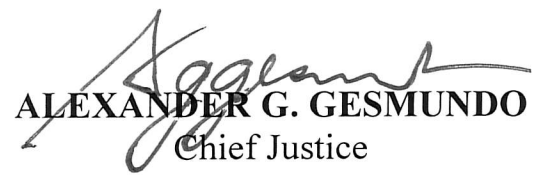
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO
Chief Justice