Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

STEAG STATE POWER, INC. (FORMERLY STATE POWER DEVELOPMENT CORPORATION), Petitioner,	**G.R. No. 205282** Present:
-versus-	PERALTA, *J., Chairperson,* LEONEN, REYES, A., JR., HERNANDO, and CARANDANG, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** January 14, 2019

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RESOLUTION

LEONEN, *J.*:

In its June 5, 2013 Minute Resolution,[1] this Court denied the Petition for Review on Certiorari[2] filed by Steag State Power, Inc. (Steag State Power) for its failure to show any reversible error in the July 19, 2012 Decision[3] and December 20, 2012 Resolution[4] of the Court of Tax Appeals in CTA EB No. 710. Thus, Steag State Power filed a Motion for Reconsideration, asking this Court to set its Minute Resolution aside and give due course to the Petition.

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1 *Rollo*, pp. 163–164.

2 Id. at 53–96.

3 Id. at 106–124. The Decision was penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Presiding Justice Ernesto D. Acosta, Associate Justices Erlinda P. Uy, Caesar A. Casanova, Olga Palanca-Enriquez, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas of the En Banc, Court of Tax Appeals, Quezon City.

4 Id. at 126–130. The Resolution was penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justices Erlinda P. Uy, Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, and Amelia R. Cotangco-Manalastas of the En Banc, Court of Tax Appeals, Quezon City.

After studying the Motion for Reconsideration, this Court still firmly believes that the Petition should be denied for lack of merit.

Steag State Power is a domestic corporation primarily engaged in power generation and sale of electricity to the National Power Corporation under a Build, Operate, Transfer Scheme.[5] It is registered with the Bureau of Internal Revenue as a value-added tax taxpayer with Tax Identification No. 004-626-938-000.[6]

In 2003, Steag State Power started building its power plant inside the PHIVIDEC Industrial Estate-Misamis Oriental. The construction was completed on November 15, 2006.[7]

During the construction period, Steag State Power filed its quarterly value-added tax returns from the first to fourth quarters of 2004 on April 26, 2004, July 26, 2004, October 25, 2004, and January 25, 2005. It later filed amended value-added tax returns for the taxable quarters on December 16, 2004 and April 22, 2005.[8]

Likewise, for the taxable quarters of 2005, Steag State Power filed its quarterly value-added tax returns on April 22, 2005, July 26, 2005, October 25, 2005, and January 25, 2006.[9]

Steag State Power filed before the Bureau of Internal Revenue District Office No. 50, South Makati administrative claims for refund of its allegedly unutilized input value-added tax payments on capital goods in the total amount of ₱670,950,937.97:

Date of Application	**Period Covered**	**Amount of Claim**
June 30, 2005	January 1, 2004 to May 31, 2005	P408,768,002.82
August 31, 2005	June 1, 2005 to August 31, 2005	162,274,183.32
October 28, 2005	September 1, 2005 to October 31, 2005	44,988,727.50
December 19, 2005	October 2005	54,920,024.33
TOTAL		**P670,950,937.97**[10]

Due to the Commissioner of Internal Revenue's (Commissioner) inaction on its administrative claims, Steag State Power filed a Petition for Review on Certiorari[11] before the Court of Tax Appeals on April 20, 2006,

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5 Id. at 107–108.
6 Id. at 107.
7 Id. at 108.
8 Id.
9 Id.
10 Id. at 109.
11 Id. at 135. Docketed as CTA Case No. 7458.

elevating its claim for refund for the taxable year 2004. Through another Petition,[12] filed on December 27, 2006, it sought judicial recourse involving its claim for refund for the taxable year 2005. Eventually, the Petitions were consolidated.[13]

In its August 27, 2009 Decision,[14] the Court of Tax Appeals First Division denied the Petitions due to insufficiency of evidence. It held that the appeals for the administrative claims for refund of input taxes for January 2004 to May 2005, or the first judicial claim, were filed late.[15] Meanwhile, the appeal of the refund claim of input taxes for June 2005 to October 2005, or the second judicial claim, was prematurely filed.[16] Nonetheless, the Court of Tax Appeals First Division denied the second judicial claim for Steag State Power's failure to prove that its purchases and importations related to the claimed input tax payments were treated as capital goods in its books of accounts and were subjected to depreciation.[17]

On September 22, 2009, Steag State Power filed its Motion for Reconsideration (with Motion to Submit Supplemental Evidence).[18] The Motion was partially granted by the Court of Tax Appeals First Division in its January 5, 2010 Resolution.[19]

The dispositive portion of the Resolution read:

> **WHEREFORE**, petitioner's *Motion for Reconsideration (With Motion to Submit Supplemental Evidence)* is hereby **PARTIALLY GRANTED.** Accordingly, let this case be set for hearing for the presentation of Annexes "A" and "A-1" (inclusive of sub-markings [Exhibits EEE to ZZZ], inclusive of sub-markings) on **January 29, 2010** at **9:00 a.m.**
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> Meanwhile, the resolution of petitioner's *Motion for Reconsideration* with regard to the issue of whether petitioner was able to substantiate its claim for a refund or tax credit in the total amount of PhP670,950,937.97, allegedly representing its unutilized input tax paid on purchases and importations of capital goods from January 1, 2004 to October 31, 2005, is **HELD IN ABEYANCE** pending the formal offer of said Annexes. Thereafter, the *Motion* shall be deemed submitted for resolution.

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12 Id at 135. Docketed as CTA Case No. 7554.
13 Id.
14 Id. at 132–142. The Decision was penned by Presiding Justice Ernesto D. Acosta and concurred in by Associate Justices Lovell R. Bautista and Caesar A. Casanova of the First Division, Court of Tax Appeals, Quezon City.
15 Id. at 138.
16 Id.
17 Id. at. 140–141.
18 Id. at 110.
19 Id.

> Furthermore, respondent's *Motion to Admit/Opposition* is hereby **GRANTED** and his *Comment/Opposition* is hereby **ADMITTED.**
>
> **SO ORDERED.**[20] (Emphasis in the original)

A hearing was conducted on January 29, 2010. Later, Steag State Power filed its supplemental formal offer of evidence, which was admitted by the Court of Tax Appeals Special First Division on April 26, 2010.[21]

Meanwhile, the Commissioner, dissatisfied with the January 5, 2010 Resolution, filed a Motion for Reconsideration on February 10, 2010. It was also submitted for resolution on April 26, 2010.[22]

In its December 6, 2010 amended Decision, the Court of Tax Appeals Special First Division dismissed the consolidated cases for lack of jurisdiction.[23]

On Steag State Power's appeal, the Court of Tax Appeals En Banc affirmed the dismissal of the cases in its July 19, 2012 Decision.[24] Relying upon *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc.*,[25] it denied the appeal for having been filed late.[26]

Steag State Power filed a Motion for Reconsideration, which was denied by the Court of Tax Appeals En Banc in its December 20, 2012 Resolution.[27]

Thus, Steag State Power filed before this Court a Petition for Review on Certiorari,[28] assailing the Court of Tax Appeals En Banc Decision and Resolution. As already mentioned, this Court denied the Petition for failure to show any reversible error in the challenged Decision and Resolution of the Court of Tax Appeals En Banc.[29]

Hence, petitioner filed this Motion for Reconsideration.[30] It urges this Court "to re-study the judicial nuance"[31] of *Commissioner of Internal Revenue v. San Roque Power Corporation*[32] as applied to its claims. Alternatively, it

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20 Id. at 110–111.
21 Id. at 111.
22 Id.
23 Id.
24 Id. at 106–124.
25 646 Phil. 710 (2010) [Per J. Del Castillo, First Division].
26 *Rollo*, pp. 116 and 120.
27 Id. at 126–130.
28 Id. at 53–96. The Petition was posted on March 7, 2013, the last day of the 30-day extended period.
29 Id. at 163–164.
30 Id. at 206–233.
31 Id. at 208.
32 703 Phil. 310 (2013) [Per J. Carpio, En Banc].

requests that the case be referred to the En Banc, if necessary, for its resolution.[33]

Petitioner insists that its claims are timely. It argues that, although the claims were filed beyond the 120+30-day periods under Section 112 of the National Internal Revenue Code, as amended (Tax Code), they were nonetheless filed within the two (2)-year period under Section 229 of the same law.[34] It contends that the timing was in accordance with Revenue Regulation No. 7-95, which establishes that appeals before the Court of Tax Appeals may be made after the 120-day period and before the lapse of the two (2)-year period.[35]

Petitioner avers that noncompliance with the 120+30-day periods is not a jurisdictional defect, but only a case of a "lack of cause of action,"[36] which may be subject to the equitable principle of waiver.[37] Moreover, since respondent admitted in the consolidated cases that the Petitions were filed within the allowable period, she cannot claim otherwise. Consequently, the Court of Tax Appeals En Banc erred when it still passed upon the issue of the appeals' timeliness.[38]

Petitioner further asserts that the window created in *San Roque Power Corporation* by BIR Ruling No. DA-489-03, which excludes from the 120+30-day periods prematurely filed judicial claims from December 10, 2003 to October 6, 2010—when *Aichi Forging Company of Asia, Inc.* was promulgated—should also extend to claims belatedly filed.[39] It reasons that taxpayers were misled by respondent's pronouncement in the BIR Ruling that they had the full two (2)-year period to file their Petitions before the Court of Tax Appeals.[40] Even so, it contends that *Aichi Forging Company of Asia, Inc.* and *San Roque Power Corporation* cannot be applied retroactively, as doing so will impair petitioner's substantive rights and deprive it of its right to a refund.[41]

This Court denies the Motion for Reconsideration for its lack of substantial argument to warrant a reversal of the Minute Resolution.

The issue on the timeliness of respondent's filing of judicial claim is anchored on the nature of the prescriptive periods under Section 112 of the Tax Code:

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33 *Rollo*, p. 227.
34 Id. at 214.
35 Id. at 217.
36 Id. at 223.
37 Id.
38 Id. at 214–215.
39 Id. at 220.
40 Id. at 221.
41 Id. at 223–224 and 226.

> SECTION 112. Refunds or Tax Credits of Input Tax. —
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> . . . .
>
> (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)[42]

A plain reading of this provision reveals that a taxpayer may appeal the Commissioner's denial or inaction only within 30 days when the decision that denies the claim is received, or when the 120-day period given to the Commissioner to decide on the claim expires.

In *Aichi Forging Company of Asia, Inc.,*[43] this Court applied the plain text of the law and declared that the observance of the 120+30-day periods is crucial in filing an appeal before the Court of Tax Appeals. This Court also declared that, following *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation,*[44] claims for refund or tax credit of excess input tax are governed not by Section 229, but by Section 112 of the Tax Code.

These doctrines were reiterated in *San Roque Power Corporation,*[45] where this Court stressed that Section 112, in providing the 120+30 day periods to appeal before the Court of Tax Appeals, "must be applied exactly as worded since it is clear, plain, and unequivocal."[46]

Petitioner's claim that it filed its judicial claims under Revenue Regulation No. 7-95, which supposedly allowed claims for refund filed after the 120-day period but before the lapse of the two (2)-year period, is untenable.

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42 Now sec. 112(C), per the amendments introduced by Rep. Act No. 9337 on May 24, 2005.
43 646 Phil. 710 (2010) [Per J. Del Castillo, First Division].
44 586 Phil. 712 (2008) [Per J. Velasco, Jr., Second Division].
45 703 Phil. 310 (2013) [Per J. Carpio, En Banc].
46 Id. at 360.

First, petitioner's judicial claims were filed on April 20, 2006 and December 27, 2006;[47] hence, they were governed by the Tax Code, which clearly provided: (1) 120 days for the Commissioner to act on a taxpayer's claim; and (2) 30 days for the taxpayer to appeal either from the Commissioner's decision or from the expiration of the 120-day period in case of the Commissioner's inaction.

Moreover, Revenue Regulation No. 16-2005,[48] not Revenue Regulation No. 7-95, was the prevailing rule when petitioner filed its judicial claims. Its Section 4.112-1 faithfully reflected Section 112 of the Tax Code, as amended by Republic Act No. 9337:

> SEC. 4.112-1. Claims for Refund/Tax Credit Certificate of Input Tax. —
>
> . . . .
>
> (d) Period within which refund or tax credit certificate/refund of input taxes shall be made
>
> In proper cases, the Commissioner of Internal Revenue shall grant a tax credit certificate/refund 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 subparagraph (a) above.
>
> In case of full or partial denial of the claim for tax credit certificate/refund as decided by the Commissioner of Internal Revenue, the taxpayer may appeal to the Court of Tax Appeals (CTA) within thirty (30) days from the receipt of said denial, otherwise the decision shall become final. However, *if no action on the claim for tax credit certificate/refund has been taken by the Commissioner of Internal Revenue after the one hundred twenty (120) day period from the date of submission of the application with complete documents, the taxpayer may appeal to the CTA within 30 days from the lapse of the 120-day period.* (Emphasis supplied)

It is misleading for petitioner to raise its supposed reliance in good faith on Revenue Regulation No. 7-95, when the rule had already been superseded and revoked by the time it filed its judicial claims.

Second, under Section 112 of the Tax Code, only the administrative claim for refund of input value-added tax must be filed within the two (2)-year prescriptive period, the judicial claim need not be.

Section 112(A) states that:

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[47] *Rollo*, p. 135.

[48] Consolidated Value-Added Tax Regulations of 2005, November 1, 2005, *available at* < https://www.bir.gov.ph/images/bir_files/old_files/pdf/26116rr16-2005.pdf> (last accessed on January 16, 2019).

> (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[.] (Emphasis supplied)

In *Aichi Forging Company of Asia, Inc.* and *San Roque Power Corporation*, the phrase "within two (2) years . . . apply for the issuance of a tax credit certificate or refund" refers to administrative claims for refund or credit filed with the Commissioner of Internal Revenue, not to appeals made before the Court of Tax Appeals.

This is apparent in Section 112(D), Paragraph 1 of the Tax Code, which gives the Commissioner "[120] days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B)" within which he or she can decide on the claim. On the other hand, Section 112(D), Paragraph 2 provides a 30-day period within which one may appeal a judicial claim before the Court of Tax Appeals.

Reading together Subsections (A) and (D), *San Roque Power Corporation* declared that the 30-day period does not have to fall within the two (2)-year prescriptive period, as long as the administrative claim is filed within the two (2)-year prescriptive period.

Third, the right to appeal before the Court of Tax Appeals, being a statutory right, can be invoked only under the requisites provided by law.[49] Section 11 of Republic Act No. 1125,[50] or the Court of Tax Appeals Charter, provides a 30-day period of appeal either from receipt of the Commissioner's adverse decision or from the lapse of the period fixed by law for action. Thus:

> 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 . . . 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.
>
> (B) Appeal shall 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.* (Emphasis supplied)

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[49] *See Commissioner of Internal Revenue v. San Roque Power Corporation*, 703 Phil. 310 (2013) [Per J. Carpio, En Banc].

[50] Amended by Rep. Act No. 9282 (2004), sec. 9.

In turn, Section 7(a)(2) of the Court of Tax Appeals Charter, as amended, reads:

> Sec. 7. *Jurisdiction.* — The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> . . . .
>
> (A) (2) *Inaction by the Commissioner of Internal Revenue in cases involving* disputed assessments, *refunds of internal revenue taxes*, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, *where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a* ***denial***[.] (Emphasis supplied)

Under the Court of Tax Appeals Charter, the Commissioner's inaction on a claim for refund is considered a "denial" of the claim, which may be appealed before the Court of Tax Appeals within 30 days from the expiration of the period fixed by law for action.

Here, since petitioner filed its judicial claims way beyond the 30-day period to appeal, the Court of Tax Appeals lost its jurisdiction over the Petitions. This Court has held that "[j]urisdiction over the subject matter is fundamental for a court to act on a given controversy."[51] Moreover, it "cannot be waived . . . and is not dependent on the consent or objection or the acts or omissions"[52] of any or both parties.[53] Contrary to petitioner's stance, the Court of Tax Appeals is not precluded to pass on this issue *motu proprio*,[54] regardless of any purported stipulation made by the parties.

Further, this Court is not convinced by petitioner's claim that BIR Ruling No. DA-489-03 should cover both prematurely and belatedly filed claims for tax refund. The query interposed by the One Stop Shop Inter-Agency Tax Credit and Duty Drawback Center – Department of Finance in BIR Ruling No. DA-489-03[55] specifically pertained to the process in cases where a taxpayer did not wait for the lapse of the 120-day period.[56] BIR Ruling No. DA-489-03 expressly states that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with

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51 *Commissioner of Internal Revenue v. Villa,* 130 Phil. 3, 4 (1968) [Per J. Bengzon, En Banc].

52 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue,* 706 Phil. 442, 450–451 (2013) [Per J. Mendoza, Third Division].

53 Id.

54 *See Ker & Company., Ltd. v. Court of Tax Appeals,* G.R. No. L-12396, January 31, 1962, 4 SCRA 160, 163 [Per J. Paredes, En Banc].

55 *Rollo*, pp. 152–154.

56 *See Commissioner of Internal Revenue v. San Roque Power Corporation*, 703 Phil. 310, 376 (2013) [Per J. Carpio, En Banc].

the [Court of Tax Appeals] by way of Petition for Review."[57] Consequently, *San Roque Power Corporation* recognized the BIR Ruling, being a general interpretative rule, as an exception to the strict construction of any claim for tax exemption or refund on equitable estoppel.

There is nothing in the same BIR Ruling that states, expressly or impliedly, that late filings of judicial claims are acceptable.

Similarly, in *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership,*[58] Mindanao II Geothermal Partnership filed its claim 138 days after the lapse of the 30-day period. This Court held that while BIR Ruling No. DA-489-03 was in effect when it filed its claim, the rule nonetheless cannot be properly invoked because it contemplates *premature* filing, not *late* filing. This Court further emphasized that late filing, or beyond the 30-day period, is absolutely prohibited, even when BIR Ruling No. DA-489-03 was in force.

Likewise, this Court rejects petitioner's claim that *Aichi Forging Company of Asia, Inc.* and *San Roque Power Corporation* should be applied prospectively because it would be unjust to the other claimants who relied on the old rule, under which both administrative and judicial claims should be filed before the lapse of the two (2)-year period.

Interpretations of law made by courts "necessarily always have a retroactive effect."[59] This Court, in construing the law, merely declares what a particular provision has always meant. It does not create new legal obligations.

In *Aichi Forging Company of Asia, Inc.*, this Court first squarely addressed the issue on prematurity of a judicial claim based on its interpretation of the language of the Tax Code. In that case, this Court did not defer application of the doctrine laid down. Rather, it ordered the Court of Tax Appeals to dismiss Aichi Forging Company of Asia, Inc.'s appeal as it prematurely filed its claim for refund/credit of input value-added tax. *Aichi Forging Company of Asia, Inc.'s* claim was filed prior to this case.

San Roque Power Corporation dealt with judicial claims that were either prematurely filed or already prescribed. In one (1) of the consolidated cases, G.R. No. 197156, the taxpayer, Philex Mining Corporation (Philex), filed its judicial claim beyond the 30-day period to appeal as in this case. This Court rejected the judicial claim of Philex due to late filing, explaining that:

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57 *Rollo*, p. 153.

58 724 Phil. 534 (2014) [Per C.J. Sereno, First Division].

59 *See* J. Leonen, Concurring and Dissenting Opinion in *Commissioner of Internal Revenue v. San Roque Power Corporation*, 719 Phil. 137, 167–168 (2013) [Per J. Carpio, En Banc].

> Unlike San Roque and Taganito, Philex's case is not one of premature filing but of late filing. Philex did not file any petition with the CTA within the 120-day period. Philex did not also file any petition with the CTA within 30 days after the expiration of the 120-day period. Philex filed its judicial claim *long after* the expiration of the 120-day period, in fact 426 days after the lapse of the 120-day period. *In any event, whether governed by jurisprudence before, during, or after the Atlas case, Philex's judicial claim will have to be rejected because of late filing.* Whether the two-year prescriptive period is counted from the date of payment of the output VAT following the *Atlas* doctrine, or from the close of the taxable quarter when the sales attributable to the input VAT were made following the *Mirant* and *Aichi* doctrines, Philex's judicial claim was indisputably filed late.
>
> The *Atlas* doctrine cannot save Philex from the late filing of its judicial claim. The *inaction* of the Commissioner on Philex's claim during the 120-day period is, by express provision of law, "deemed a denial" of Philex's claim. Philex had 30 days from the expiration of the 120-day period to file its judicial claim with the CTA. Philex's failure to do so rendered the "deemed a denial" decision of the Commissioner final and inappealable. The right to appeal to the CTA from a decision or "deemed a denial" decision of the Commissioner is merely a statutory privilege, not a constitutional right. The exercise of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise. Philex failed to comply with the statutory conditions and must thus bear the consequences.[60] (Emphasis in the original, citation omitted)

Since then, the 120+30-day periods have been applied to pending cases[61] resulting in the denial of taxpayers' claims due to late filing. This Court finds no reason to make an exception here.

A claim for unutilized input value-added tax is in the nature of a tax exemption. Thus, strict adherence to the conditions prescribed by the law is required of the taxpayer.[62] Refunds need to be proven and their application raised in the right manner as required by law. Here, noncompliance with the 120+30-day periods is fatal to the taxpayer's judicial claim.

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60 *Commissioner of Internal Revenue v. San Roque Power Corporation,* 703 Phil. 310, 362–363 (2013) [Per J. Carpio, En Banc].

61 *See Commissioner of Internal Revenue v. Toledo Power Company,* 766 Phil. 20 (2015) [Per C.J. Sereno, First Division]; *CE Casecnan Water and Energy Company, Inc. v. Commissioner of Internal Revenue,* 764 Phil. 595 (2015) [Per J. Leonen, Second Division]; *Silicon Philippines, Inc. v. Commissioner of Internal Revenue,* 757 Phil. 54 (2015) [Per J. Leonardo-De Castro, First Division]; *Northern Mindanao Power Corporation v. Commissioner of Internal Revenue,* 754 Phil. 146 (2015) [Per C.J. Sereno, First Division]; *Rohm Apollo Semiconductor Philippines v. Commissioner of Internal Revenue,* 750 Phil. 624 (2015) [Per C.J. Sereno, First Division]; *CBK Power Company Limited v. Commissioner of Internal Revenue,* 724 Phil. 686 (2014) [Per C.J. Sereno, First Division]; *Commissioner of Internal Revenue v. Dash Engineering Philippines, Inc.,* 723 Phil. 433 (2013) [Per J. Mendoza, Third Division]; and *Mindanao II Geothermal Partnership v. Commissioner of Internal Revenue,* 706 Phil. 48 (2013) [Per J. Carpio, Second Division].

62 *Applied Food Ingredients Company, Inc. v. Commissioner of Internal Revenue,* 720 Phil. 782, 789 (2013) [Per C.J. Sereno, First Division] and *Commissioner of Internal Revenue v. San Roque Power Corporation,* 703 Phil. 310 (2013) [Per J. Carpio, En Banc].

Hence, the Court of Tax Appeals En Banc properly sustained the Special First Division's dismissal of the Petition for lack of jurisdiction.

The Motion for Reconsideration is, thus, **DENIED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Chairperson

ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

ATTESTATION

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

DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

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

LUCAS P. BERSAMIN
Chief Justice

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MISAEL D[illegible] BATTUNG III
Deputy D[illegible] Clerk of Court
T[illegible] Division

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