**Digest – G.R. No. 202093**

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| G.R. Number | G.R. No. 202093 |
| Date of Trial | September 15, 2021 |
| Court Level | Not Found |
| Division | En Banc |
| Is En Banc | Yes |
| Petitioners | Hedcor Sibulan, Inc., Petitioner |
| Respondents | Commissioner Of Internal Revenue, Respondent. |
| Ponente | Hernando J. |

**FACTS**

The Petitioner is a domestic corporation engaged in hydroelectric power generation and sale to Davao Light and Power Company, Inc. (DLPCI).  
 The Petitioner is registered with the Bureau of Internal Revenue (BIR) as a Value-Added Tax (VAT) entity.  
 On July 21, 2008, the Petitioner filed its Original Quarterly VAT Return for the 2nd quarter of 2008 with Revenue District Office (RDO) No. 115 of the BIR.  
 On June 23, 2010, the Petitioner filed an Amended Quarterly VAT Return for the 2nd quarter of 2008.  
 On June 25, 2010, the Petitioner filed with the BIR a written application for a refund or issuance of a tax credit certificate (TCC) amounting to P29,299,077.37, representing unutilized input VAT on purchases attributable to zero-rated sales for the 2nd quarter of 2008.  
 On June 29, 2010, the Petitioner filed a petition for review with the CTA Division, seeking a refund or a TCC for the unutilized input VAT.  
 The Petitioner stated the petition was filed to suspend the running of the two-year prescriptive period for filing refund claims under the National Internal Revenue Code (Tax Code) and Revenue Regulation No. 16-2005, as amended.  
 The Respondent, Commissioner of Internal Revenue (CIR), sought the dismissal of the petition, alleging prematurity due to the lapse of only four days since the administrative claim was filed.  
 The Respondent argued the Petitioner did not observe the 120-day period for the CIR to rule on the claim and failed to exhaust administrative remedies.  
 On January 31, 2011, the CTA Division issued a Resolution treating the Respondent's affirmative defense as a motion to dismiss and dismissed the judicial claim for prematurity.  
 The CTA Division noted that the petition was filed only four days after the administrative claim and presumed the supporting documents were filed on the same date, thus the 120-day period had commenced.  
 The CTA Division ruled that the CIR had 120 days to grant or deny the administrative claim and that the judicial claim was premature since it was filed merely four days after the administrative claim.  
 On April 18, 2011, the CTA Division denied the Petitioner's motion for reconsideration.  
 The Petitioner filed a Petition for Review before the CTA En Banc, arguing that the filing of its petition was not premature and that the CTA Division erred in dismissing its petition when no motion to dismiss was filed by the CIR.  
 The Petitioner argued that dismissal on the basis of prematurity is not among the grounds mentioned under Rule 16 of the Rules of Court.  
 On March 14, 2012, the CTA En Banc affirmed the dismissal of the petition for prematurity.  
 The CTA En Banc ruled that the affirmative defense of prematurity had the effect of a motion to dismiss pursuant to Section 6, Rule 16 of the Rules of Court.  
 The CTA En Banc held that the premature filing violated the doctrine of exhaustion of administrative remedies by depriving the CIR of the opportunity to decide the refund claim within the 120-day period.  
 On May 29, 2012, the CTA En Banc denied the Petitioner's motion for reconsideration.  
 Following the denial of the motion for reconsideration, the Petitioner filed the instant petition.

**ISSUES**

Whether petitioner's judicial claim was prematurely filed.

**RULINGS**

The petition has merit.  
 Section 112(C) of the National Internal Revenue Code (NIRC) mandates the Commissioner of Internal Revenue (CIR) to grant refunds or issue tax credit certificates within 120 days of complete document submission.  
 Taxpayers have 30 days to appeal to the Court of Tax Appeals (CTA) after receiving a denial or after the 120-day period expires without action from the CIR.  
 The 120-day period is mandatory and jurisdictional, affecting the CTA's jurisdiction.  
 The case Commissioner of Internal Revenue v. Aichi Forging Co. of Asia, Inc. (Aichi) explained the mandatory nature of the 120-day period.  
 The two-year period for filing a claim applies to applications with the CIR, not appeals to the CTA.  
 Applying the two-year period to judicial claims would nullify Section 112 (D) of the NIRC.  
 The case Commissioner of Internal Revenue v. Victorias Milling, Co., Inc. is inapplicable because it involved Section 306, now Section 229 of the NIRC, which does not apply to input VAT refunds/credits.  
 Premature filing of a refund claim before the CTA warrants dismissal due to lack of jurisdiction.  
 There are two exceptions to the mandatory 120-day period: (1) when the CIR misleads a taxpayer via a specific ruling and (2) when the CIR issues a general interpretative rule misleading all taxpayers.  
 BIR Ruling No. DA-489-03, issued December 10, 2003, allowed taxpayers to seek judicial relief without waiting for the 120-day period.  
 Commissioner of Internal Revenue v. San Roque Power Corp. (San Roque) recognized BIR Ruling No. DA-489-03 as equitable estoppel for taxpayers from December 10, 2003, to October 6, 2010 (when Aichi was adopted).  
 Taxpayers should not be prejudiced by an erroneous interpretation by the Commissioner.  
 BIR Ruling No. DA-489-03 is a general interpretative rule because it responded to a query from a government agency, the One Stop Shop Inter-Agency Tax Credit and Drawback Center of the Department of Finance.  
 Taganito Mining Corp. v. Commissioner of Internal Revenue reconciled Aichi and San Roque.  
 A taxpayer need not observe the 120-day period before filing a judicial claim from December 10, 2003, to October 6, 2010.  
 The petition for review filed by the petitioner before the CTA was not prematurely filed.  
 The administrative claim was filed on June 25, 2010, and the judicial claim on June 29, 2010, within the period covered by BIR Ruling No. DA-489-03.  
 The case is remanded to the CTA Division to determine the refundable amount due to the petitioner.  
 Rules on the prescriptive period for filing a tax refund or credit of unutilized input VAT under Section 112 of the Tax Code are reiterated for guidance, outlining the administrative claim, CIR's decision period, judicial claim filing, and the exception for reliance on BIR Ruling No. DA-489-03.  
 The petition is granted, reversing and setting aside the CTA En Banc's decision.  
 The case is remanded to the CTA Third Division to determine the refundable or creditable amount due to petitioner Hedcor Sibulan, Inc.