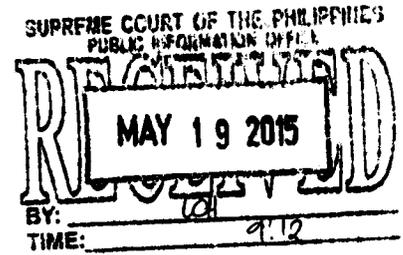




REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 18 March 2015 which reads as follows:*

**"G.R. No. 181835: COMMISSIONER OF INTERNAL REVENUE v. MATSUSHITA BUSINESS MACHINE CORPORATION OF THE PHILIPPINES**

X-----X

Before this court is a Petition for Review<sup>1</sup> under Rule 45 seeking to set aside the January 17, 2008 Decision<sup>2</sup> and the February 27, 2008 Resolution<sup>3</sup> of the Court of Tax Appeals En Banc in C.T.A. E.B. No. 290.

The assailed Decision dismissed the appeal of the Commissioner of Internal Revenue and affirmed the Decision of the Second Division which partially granted the claim of Matsushita Business Machine Corporation of the Philippines for refund or tax credit in the reduced amount of ₱4,583,654.73, representing unutilized excess input Value-Added Tax (VAT) for the period of April 1, 2000 to September 30, 2000.

Respondent Matsushita Business Machine Corporation of the Philippines (Matsushita) is registered with the Bureau of Internal Revenue (Bureau) as a VAT taxpayer with identification number 004-649-223-000.<sup>4</sup>

Matsushita filed with the Bureau its Quarterly VAT Return for the quarter April 1, 2000 to June 30, 2000 on July 25, 2000, and for the quarter July 1, 2000 to September 30, 2000 on October 25, 2000.<sup>5</sup>

"On August 24, 2001, [Matsushita] filed with the [Bureau] an application for tax credit and/or refund of the amount of ₱8,321,089.01 representing unutilized and/or unapplied input VAT for the period April 1, 2000 to September 30, 2000."<sup>6</sup>

<sup>1</sup> Rollo, pp. 7-25.

<sup>2</sup> Id. at 29-47. The Decision was penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castaneda, Jr., Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez.

<sup>3</sup> Id. at 49-52. The Resolution was penned by Associate Justice Lovell R. Bautista and concurred in by Presiding Justice Ernesto D. Acosta and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Caesar A. Casanova, and Olga Palanca-Enriquez.

<sup>4</sup> Id. at 31.

<sup>5</sup> Id.

<sup>6</sup> Id.

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Without waiting for the decision of the Bureau on its claim for refund, Matsushita filed on June 28, 2002 the Petition for Review before the Second Division of the Court of Tax Appeals. The Petition, docketed as C.T.A. Case No. 6495, sought the refund and/or issuance of tax credit in the reduced amount of ₱7,136,065.57.<sup>7</sup>

The Commissioner of Internal Revenue opposed the Petition on the grounds that the claim for refund/tax credit was not properly documented and that it was filed beyond the prescriptive period.<sup>8</sup>

After the termination of the presentation of Matsushita's testimonial and documentary evidence, the case was submitted for decision.<sup>9</sup>

On January 5, 2007, the Court of Tax Appeals Second Division rendered its Decision,<sup>10</sup> the dispositive portion of which reads:

**WHEREFORE**, foregoing premises considered, the instant Petition For Review is hereby **PARTIALLY GRANTED**. [The Commissioner of Internal Revenue] is hereby **ORDERED to REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of [Matsushita] in the reduced amount of **FOUR MILLION FIVE HUNDRED EIGHTY THREE THOUSAND SIX HUNDRED FIFTY FOUR PESOS AND 73/100 (P4,583,654.73)**, representing unutilized excess input tax for the period of April 1, 2000 to September 30, 2000.

SO ORDERED.<sup>11</sup> (Emphasis in the original)

The Commissioner filed a Motion for Partial Reconsideration, but it was denied by the Court of Tax Appeals Second Division in the Resolution<sup>12</sup> dated June 13, 2007.

Dissatisfied, the Commissioner appealed before the Court of Tax Appeals En Banc.<sup>13</sup>

The Court of Tax Appeals En Banc dismissed the appeal and affirmed the challenged Decision and Resolution of the Second Division. It ruled that the 120-day period under Section 112 (D)<sup>14</sup> of the 1997 National Internal

<sup>7</sup> Id. at 10–11.

<sup>8</sup> Id. at 31–32.

<sup>9</sup> Id. at 32.

<sup>10</sup> Id. at 67–88. The Decision was penned by Associate Justice Olga Palanca-Enriquez and concurred in by Associate Justices Juanito C. Castaneda, Jr. (Chair) and Erlinda P. Uy.

<sup>11</sup> Id. at 87.

<sup>12</sup> Id. at 90–91.

<sup>13</sup> Id. at 29–30.

<sup>14</sup> Section 112 (D) is now Section 112 (C).

Revenue Code<sup>15</sup> is directory and permissive, and the judicial claim filed by Matsushita was within the two-year prescriptive period. The En Banc further ruled that Matsushita has sufficiently proven its entitlement to the refund.<sup>16</sup>

The Commissioner's Motion for Reconsideration was likewise denied in its February 27, 2008 Resolution.<sup>17</sup>

Hence, this Petition was filed, anchored on the following issues:

First, whether respondent Matsushita's judicial claim was filed out of time; and

Second, whether respondent is entitled to a tax refund/credit in the amount of ₱4,583,654.73, representing unutilized excess input VAT for the period April 1, 2000 to September 30, 2000.

On February 14, 2012, after the parties' respective memoranda have been filed,<sup>18</sup> counsel for respondent filed the Manifestation and Motion With Leave of Court to Withdraw Judicial Claim for Refund. The Manifestation stated that on December 7, 2011, they received a letter<sup>19</sup> of the same date from respondent Panasonic Communications Imaging Corporation of the Philippines (formerly Matsushita) informing them of their disinterest from further pursuing their refund claim of input VAT for the period April 1, 2000 to September 30, 2000 in the amount of ₱4,583,654.73. Respondent, through counsel, thus requested that it be allowed to withdraw from the case so as not to unduly clog the dockets of the court.

This court noted respondent's Manifestation in the Resolution dated March 7, 2012.

The Petition has merit.

The main issue on the timeliness of the filing of respondent's judicial claim is anchored on the nature of the prescriptive periods under Section 112 of the 1997 National Internal Revenue Code:

Section 112. *Refunds or Tax Credits of Input Tax.* —

<sup>15</sup> TAX CODE (1997), National Internal Revenue Code.

<sup>16</sup> *Rollo*, pp. 37-46.

<sup>17</sup> *Id.* at 49-52.

<sup>18</sup> *Id.* at 168-184 and 189-199. Petitioner's Memorandum was filed on January 8, 2010, while respondent's Memorandum was filed on September 13, 2010.

<sup>19</sup> *Id.* at 210. The letter was signed by Mr. Hiroyuki Nishida, Trustee/Liquidator.

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.*

A simple reading of the above-quoted provision reveals that the taxpayer may appeal the denial or inaction of the Commissioner of Internal Revenue only within 30 days from receipt of the decision that denies the claim or the expiration of the 120-day period given to the Commissioner to decide the claim.

In *Commissioner of Internal Revenue v. San Roque Power Corporation*,<sup>20</sup> this court En Banc has definitively settled that compliance with the 120-day and the 30-day periods under Section 112 of the National Internal Revenue Code, save for those VAT refund cases that were prematurely (i.e., before the lapse of the 120-day period) filed before the Court of Tax Appeals between December 10, 2003 (when Bureau of Internal Revenue Ruling No. DA-489-03 was issued) and October 6, 2010, is mandatory and jurisdictional.

This court also declared that, following *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation*,<sup>21</sup> claims for refund or tax credit of excess input tax are governed not by Section 229 but only by Section 112 of the 1997 National Internal Revenue Code.

In this case, respondent's judicial claim was clearly filed out of time. Respondent filed its application for refund with the Bureau of Internal Revenue on *August 24, 2001*. Thus, petitioner had 120 days or until December 22, 2001 within which to decide on the claim. After the lapse of the 120-day period, respondent should have elevated its claim with the Court of Tax Appeals within 30 days starting December 23, 2001 *until January 21,*

<sup>20</sup> G.R. Nos. 187485, 196113 and 197156, February 12, 2013, 690 SCRA 336 [Per J. Carpio, En Banc]. In the Resolution dated October 10, 2013, the court denied with finality the separate motions for reconsideration filed by San Roque Power Corporation in G.R. No. 187485 (that mainly argued for the prospective application of the 120-day and 30-day periods) and the Commissioner of Internal Revenue in G.R. No. 196113 (that assailed the validity of Ruling No. DA-489-03). *See also CIR v. Mindanao II Geothermal Partnership*, G.R. No. 191498, January 15, 2014, 713 SCRA 645 [Per C.J. Sereno, First Division].

<sup>21</sup> 586 Phil. 712 (2008) [Per J. Velasco, Jr., Second Division].

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2002, pursuant to Section 112 (D)<sup>22</sup> of the National Internal Revenue Code in relation to Section 11 of Republic Act No. 1125,<sup>23</sup> as amended by Section 9 of Republic Act No. 9282.<sup>24</sup> However, it filed its judicial claim only on June 28, 2002. Hence, the Court of Tax Appeals should have dismissed respondent's judicial claim on the ground of prescription.

**WHEREFORE**, the Petition is **GRANTED**. The Decision dated January 17, 2008 and the Resolution dated February 27, 2008 of the Court of Tax Appeals En Banc are **REVERSED and SET ASIDE**. Respondent's claim for tax refund or credit of unutilized excess input Value-Added Tax for the period April 1, 2000 to September 30, 2000 is **DENIED**. (*Brion, J., on leave; Velasco, Jr., J., designated acting member S.O. No. 1951 dated March 18, 2015.*)

**SO ORDERED.** "

Very truly yours,

*MA. LOURDES C. PERFECTO*  
 MA. LOURDES C. PERFECTO  
 Division Clerk of Court 11/5/14

<sup>22</sup> Now Section 112 (C).

<sup>23</sup> Rep. Act No. 1125 (1954), An Act Creating the Court of Tax Appeals.

<sup>24</sup> Rep. Act No. 9282 (2004), An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.

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