Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NIPPON EXPRESS (PHILIPPINES) CORP., Petitioner,	**G.R. No. 185666**
	Present:
- versus -	SERENO, *C.J.*, *Chairperson*, LEONARDO-DE CASTRO, BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 04 2015

x - x

DECISION

PEREZ, *J.*:

Before the Court is a Petition for Review on *Certiorari* seeking to reverse and set aside the 20 August 2008 Decision[1] and the 16 December 2008 Resolution[2] of the Court of Tax Appeals (CTA) *En Banc* in C.T.A. E.B. No. 335 which affirmed *in toto* the Decision and Resolution dated 15 June 2007[3] and 13 November 2007,[4] respectively, of the First Division of the CTA (CTA in Division)[5] in C.T.A. Case No. 6464, denying due course petitioner's claim for the issuance of a Tax Credit Certificate (TCC) in the amount of ₱24,826,667.61 allegedly representing accumulated excess or unutilized input taxes attributable to its zero-rated sales for the calendar year

---

[1] *Rollo*, pp. 110-134; Penned by Associate Justice Erlinda P. Uy with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Caesar A. Casanova and Olga Palanca-Enriquez concurring; while Presiding Justice Ernesto D. Acosta issued a Dissenting Opinion thereto.

[2] Id. at 135-142.

[3] Id. at 85-101.

[4] Id. at 102-109.

[5] Chaired by Presiding Justice Ernesto D. Acosta, with Associate Justices Lovell R. Bautista and Caesar A. Casanova as members.

2000, and therefore dismissing the petition for failure to comply with the substantiation requirements.

The Facts

As aptly found by the CTA in Division, the factual antecedents of the case are undisputed:

> Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines, registered with the Securities and Exchange Commission (SEC) under Certificate of Registration No. ASO95-005669, and with principal office at U-2701 Yuchengco Tower, RCBC Plaza, 6819 Ayala Ave., Salcedo Village, Makati City.
>
> Likewise, petitioner is registered with the Large Taxpayers District Office of the Bureau of Internal Revenue in Makati City as, among others, a Value-Added Tax (VAT) taxpayer rendering freight forwarding services.
>
> Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue vested with power to decide, approve, and grant refunds or tax credits of overpaid internal revenue taxes as provided by law and holds office and may be served with summons, orders, pleadings, and other processes at BIR Revenue Region 8, 5/F Atrium Bldg., Makati Ave., Makati City.
>
> The precedent facts, as culled from the records are as follows:
>
> For the calendar year 2000, petitioner's gross receipts were primarily derived from rendering its services to Philippine Economic Zone Authority (PEZA)-registered clients. Likewise, it incurred total sales of P1,063,357,608.74, which as shown in petitioner's Amended Quarterly VAT Return, is made up of the following:

Taxable Sales		
1st quarter (Annex B, Petition for Review)	P19,416,405.90	
2nd quarter (Annex C, Petition for Review)	21,727,369.30	
3rd quarter (Annex D, Petition for Review)	25,478,221.80	
4th quarter (Annex E, Petition for Review)	19,106,829.00	P85,728,826.00
Zero-Rated Sales		
1st quarter (Annex B, Petition for Review)	163,837,757.11	
2nd quarter (Annex C, Petition for Review)	189,237,849.49	

3rd quarter (Annex D, Petition for Review)	228,507,608.58	
4th quarter (Annex E, Petition for Review)	247,387,949.22	828,971,164.40
Exempt Sales		
1st quarter (Annex B, Petition for Review)	45,234,485.51	
2nd quarter (Annex C, Petition for Review)	27,632,934.35	
3rd quarter (Annex D, Petition for Review)	49,971,632.54	
4th quarter (Annex E, Petition for Review)	25,818,565.94	148,657,618.34
Grand Total		**P1,063,357,608.74**

Also, for the same year, petitioner paid input taxes amounting to P31,846,253.57 and apportioning this amount with its total sales above in accordance with Section 112 of the 1997 Tax Code, as amended; the amount of total sales attributable to zero-rated sales would be P24,826,667.61.

Under the premise that it is entitled to a refund of the amount of P24,826,667.61, petitioner filed four separate applications for tax credit/refund with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance (OSSAC-DOF) on September 24, 2001.

Receiving no resolution from OSSAC-DOF, petitioner filed the instant petition for review on April 24, 2002 pursuant to Section 112 in relation to Section 229 of the 1997 Tax Code, as amended.[6]

Docketed as C.T.A. Case No. 6464, trial ensued having both parties submitted various documentary and testimonial evidence during the proceedings, as well as rebuttal and sur-rebuttal evidence, in order to establish their respective claim.

The Ruling of the CTA in Division

In a Decision dated 15 June 2007,[7] the CTA in Division denied due course and accordingly dismissed petitioner's claim for the issuance of a TCC on the ground of its failure to comply with the substantiation requirements. It explained that the sales invoices, transfer slips, and credit memos presented in support thereof did not comply with the substantiation

---

6 *Rollo*, pp. 85-87; CTA in Division Decision dated 15 June 2007.

7 Id. at 85-101.

requirements provided for under Sections 106, 108, and 113[8] of the National Internal Revenue Code (NIRC) of 1997, as amended, considering that petitioner's sales are sales of services which should only be supported by official receipts. Consequently, without the VAT official receipts evidencing its zero-rated revenues, the input VAT payment alleged to be directly attributable thereto cannot be refunded or a TCC cannot be issued in its favor in accordance with Revenue Memorandum Circular (RMC) No. 42-2003. Having rendered such ruling, the CTA in Division decided not to pass upon other incidental issues raised before it for being moot.

On 13 November 2007, the CTA in Division denied both petitioner's Motion for Reconsideration and Supplemental Motion for Reconsideration for lack of merit.[9]

Aggrieved, petitioner appealed to the CTA *En Banc* by filing a Petition for Review under Section 18 of Republic Act (R.A.) No. 1125, as amended by R.A. No. 9282,[10] on 21 December 2007, docketed as C.T.A. E.B. No. 335.

The Ruling of the CTA En Banc

The CTA *En Banc* affirmed *in toto* both the aforesaid Decision and Resolution rendered by the CTA in Division in CTA Case No. 6464, pronouncing that although Sections 113 and 237 of the NIRC of 1997, as amended, and Section 4.108-1 of Revenue Regulations (RR) No. 7-95 use

---

8 Sec. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. –

(A) Invoicing Requirements. — A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number; and

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

(B) Accounting Requirements. — Notwithstanding the provisions of Section 233, all persons subject to the value-added tax under Sections 106 and 108 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.

9 *Rollo*, pp. 102-109; CTA in Division Resolution dated 13 November 2007.

10 R.A. No. 1125, otherwise known as "An Act Creating the Court of Tax Appeals", as amended by R.A. No. 9282, also known as "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", which took effect on 23 April 2004.

the words "invoice" and "receipt" without distinction, nevertheless, the NIRC of 1997, as amended, provides separate provisions, which must be read in relation thereto: Section 106 for VAT on sale of goods or properties, and Section 108 for VAT on sale of services and use or lease of properties.[11] Clearly therefore, the CTA *En Banc* agreed with the court *a quo*'s findings that the evidence submitted by petitioner, i.e. sales invoices, transfer slips, credit memos, cargo manifests, and credit notes, as well as formal report of the independent certified public accountant (ICPA), to prove its zero-rated sales, were insufficient so as to entitle it to the issuance of a TCC since the aforesaid legal provisions do not provide for any other document that can be used as an alternative to, or in lieu of an invoice and official receipts.[12] Ultimately, it ruled that petitioner's sales, being sales of services, shall properly be supported by VAT official receipts only, which unfortunately were not presented and submitted as evidence by petitioner during trial.

Upon denial of petitioner's Motion for Reconsideration thereof, it filed the instant Petition for Review on *Certiorari* before this Court seeking the reversal of the aforementioned Decision and the 16 December 2008 Resolution[13] rendered in C.T.A. E.B. No. 335, based on the following grounds:

1. That nowhere in the NIRC of 1997, as amended, and its regulations does it state that only official receipts support the sale of services or that only sales invoices support the sale of goods;

2. That the NIRC of 1997, as amended, its implementing regulations, and well-established jurisprudence allow other documentary evidence to prove the zero-rated sales;

3. That amendment in the law that requires the issuance of sales invoice for every sale of goods and the issuance of official receipt for every sale of services cannot be given retroactive effect;

4. That the majority of the CTA *En Banc* committed grave abuse of discretion amounting to lack or want of jurisdiction when they made an erroneous interpretation and application of the applicable law and regulations;

---

11 *Rollo*, p. 123; CTA *En Banc* Decision dated 20 August 2008.
12 Id. at 125.
13 Id. at 135-142; CTA *En Banc* Resolution dated 16 December 2008.

5. That denial of petitioner's just and valid claim constitutes unjust enrichment at the expense of the taxpayer and should not be sustained;

6. That even assuming for the sake of argument that the majority of the CTA *En Banc* is correct, petitioner should at least be allowed to introduce its existing official receipts in the interest of justice and equity; and

7. That petitioner has fully complied with all requirements for its claim for refund or TCC considering that:

    a. Petitioner filed both administrative and judicial claims for refund/TCC within the two (2) year prescriptive period;

    b. Petitioner's input taxes amounting to ₱31,846,253.87 were incurred for the period from January 1, 2000 to December 31, 2000 of which ₱24,826,667.61 remained unutilized and unapplied against its output tax;

    c. Petitioner's input taxes subject of the present case were not applied against any of its output tax liability;

    d. Petitioner's input taxes subject of the present case are directly attributable to zero-rated sales;

    e. Petitioner's zero-rated sales are supported by documentary evidence in accordance with the NIRC of 1997, as amended, and its implementing regulations; and

    f. The input taxes being claimed are supported by VAT invoices or official receipts in accordance with Section 4.108-5 of RR No. 7-95 in relation to Sections 110 and 237 of the NIRC of 1997, as amended.[14]

The Issue

The sole issue for this Court's consideration is whether or not petitioner is entitled to a TCC in the amount of ₱24,826,667.61 allegedly representing its excess and unutilized input VAT for the taxable year 2000,

---

[14] Id. at 44-83; Petition.

in accordance with the provisions of the NIRC of 1997, as amended, other pertinent laws, and applicable jurisprudential proclamations.

Our Ruling

At the outset, in a petition for review on *certiorari* under Rule 45 of the Rules of Court, only questions of law may be raised.[15] The Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the (CTA) are conclusive and binding on the Court[16] – and they carry even more weight when the (CTA *En Banc*) affirms the factual findings of the trial court.[17] However, this Court had recognized several exceptions to this rule,[18] including instances when the appellate court manifestly overlooked relevant facts not disputed by the parties, which, if properly considered, would probably justify a different conclusion.

In *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, and Philex Mining Corporation v. Commissioner of Internal Revenue* (*San Roque* case),[19] this Court has finally settled the issue on proper observance of the prescriptive periods in claiming for refund of creditable input tax due or paid attributable to any zero-rated or effectively zero-rates sales. In view of the foregoing jurisprudential pronouncements, there appears to be an imperious need for this Court to review the factual findings of the CTA in order to attain a complete determination of the issue presented.

Records reveal that the CTA in Division in C.T.A. Case No. 6464 merely focused on the compliance with the substantiation requirements, which particularly ruled that the evidence submitted by petitioner to prove its zero-rated sales were insufficient so as to entitle it to the issuance of a TCC. The same findings were adopted and affirmed *in toto* by the CTA *En Banc* in the assailed 20 August 2008 Decision.[20]

---

15 *Salcedo v. People*, 400 Phil. 1302, 1304 (2000).
16 *The Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, 28 April 2004, 428 SCRA 79, 85-86.
17 *Borromeo v. Sun*, 375 Phil. 595, 602 (1999).
18 *Rollo*, pp. 135-142; CTA En Banc Resolution dated 16 December 2008.
19 G.R. Nos. 187485, 196113, and 197156, 12 February 2013, 690 SCRA 336.
20 *Rollo*, pp. 110-134.

While it is true that the substantiation requirements in establishing a refund claim is a valid issue, the Court finds it imperative to first and foremost determine whether or not the CTA properly acquired jurisdiction over petitioner's claim covering taxable year 2000, taking into consideration the timeliness of the filing of its judicial claim pursuant to Section 112 of the NIRC of 1997, as amended, and consistent with the pronouncements made in the *San Roque* case. Clearly, the claim of petitioner for the TCC can proceed only upon compliance with the aforesaid jurisdictional requirement.

Relevant to the foregoing, Section 7 of R.A. No. 1125,[21] which was thereafter amended by R.A. No. 9282,[22] clearly defined the appellate jurisdiction of the CTA, to wit:

> **Section 7. *Jurisdiction***. - The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided.
>
> (1) **Decisions of the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes**, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue;
>
> x x x.[23] (Emphasis supplied)

---

21 "AN ACT CREATING THE COURT OF TAX APPEALS" which took effect on 16 June 1954.

22 "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" which took effect on 23 April 2004. This Act was a consolidation of Senate No. 2712 and House Bill No. 6673 finally passed by the Senate and the House of Representatives on 8 December 2003 and 2 February 2004, respectively.

23 R.A. 9282 amended this provision as follows:

> SEC. 7. *Jurisdiction*. – The CTA shall exercise:
>
> a) **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> (1) Decisions of 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;
>
> (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 provides a specific period for action, in which case the inaction shall be deemed a denial**; x x x (Emphasis supplied)

Moreover, Section 11 of the same law prescribes how the said appeal should be taken. It reads:

> **Section 11.** ***Who may appeal; effect of appeal.*** – Any person, association or corporation adversely affected by a decision or ruling of the Collector of Internal Revenue, the Collector of Customs or any provincial or city Board of Assessment Appeals **may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling**.[24] x x x (Emphasis and underscoring supplied)

The timeliness in the administrative and judicial claims can be found in Section 112 of the NIRC of 1997, as amended, which reads:

> 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: x x x.
>
> x x x x
>
> (D)[25] *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) 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**

---

[24] R.A. No. 9282 amended this provision as follows:

> SEC. 11. *Who May Appeal; Mode of Appeal; Effect of Appeal.* – **Any party adversely affected by** a decision, ruling or **inaction of the Commissioner of Internal Revenue**, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts **may file an appeal with the CTA within thirty (30) days** after the receipt of such decision or ruling or **after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein**.
>
> **Appeal should be made by filing a petition for review** under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure **with the CTA within thirty (30) days** from the receipt of the decision or ruling or **in the case of inaction as herein provided, from the expiration of the period fixed by law to act thereon**. x x x (Emphasis supplied)

[25] Presently Section 112(C) upon the effectivity of Republic Act No. 9337 on 1 November 2005.

> **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.**
>
> x x x x. (Emphasis and underscoring supplied)

As mentioned earlier, the proper interpretation of the afore-quoted provision was finally settled in the *San Roque* case[26] by this Court sitting *En Banc*. The relevant portions of the discussion pertinent to the focal issue in the present case are quoted hereunder as follows:

> To repeat, a claim for tax refund or credit, like a claim for tax refund exemption, is construed strictly against the taxpayer. One of the conditions for a judicial claim of refund or credit under the VAT System is **compliance with the 120+30 day mandatory and jurisdictional periods. Thus, strict compliance with the 120+30 day periods is necessary for such a claim to prosper, whether before, during, or after the effectivity of the *Atlas* doctrine, except for the period from the issuance of BIR Ruling No. DA-489-03 on 10 December 2003 to 6 October 2010 when the *Aichi* doctrine was adopted, which again reinstated the 120+30 day periods as mandatory and jurisdictional**.[27] (Emphasis supplied)

The same disposition was declared in *Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue, and Mindanao I Geothermal Partnership v. Commissioner of Internal Revenue*,[28] which, for emphasis, further provided a Summary of Rules on Prescriptive Periods Involving VAT as a guide for all parties concerned, to wit:

> We summarize the rules on the determination of **the prescriptive period for filing a tax refund or credit of *unutilized input VAT* as provided in Section 112 of the 1997 Tax Code,** as follows:
>
> (1) An administrative claim must be filed with the CIR within two years after the close of the taxable quarter when the zero-rated or effectively zero-rated sales were made.
>
> (2) The CIR has 120 days from the date of submission of complete documents in support of the administrative claim within which to decide whether to grant a refund or issue a tax credit certificate. The

---

26 *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, and Philex Mining Corporation v. Commissioner of Internal Revenue*, supra note 19.

27 Id. at 398-399.

28 G.R. Nos. 193301 and 194637, 11 March 2013, 693 SCRA 49.

> 120-day period may extend beyond the two-year period from the filing of the administrative claim if the claim is filed in the later part of the two-year period. **If the 120-day period expires without any decision from the CIR, then the administrative claim may be considered to be denied by inaction.**
>
> (3) **A judicial claim must be filed with the CTA within 30 days from the receipt of the CIR's decision denying the administrative claim or from the expiration of the 120-day period without any action from the CIR.**
>
> (4) **All taxpayers, however, can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on October 6, 2010, as an exception to the mandatory and jurisdictional 120+30 day periods.**[29] (Emphasis supplied)

Certainly, it is evident from the foregoing jurisprudential pronouncements that a taxpayer-claimant only had a limited period of thirty (30) days from the expiration of the one hundred twenty (120)-day period of inaction of the Commissioner of Internal Revenue (CIR) to file its judicial claim with the CTA, with the exception of claims made during the effectivity of Bureau of Internal Revenue (BIR) Ruling No. DA-489-03 (from 10 December 2003 to 5 October 2010).[30] Failure to do so, the judicial claim shall prescribe or be considered as filed out of time.

Applying the foregoing discussion to the present case, although it appears that petitioner has indeed complied with the required two-year period within which to file a refund/tax credit claim with the BIR (OSSAC-DOF in this case) by filing all its administrative claims on 24 September 2001 (within the period from the close of the taxable quarters for the year 2000, when the sales were made), this Court finds that petitioner's corresponding judicial claim was filed beyond the 30-day period, detailed hereunder as follows:

---

29 Id. at 89.

30 "BIR Ruling No. DA-489-03 does provide a valid claim for equitable estoppel under Section 246 of the Tax Code. BIR Ruling No. DA-489-03 ezpressly states that the '**taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review**.'" See *Commissioner of Internal Revenue v. San Roque Power Corporation, Taganito Mining Corporation v. Commissioner of Internal Revenue, and Philex Mining Corporation v. Commissioner of Internal Revenue*, supra note 19 at 401.

Taxable year 2000 (close of taxable quarters)	*Filing date of the administrative claim (within the 2-year period)*	*Last day of the 120-day period under Section 112(D) from the date of submission of complete documents in support of its application*	*Last day of the 30-day period to judicially appeal said inaction*	*Filing date of the Petition for Review*
1st Quarter (31 March 2000) 2nd Quarter (30 June 2000) 3rd Quarter (30 September 2000) 4th Quarter (31 December 2000)	24 September 2001	22 January 2002[31]	**21 February 2002**	**24 April 2002**

Section 112(D) of the NIRC of 1997 categorically states that in case of failure on the part of the respondent to act on the application within the 120-day period prescribed by law, petitioner only has 30 days after the expiration of the 120-day period to appeal the unacted claim with the CTA. Since petitioner's judicial claim for the aforementioned quarters for taxable year 2000 was filed before the CTA only on 24 April 2002,[32] which was way beyond the mandatory 120+30 days to seek judicial recourse, such non-compliance with the mandatory period of 30 days is fatal to its refund claim on the ground of prescription. Consequently, the CTA had no jurisdiction over the instant claim of petitioner as the petition was belatedly filed.

It must be emphasized that jurisdiction over the subject matter or nature of an action is fundamental for a court to act on a given controversy,[33] and is conferred only by law and not by the consent or waiver upon a court which, otherwise, would have no jurisdiction over the subject matter or nature of an action. Lack of jurisdiction of the court over an action or the subject matter of an action cannot be cured by the silence, acquiescence, or even by express consent of the parties.[34] 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 the case on the merits.[35]

---

31 It shall be presumed that the complete documents in support of its application was likewise submitted on the date petitioner filed all the administrative claims. Thus, the reckoning of the 120-day period commenced from 24 September 2001.

32 More than two (2) months had lapsed since the last day allowed by law to file the appropriate judicial claim.

33 *Commissioner of Internal Revenue v. Villa, et al.*, 130 Phil. 3, 4 (1968).

34 *Laresma v. Abellana*, 484 Phil. 766, 778 (2004).

35 *Lt. Col. De Guzman v. Judge Escalona*, 186 Phil. 431, 437-438 (1980).

The CTA, even if vested with special jurisdiction, is, as courts of general jurisdiction can only take cognizance of such matters as are clearly within its statutory authority.[36] Relative thereto, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, the court shall dismiss the claim.[37]

Finally for academic discussion, as regards the substantiation requirements, it is worthy to mention that in *Kepco Philippines Corporation v. Commissioner of Internal Revenue*,[38] the High Court ruled that under the law, a VAT *invoice* is necessary for every sale, barter or exchange of goods or properties while a VAT *official receipt* properly pertains to every lease of goods or properties, and every sale, barter or exchange of services. In other words, the VAT invoice is the seller's best proof of the sale of the goods or services to the buyer while the VAT receipt is the buyer's best evidence of the payment of goods or services received from the seller. Thus, the High Court concluded that VAT invoice and VAT receipt should not be confused as referring to one and the same thing. Certainly, neither does the law intend the two to be used interchangeably.

All told, the CTA has no jurisdiction over petitioner's judicial appeal considering that its Petition for Review was filed beyond the mandatory 30-day period pursuant to Section 112(D)[39] of the NIRC of 1997, as amended, and consistent with the ruling in the *San Roque* case. Consequently, petitioner's instant claim for refund must be denied.

WHEREFORE, the claim for refund is by prescription **BARRED**. Accordingly, the petition for review filed before the Court of Tax Appeals docketed as CTA Case No. 6464 is **DISMISSED** for lack of jurisdiction and the issue on substantiation requirements rendered **MOOT** and **ACADEMIC**. This petition is, for such reason, **DISMISSED**.

SO ORDERED.

JOSE PORTUGAL PEREZ
Associate Justice

---

36 *Ker & Company, Ltd. v. Court of Tax Appeals, et al.*, G.R. No. L-12396, 31 January 1962, 4 SCRA 160, 163.

37 Section 1, Rule 9, Rules of Court.

38 G.R. No. 181858, 24 November 2010, 636 SCRA 166, 182.

39 Now Section 112(C) of the NIRC of 1997, as amended by RA No. 9337.

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify 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.

MARIA LOURDES P. A. SERENO
Chief Justice