Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**G.R. No. 212727**
	Present:
- *versus* -	GESMUNDO, *C.J.*, *Chairperson*, HERNANDO, ZALAMEDA, ROSARIO, and MARQUEZ, *JJ.*
CE CASECNAN WATER AND ENERGY COMPANY, INC., *Respondent.*	Promulgated: FEB 01 2023

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DECISION

HERNANDO, *J.*:

This is an appeal[1] by the Commissioner of Internal Revenue, through the Office of the Solicitor General, from the January 7, 2014 Decision[2] of the Court of Tax Appeals (CTA) *En Banc* (CTA *En Banc*) and its May 27, 2014 Resolution[3] in CTA EB No. 971, affirming *in toto* the September 11, 2012

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1 *Rollo*, pp. 44-130.

2 Id. at. 68-88. Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred in by Presiding Justice Roman G. Del Rosario, and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Caesar A. Casanova, Cielito N. Mindoro-Grulla, Amelia R. Contangco-Manalastas, and Ma. Belen M. Ringpis-Liban.

3 Id. at 89-96. Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred in by Presiding Justice Roman G. Del Rosario, and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy (on leave), Caesar A. Casanova, Cielito N. Mindaro-Grulla, Amelia R. Contangco-Manalastas, and Ma. Belen M. Ringpis-Liban.

Decision[4] and the November 29, 2012 Resolution[5] of the CTA Second Division in CTA Division Case Nos. 8041 and 8111. The CTA Second Division partially granted respondent CE Casecnan Water and Energy Company, Inc.'s (respondent) claim for refund or issuance of tax credit certificate of unutilized input Value-Added Tax (VAT) attributable to its zero-rated sales to the National Irrigation Administration (NIA) for taxable year 2008 in the total amount of PHP 19,219,165.31.

The Antecedents

Petitioner is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), with the authority to act on claims for refund or issuance of tax credit as provided by law, with office address at the 4th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.[6]

Meanwhile, respondent, with principal office at Pantabangan, Nueva Ecija, is a domestic corporation duly incorporated on September 21, 1994, with the primary purpose of designing, developing, constructing, erecting, assembling, commissioning, financing, owning, and operating a combined irrigation and hydro-electric power project and related facilities in Central Luzon, for the conversion into electricity of water provided by and under contract with the NIA.[7] It is a duly accredited and certified Private Sector Generation Facility by the Department of Energy (DOE) as evidenced by its DOE Certificate of Accreditation No. 95-07-12 issued on July 20, 1995.[8] It has also been granted a Certificate of Compliance No. 05-07-GN8-10701 on July 27, 2005 by the Energy Regulatory Commission.[9] Moreover, it is a BIR-registered VAT taxpayer with Certificate of Registration No. 0000017028 dated July 1, 1998 and Tax Identification Number 004-500-931-000.[10]

As borne by the records,[11] respondent filed its Quarterly VAT Returns for taxable period January 2008 to December 2008, as well as their amendments through the BIR's Electronic Filing and Payment System (EFPS) as follows:

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4 Id. at 97-118. Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justices Caesar A. Casanova, and Cielito N. Mindaro-Grulla.

5 Id. at 119-126. Penned by Associate Justice Juanito C. Castañeda, Jr. and concurred in by Associate Justices Caesar A. Casanova, and Cielito N. Mindaro-Grulla.

6 Id. at 69.

7 Id.

8 Id.

9 Id.

10 Id.

11 Id. at 69-70.

EXHIBIT	PERIOD COVERED	DATE OF FILING
H	January to March	April 25, 2008
I	January to March (Amended Return)	February 23, 2009
J	April to June	July 25, 2008
K	April to June (Amended Return)	February 11, 2010
L	July to September	October 24, 2008
M	July to September (Amended Return)	February 11, 2010
N	October to December	January 26, 2009
O	October to December (Amended Return)	February 11, 2010[12]

On November 11, 2009, respondent filed an administrative claim for refund/tax credit with the Large Taxpayers Audit and Investigation Division I of the BIR for alleged unutilized input VAT payments in the amount of PHP 6,264,758.82 attributable to its zero-rated sales to NIA covering the first quarter of taxable year 2008.[13] Respondent likewise filed a separate claim for refund/tax credit with the same office on February 16, 2010 in the aggregate amount of PHP 13,917,771.50, covering the second to fourth quarters of taxable year 2008.[14] On March 5, 2010, respondent amended/reduced this claim to PHP 13,798,917.42.[15]

Then, on March 26, 2010 and June 24, 2010, respondent filed two separate petitions for review with the CTA Division docketed as CTA Cases Nos. 8041 and 8111, respectively, alleging that its claims for refund/tax credit were not acted upon by petitioner.[16] At the instance of respondent, these cases were consolidated by the CTA Third Division, which was confirmed by the CTA Second Division in its November 22, 2010 Resolution.[17] In total, respondent was claiming refund in the amount of PHP 20,063,676.24.

Petitioner invoked the burden on the part of respondent to prove its entitlement to the claim for refund/tax credit by presenting clear and convincing evidence that all the requirements for that purpose have been satisfied.[18]

Ruling of the Court of Tax Appeals Division

In its September 11, 2012 Decision,[19] the CTA Division partially granted respondent's claim for refund, to wit:

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12 Id. at 70.
13 Id.
14 Id.
15 Id.
16 Id.
17 Id.
18 Id.
19 Id. at 97-118.

> **WHEREFORE**, the instant consolidated case is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in the amount of P19,219,165.31 to petitioner [respondent], representing unutilized input VAT attributable to its zero-rated sales to NIA for taxable year 2008.
>
> **SO ORDERED.**[20]

In so ruling, the CTA Division held that the sale of power or fuel generated through renewable source of energy is considered as VAT zero-rated under Section 108(B)(7) of the National Internal Revenue Code of 1997 (Tax Code), as amended by Republic Act No. (RA) 9337.[21] Since respondent has sufficiently established that it is in the business of power generation and as such sold corresponding generated power to NIA, it can treat its sale of generated power to NIA as VAT zero-rated sales.[22] The CTA Division also held that while respondent was able to fully substantiate its declared zero-rated sales per Quarterly VAT Returns for the year 2008 in the amount of PHP 3,717,728,475.85,[23] only the amount of PHP 19,219,165.31, out of its claimed input tax of PHP 20,063,676.24 is duly substantiated, and hence, can be attributed thereto, in accordance with Secs. 110(A) and 113(A) of the Tax Code, as amended by RA 9337, in relation to Secs. 4.110-1, 4.110-8, and 4.113-1 of Revenue Regulations No. (RR) 16-2005.[24] Finally, it found that respondent's administrative and judicial claims for refund or issuance of tax credit certificate were filed well within the prescriptive period under Sec. 112 of the Tax Code.[25]

Aggrieved, petitioner filed a Motion for Reconsideration on September 26, 2012 arguing that respondent must submit complete documents to support its administrative claim for refund or tax credit before the 120-day period under Sec. 112(C) of the Tax Code can commence.[26] Respondent should also prove that it submitted all necessary and evidentiary documents listed in Revenue Memorandum Order No. (RMO) 53-98 to support its claim.[27]

In rendering its November 29, 2012 Resolution[28] which denied petitioner's motion, the CTA Division held that petitioner never required respondent to submit additional documents to support its application for refund;[29] that the completeness of documents to support a claim is determined by a taxpayer;[30]

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[20] Id. at 117.
[21] Id. at 108.
[22] Id. at 109.
[23] Id. at 110.
[24] Id. at 115.
[25] Id. at 116.
[26] Id. at 120.
[27] Id.
[28] Id. at 119-126.
[29] Id. at 122.
[30] Id. at 124.

and that the 120-day period should be reckoned from the filing of the administrative claim for refund by the taxpayer.[31]

Ruling of the Court of Tax Appeals *En Banc*

In its January 7, 2014 Decision,[32] the CTA *En Banc* dismissed petitioner's Petition for Review and affirmed *in toto* the CTA Division's findings, *viz.*:

> **WHEREFORE**, the Petition for Review posted on January 3, 2013 by the Commissioner of Internal Revenue is **DENIED**, for lack of merit.
>
> Accordingly, the assailed Decision dated September 11, 2012 and the Resolution dated November 29, 2012 of the Court in Division in CTA Case Nos. 8041 and 8111 are hereby **AFFIRMED *in toto***.
>
> **SO ORDERED.**[33]

The appellate court found that respondent's administrative claims for refund for the year 2008 were filed within two years after the close of the pertinent taxable quarters;[34] its judicial claims were both timely filed with the CTA Division;[35] and that it was able to sufficiently substantiate its claim justifying the grant of the refund.[36] Petitioner's Motion for Reconsideration of the said Decision was likewise denied by the appellate court in its May 27, 2014 Resolution.[37]

Hence, this instant Petition for Review on *Certiorari* (Petition)[38] under Rule 45 of the Rules of Court where petitioner argues that the 120-day period under Sec. 112(C) of the Tax Code had not yet commenced to run due to the insufficiency of supporting documents in respondent's application for tax refund/credit before the BIR;[39] that respondent's petition for review docketed as CTA Case No. 8111 was prematurely filed due to the non-observance of the 120-day period under Sec. 112(C) of the Tax Code;[40] and that respondent did not rely on BIR Ruling No. DA-489-03 when it filed the petition for review before the CTA Division, docketed as CTA Case No. 8111.[41] Petitioner reiterates these in the Memorandum dated July 21, 2021.[42]

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31 Id.
32 Id. at. 68-88.
33 Id. at 87.
34 Id. at 80.
35 Id.
36 Id. at 86.
37 Id. at 89-96.
38 Id. at 44-130.
39 Id. at 50-56.
40 Id. at 56-59.
41 Id. at 59-61.
42 Id. at 251-269.

Respondent filed its Comment[43] on the Petition on October 14, 2014, while petitioner filed a Manifestation In lieu of Reply[44] dated August 5, 2019.

In its Memorandum dated July 23, 2021, respondent argues that the petition suffers from a technical defect having failed to state when petitioner filed its motion for reconsideration from the CTA *En Banc*'s January 7, 2014 Decision, and hence, should be dismissed outright;[45] that respondent had submitted all the supporting documents necessary to support its claim for refund;[46] that it complied with the 120-day period provided by Sec. 112(C) of the Tax Code prior to the filing of its judicial claim for refund with the CTA;[47] and that even when it failed to observe the 120-day period, its claims would still be considered to have been timely filed pursuant to the doctrine laid down in the *Commissioner of Internal Revenue v. San Roque*[48] (*San Roque*) case.[49]

Issues

The issues can be summarized as follows: a) whether the petition suffers from a technical and formal defect and hence, should be dismissed outright; and b) whether the CTA *En Banc* committed a reversible error in affirming *in toto* the findings of the CTA Division.

Our Ruling

We find that while the Petition does not suffer from a technical defect, it nevertheless, lacks substantial merit to warrant consideration by this Court.

I

The Petition sufficiently complies with Sec. 4, Rule 45(b) of the 2019 Amended Rules of Court

Contrary to respondent's contentions, the petition sufficiently complies with the requirements set forth under the rules, since it indicated on its page 2 the timeliness of its filing, thus:

> On January 17, 2014, petitioner received the January 7, 2014 Decision of the CTA *En Banc* in CTA EB No. 971.

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[43] Id. at 148-166.
[44] Id. at 235-240.
[45] Id. at 277-279.
[46] Id. at 280-285.
[47] Id. at 285-288.
[48] 703 Phil. 310 (2013).
[49] *Rollo*, pp. 288-291.

> Subsequently, a motion for reconsideration dated February 3, 2014 of said Decision was filed but the CTA *En Banc* denied the same in its May 27, 2014 Resolution, received by the OSG on June 6, 2014.
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> X x x. Thus, petitioner has fifteen (15) days from June 6, 2014, or until June 21, 2014, within which to appeal the assailed Decision and Resolution of the CTA *En Banc* to this Honorable Court via petition for review on *certiorari*.
>
> On June 19, 2014, the OSG seasonably filed a motion praying that it be given an additional period of thirty (30) days from June 21, 2014 or until July 21, 2014, within which to file the petition for review.[50]

Petitioner was able to timely file the instant Petition on July 21, 2014. Thus, there is no basis for the outright denial of the Petition.

II

The CTA *En Banc* did not commit an error in affirming *in toto* the findings of the CTA Division.

It is undisputed that respondent's sale of generated power to NIA is considered as VAT zero-rated under the Tax Code. The CTA Division held that the sale of power or fuel generated through a renewable source of energy continued to be VAT zero-rated under Sec. 108(B)(7) of the Tax Code.[51] Since respondent, under its Amended and Restated Casecnan Project Agreement with NIA, generates power and subsequently sells it to NIA, it can accordingly treat its sale of generated power to NIA as VAT zero-rated sales.[52] Petitioner does not contest this finding and instead, anchors the arguments mainly on whether respondent is entitled to its claim for refund of its unutilized input VAT payments out of its zero-rates sales for taxable year 2008, considering the sufficiency of the documents it presented and the timeliness of its administrative and judicial claims.

Respondent timely filed its claims for refund of unutilized input VAT for taxable year 2008

Sec. 112 of the Tax Code, as amended, provides for the rules on refunds or tax credits of input tax attributable to zero-rated or effectively zero-rated sales, *viz.*:

> *Section 112. Refunds or Tax Credits of Input Tax.* -

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[50] Id. at 45.
[51] Id. at 108.
[52] Id. at 109.

(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)(l), (2) and (B) and Section 108 (B)(l) 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.

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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.[53]

Note that Sec. 112(C) has already been amended by RA 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law[54] and now provides that the BIR has 90 days to grant the refund of creditable input VAT from the date of submission of the official receipts, invoices, or other documents in support of the application filed, and the taxpayer affected may, within 30 days from the receipt of the decision denying the claim, appeal with the CTA.[55] The TRAIN Law further provides that failure on the part of any official, agent, or employee of the BIR to act on the application within the 90-day period shall be punishable under Sec. 269 of the Tax Code.[56]

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[53] Underlining Ours.
[54] Approved: December 19, 2017; Effective: January 1, 2018.
[55] Republic Act No. 10963, Sec. 36.
[56] Id.

Nonetheless, RR 13-2018[57] implementing the VAT provisions of the TRAIN Law, provides that all claims for refund/tax credit certificate filed prior to January 1, 2018 will be governed by the 120-day processing period.[58] Since respondent filed its claims for refund before 2018, the 120-day period under the old text of Sec. 112(C) of the Tax Code shall still be applied.

Thus, to summarize, Sec. 112 of the Tax Code (before the TRAIN Law amendments) provides for three relevant periods governing claims for refund of input tax attributable to zero-rated or effectively zero-rated sales:

> 1) the VAT-registered taxpayer must file its application for refund or issuance of tax credit certificate within two years from the close of the taxable quarter when the sales were made;
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> 2) the BIR Commissioner has 120 days to grant or deny such claim for refund from the date of submission of complete documents in support of the application that has been timely filed within the two-year period under Sec. 112(A) of the Tax Code; and
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> 3) the taxpayer must file an appeal with the CTA within 30 days from the receipt of the decision denying the claim or after the expiration of the 120-day period.

Based on the foregoing, any taxpayer seeking a refund or tax credit arising from unutilized input VAT from zero-rated or effectively zero-rated sales should first file an initial administrative claim with the BIR, which claim should be filed within two years after the close of the taxable quarter when the sales were made. If the claim is denied by the BIR or the latter has not acted on it within the 120-day period, the taxpayer is then given a period of 30 days to file a judicial claim with the CTA.

In the consolidated cases of *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue* and *Republic v. CE Luzon Geothermal Power Company (CE Luzon)*,[59] the Court held that the 120-day and 30-day periods in Sec. 112(C) of the Tax Code are both mandatory and jurisdictional such that non-compliance with these periods renders a judicial claim for refund of creditable input tax premature.

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[57] Regulations Implementing the Value-Added Tax Provisions under the Republic Act 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.

[58] Sec. 2, Regulations Implementing the Value-Added Tax Provisions under the Republic Act 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.

[59] 814 Phil. 616, 619 (2017).

As found by the CTA Division,[60] which was affirmed by the CTA *En Banc*,[61] respondent's administrative and judicial claims were filed well within the periods prescribed above, to wit:

CTA Case No.	8041	8111
Period Covered	First Quarter of 2008	Second to Fourth Quarter of 2008
Two years after close of taxable quarter	March 31, 2010	June 30, 2010, September 30, 2010, and December 31, 2010
Date of filing of the administrative claims	November 11, 2009	February 16, 2010
120 days from the administrative claims	March 11, 2010	June 16, 2010
30 days from expiration of the 120-day period	April 10, 2010	July 16, 2010
Date of filing of the judicial claims	March 26, 2010	June 24, 2010[62]

We find no reason to disturb these findings. Accordingly, it is clear that respondent was able to comply with the two-year period within which to file its administrative claims. Likewise, respondent complied with the 120-day and 30-day periods in filing its judicial claims with the CTA. Thus, the CTA properly acquired jurisdiction over respondent's claims for refund of its unutilized input VAT for taxable year 2008.

The 120-day period should be counted from the time the application for refund was filed before the BIR

Petitioner's contention that the 120-day period under Sec. 112(C) of the Tax Code should be counted from the time the taxpayer submits all the requirements stated in RMO 53-98, is utterly misplaced. Petitioner argues that since respondent failed to submit the complete requirements under RMO 53-98, the 120-day waiting period did not commence, and thus, its judicial claim (at least for CTA Case No. 8111) was premature.

The interpretation of what constitutes "complete documents" under Sec. 112(C) of the Tax Code has been clearly laid down in the cases of *Team Sual Corporation (formerly Mirant Sual Corporation) v. Commissioner of Internal*

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[60] *Rollo*, p. 116.
[61] Id. at 80.
[62] Id. at 116.

Revenue and *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*.[63] The CTA cited the case of *Commissioner of Internal Revenue v. First Express Pawnshop Company, Inc.*,[64] where the Court discussed that the term "relevant supporting documents" should be understood as "those documents necessary to support the legal basis in disputing a tax assessment as determined by the taxpayer."[65] The BIR can only inform the taxpayer to submit additional documents; it cannot dictate what type of supporting documents should be submitted.[66] Otherwise, a taxpayer will be at the mercy of the BIR, which may require the production of documents that a taxpayer cannot submit.[67]

The CTA applied this interpretation to the term "complete documents" under Sec. 112(C) of the Tax Code and held that should the taxpayer decide to submit only certain documents, or should the taxpayer fail or opt not to submit any document at all in support of its application for refund or tax credit certificate under Sec. 112 of the Tax Code, it is reasonable and logical to conclude that the 120-day period should be reckoned from the filing of the application. The CTA concluded that the submission of supporting documents lies within the sound discretion of the taxpayer. As the affected party, the taxpayer is in best position to determine which documents are necessary and essential to garnering a favorable decision. The CTA further held that a taxpayer's noncompliance with the submission of documentary requirements prescribed under RMO 53-98 does not render the refund claim premature as long as the taxpayer filed its judicial claim for refund within the 120+30-day period under Sec. 112(C) of the Tax Code, reckoned from the filing of its application for refund with the BIR.

We agree. The completeness of the documents to support a claim for refund under Sec. 112(C) of the Tax Code should be determined by the taxpayer, and not by the BIR. Echoing the CTA, should the taxpayer decide to submit only certain documents, or should the taxpayer fail, or opted not to submit any document at all, in support of its application for refund under Sec. 112(C) of Tax Code, the 120-day period should be reckoned from the filing of the said application. Otherwise, taxpayers will be at the mercy of the BIR and the period within which they can elevate their case to the CTA will never run, to their extreme prejudice.

Petitioner's heavy reliance on the completion of the requirements under RMO 53-98 in commencing the 120-day period should not be countenanced since the said order merely provides for the guidelines to be observed by BIR

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[63] 830 Phil. 141, 154 (2018).
[64] 607 Phil. 227 (2009).
[65] Id. at 251.
[66] Id.
[67] Id.

examiners of the documents to be requested from taxpayers during the conduct of an audit related to applications for input VAT refund. It is not a directive addressed to the taxpayers.

Meanwhile, as to petitioner's contention that the 120-day period should be counted from the time respondent filed its amended claim on March 5, 2010 for the second to fourth quarters of 2008 (and not from February 16, 2010), We likewise find the same unmeritorious. Respondent pointed out that it merely clarified and reduced the amount of its claim from PHP 13,917,771.50 to PHP 13,798,917.42, but with the same supporting documents as attached to its February 16, 2010 claim. We agree that this reduction cannot be treated as a substantial revision amounting to a new claim, considering that the documents supporting such were the same or were not changed or revised. Thus, the 120-day period was correctly counted from February 16, 2010.

The CTA is not limited by the evidence presented in the administrative claim; the claimant may present new and additional evidence to the CTA to support its case for tax refund

In any case, respondent's failure to submit the complete documents at the administrative level did not render its petition for review with the CTA dismissible for lack of jurisdiction. We adhere to this Court's pronouncements in *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*:[68]

> At this point, it is necessary to determine the grounds relied upon by a taxpayer in filing its judicial claim with the CTA. The case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* is instructive, thus:
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> > A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR has no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he

[68] 851 Phil. 1078 (2019).

> entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.
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> In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.
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> Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR.
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> The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence. The paramount consideration remains the ascertainment of truth. Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue. The claimant may present new and additional evidence to the CTA to support its case for tax refund.
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> Cases filed in the CTA are litigated *de novo* as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim." Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.[69]

As aptly observed by the CTA, petitioner never required respondent to submit additional documents to support the latter's application for refund.[70] Neither did the petitioner render any decision resolving respondent's administrative claims. Thus, it was petitioner's inaction which prompted respondent to elevate its claims with the CTA. Consistent with the above-cited doctrine, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted before the BIR, as it becomes the taxpayer's right to present additional or even an entirely new evidence before the CTA to support its case.

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[69] Id. at 1088-1090.

[70] *Rollo*, p. 122.

Even assuming that respondent did not comply with the 120-day period, its claim is not premature in light of BIR Ruling No. DA-489-03

Assuming *arguendo* that respondent did not comply with the 120-day period, this should not warrant the dismissal of its judicial claim, consistent with the Court's ruling in *CE Luzon*[71] citing the case of *San Roque*.[72] The Court held that despite CE Luzon's noncompliance with Sec. 112(C) of the Tax Code, its judicial claims should still be shielded from the vice of prematurity, considering that it relied on BIR Ruling No. DA-489-03 which expressly states that "a taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the [Court of Tax Appeals] by way of a Petition for Review."[73] The Court further explained, thus:

> *San Roque* exempted taxpayers who had relied on Bureau of Internal Revenue Ruling No. DA-489-03 from the strict application of Section 112 (C) of the National Internal Revenue Code. This Court characterized the Bureau of Internal Revenue Ruling No. DA-489-03 as a general interpretative rule, which has "misle[d] all taxpayers into filing prematurely judicial claims with the C[ourt] of T[ax] A[ppeals]." Although the Bureau of Internal Revenue Ruling [No.] DA-489-03 is an "erroneous interpretation of the law," this Court made an exception explaining that "[t]axpayers should not be prejudiced by an erroneous interpretation by the Commissioner, particularly on a difficult question of law.
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> Taxpayers who have relied on the Bureau of Internal Revenue Ruling [No.] DA-489-03, from its issuance on December 10, 2003 until its reversal on October 6, 2010 by this Court in *Aichi*, are, therefore, shielded from the vice of prematurity. CE Luzon may claim the benefit of the Bureau of Internal Revenue Ruling [No.] DA-489-03. Its judicial claims for refund of creditable input tax for the first, third, and fourth quarters of 2003 should be considered as timely filed.[74]

Thus, considering that respondent filed its judicial claim in CTA Case No. 8111 on June 24, 2010, or after the issuance of BIR Ruling No. DA-489-03 on December 10, 2003, but before the promulgation of *Commissioner of Internal Revenue v. Aichi Foging Company of Asia, Inc.*[75] on October 6, 2010, the same would still be considered as timely filed.

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71 Supra note 58.
72 Supra note 48 at 354.
73 Supra note 58 at 618.
74 Id. at 639-640.
75 646 Phil. 710 (2010).

Respondent duly substantiated its entitlement to the refund as conclusively found by the CTA

Lastly, the determination of whether respondent duly substantiated its claim for refund of creditable input tax for the taxable year 2008 is a factual matter that is generally beyond the scope of a petition for review on *certiorari*. Unless a case falls under any of the exceptions, this Court will not undertake a factual review and look into the parties' evidence and weigh them anew. With that being said, the issue of whether a claimant has actually presented the necessary documents that would prove its entitlement to a tax refund or tax credit, is indubitably a question of fact.[76] Here, the CTA, based on their appreciation of the evidence presented to them, unequivocally ruled that respondent has sufficiently proven its entitlement to the refund or the issuance of a tax credit certificate in its favor for unutilized input VAT for taxable year 2008 in the amount of PHP 19,219,165.31.[77]

It is well settled that factual findings of the CTA when supported by substantial evidence, will not be disturbed on appeal. Due to the nature of its functions, the tax court dedicates itself to the study and consideration of tax problems and necessarily develops expertise thereon. Unless there has been an abuse of discretion on its part, the Court accords the highest respect to the factual findings of the CTA.[78]

As a final note, We acknowledge that tax refunds or tax credits, just like tax exemptions, are strictly construed against the taxpayer. A claim for tax refund is a statutory privilege and rules and procedure in claiming a tax refund should be faithfully complied with. It is clear in this case that respondent sufficiently discharged this burden, and has duly complied with the requirements under the law.

WHEREFORE, the petition is **DENIED**. The January 7, 2014 Decision of the Court of Tax Appeals *En Banc* and its May 27, 2014 Resolution in CTA EB No. 971 are **AFFIRMED** *in toto*.

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[76] See *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, 655 Phil. 499, 508 (2011).

[77] *Rollo*, pp. 115-116.

[78] See *Commissioner of Internal Revenue v. San Miguel Corporation*, 804 Phil. 293, 340 (2017).

SO ORDERED.

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

RODIL V. ZALAMEDA
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

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