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SECOND DIVISION

[G.R. No. 244154. July 15, 2020]

ZUELLIG-PHARMA ASIA PACIFIC LTD. PHILS. ROHQ, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE (CIR),** *respondent.*

SYLLABUS

1. TAXATION; NATIONAL INTERNAL REVENUE CODE OF 1997 (TAX CODE); PERIOD TO FILE JUDICIAL CLAIM FOR REFUND OF CREDITABLE INPUT TAXES; RECKONING POINT OF THE 120-DAY PERIOD WITHIN WHICH TO FILE JUDICIAL CLAIM FOR REFUND, ELABORATED; RULING IN *PILIPINAS TOTAL GAS* RESOLVING THE QUESTION: *"WHEN SHOULD THE SUBMISSION OF DOCUMENTS BE DEEMED COMPLETED FOR PURPOSES OF DETERMINING THE RUNNING OF THE 120-DAY PERIOD?"*, REITERATED. — As may be gleaned from [Section 112(C) of the National Internal Revenue Code of 1997 (Tax Code)], the CIR has a period of 120 days ***from the date of submission of complete documents*** within which to evaluate an administrative claim for tax credit or refund of creditable input taxes (**120-day period**). If the CIR denies the administrative claim, or if it remains unacted upon the expiration of the said period — which is essentially considered a "denial due to inaction," **the taxpayer may, within thirty (30) days from such denial or expiration, avail of the further remedy of filing a judicial claim before the CTA.** In this relation, the BIR issued RMC No. 49-2003 which provides for the procedure in instances where there are pending administrative claims for refund but with incomplete documents. The circular states that the taxing authority shall require the further submission of the needed supporting documents through a notice-request, which should then be complied with by the taxpayer within thirty (30) days from receipt thereof[.] x x x The x x x rules were further refined by the Court in *Pilipinas Total Gas*, which resolved the question of: "In an administrative claim for tax credit or refund of creditable input VAT, from what point does the law allow the CIR to determine when it should decide an application for refund? Or stated differently: *Under present*

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law, when should the submission of documents be deemed 'completed' for purposes of determining the running of the 120-day period?" Confronted with this question, the Court then ruled that the reckoning point of the 120-day period would depend on the following circumstances: *(a)* If the taxing authority does not make any notice requesting for additional documents or if the taxpayer manifests that he no longer wishes to submit any additional documents, the 120-day period begins from the date the administrative claim was made as it would be assumed that at that point, the taxpayer had already submitted complete documents in support of its claim; or *(b)* **If the taxing authority requests for additional documents, the 120-day period begins from the time the taxpayer submits the complete documents sufficient to support his claim.** In this scenario, **it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period.**

2. ID.; ID.; ID.; ID.; ID.; THERE IS NO REQUIREMENT IN THE LAW THAT THE TAXING AUTHORITY'S REQUEST FOR ADDITIONAL DOCUMENTS BE MADE IN SPECIFIC FORM; THE STATEMENT IN *PILIPINAS TOTAL GAS* THAT "SUCH NOTICE BY WAY OF WRITTEN REQUEST IS REQUIRED BY THE CIR TO BE SENT" WAS NOT INTENDED TO FOIST ANY JUDICIAL DOCTRINE ANENT THE REQUEST'S REQUIRED FORM. — [T]here is no requirement in the Tax Code or in RMC No. 49-2003 that the taxing authority's request for additional documents should be made in a specific form. Stated differently, nowhere in the law does it require that the request for additional documents must always and absolutely be made in written form. While written requests would be preferred because it would be easier for the BIR to keep track of the documents submitted by the taxpayer in response thereto, the law does not explicitly prohibit verbal requests for additional documents as long as they are duly made by authorized BIR officials. To be sure, while the Court in *Pilipinas Total Gas* did state that "such notice by way of a written request is required by the CIR to be sent to [the taxpayer]," the said statement was not intended to foist any judicial doctrine anent the request's required form. The seeming requirement that the request for additional documents must be "written" only appears

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in a singular sentence of the Court's entire Decision. In fact, the word "written" only appears twice in *Pilipinas Total Gas*[.] x x x In contrast, it must be pointed out that the initial portions of the Court's ruling in *Pilipinas Total Gas* did not even qualify that the request must be in written form. As held in the same case, what is "**essential**" is that there must be "**a request from the tax collection authority to produce the complete documents**" given to the taxpayer-claimant[.] x x x Thus, the statement that "such notice by way of a written request is required by the CIR to be sent to [the taxpayer]" was only an innocuous statement of the Court which was not meant to create any doctrine on the request's required form. This is confirmed by the fact that in *Pilipinas Total Gas*, there was even no request — whether verbal or written — given by the BIR to the taxpayer.

3. ID.; ID.; ID.; ID.; ID.; CONSIDERING THAT *PILIPINAS TOTAL GAS* IS NOT SQUARELY APPLICABLE IN THIS CASE, IT IS NOT THE PROPER BASIS TO DETERMINE WHETHER THE VERBAL COMMUNICATIONS MADE BY HEREIN RESPONDENT TO PETITIONER ARE INSUFFICIENT TO DETERMINE THE RECKONING POINT OF THE 120-DAY PERIOD. — *Pilipinas Total Gas* is not squarely applicable to the case at bar. To be sure, the core of the controversy in *Pilipinas Total Gas* only lies in the supposed prematurity of the taxpayer's judicial claim for refund, considering that the latter allegedly failed to submit complete documents in support thereof at the time the claim was filed; hence, the 120-day period for the BIR to decide the claim had not yet begun to run. The Court held that the 120-day period should be reckoned from the time the taxpayer had deemed itself to have submitted the complete documents in support of its administrative claim, without prejudice to the BIR's request for additional documents which did not obtain in this case; thus, with the 120 days having lapsed therefrom, the taxpayer may then, within thirty (30) days, accordingly, file its judicial claim for refund, as was done by the taxpayer in *Pilipinas Total Gas*. x x x Unlike in this case, the Court in *Pilipinas Total Gas* was not confronted with the issue of whether or not requests for documents should be in any particular form, for the purpose of determining the reckoning point of the 120-day period. In fact, as earlier mentioned, in *Pilipinas Total Gas*, there was no request — whether verbal or written — given by the BIR to the taxpayer. Thus, in view of the foregoing, *Pilipinas Total*

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Gas is not the proper basis to construe that all subsequent verbal communications made by the BIR to Zuellig-PH (or any taxpayer for that matter) are insufficient for the purpose of determining the reckoning point of the 120-day period.

4. ID.; ID.; ID.; ID.; THE 120-DAY PERIOD IN THIS CASE SHOULD BE RECKONED FROM THE APRIL 29, 2014 LETTER OF PETITIONER WHEREIN IT STATED THAT IT HAD ALREADY SUBMITTED THE COMPLETE DOCUMENTS IN SUPPORT OF ITS CLAIM; AS RESPONDENT FAILED TO ACT WITHIN SUCH PERIOD, PETITIONER HAD UNTIL SEPTEMBER 26, 2014 TO FILE ITS JUDICIAL CLAIM; THUS, ITS PETITION WAS TIMELY FILED ON SEPTEMBER 25, 2014. — [R]ecords show that Zuellig-PH duly complied with the BIR officials' written and verbal requests for additional documents through its letters dated July 5, 2011, May 8, 2012, July 25, 2012, December 6, 2012, September 11, 2013, and April 29, 20 14, with the last letter indicating that it had "already submitted the complete documents in support of [its] application for refund of excess and unutilized input VAT for the four (4) quarters of TY 2010 in the amount of Php39,931,971.21." Notably, **all of these verbal requests for additional documents and Zuellig-PH's corresponding submissions in response thereto were well-documented and all confirmed by the BIR**; hence, there is no danger of losing track of when to reckon the 120-day period. As held in *Pilipinas Total Gas*, it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. **As herein applied, the 120-day period should therefore be reckoned from the April 29, 2014 letter of Zuellig-PH wherein it stated that it had already submitted the complete documents in support of its refund claim. In turn, the BIR had 120 days from such time (or until August 27, 2014) to act on Zuellig-PH's administrative claim for refund.** Since it was established that the BIR failed to act within such period, Zuellig-PH had thirty (30) days, or until September 26, 2014, to file its judicial claim. **Thus, its Petition for Review was timely filed on September 25, 2014.**

5. ID.; ID.; ID.; ID.; THIS DISQUISITION FINDS APPLICATION ONLY TO THOSE CLAIMS FOR REFUND MADE PRIOR TO JUNE 11, 2014 OR THE DATE WHEN RMC NO. 54-2014

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WAS ISSUED; THE PREVAILING RULE NOW IS THAT ALL COMPLETE DOCUMENTS ARE TO BE SUBMITTED UPON THE FILING OF THE TAX PAYER'S ADMINISTRATIVE CLAIM FOR REFUND. — [T]he Court clarifies that the above disquisition only finds application to those claims for refund made ***prior to*** June 11, 2014 (*i.e.*, the date that RMC No. 54-2014 was issued). Under this new circular, **the taxpayer is now required to submit complete documents *upon its filing of an administrative claim for VAT refund/tax credit,*** as no other documents shall be accepted thereafter. For this purpose, the taxpayer shall also execute a statement under oath attesting to the completeness of said documents which shall also be submitted upon such filing. Thus, under the auspices of RMC No. 54-2014, there is no more need to delineate between verbal or written requests for additional documents because the submission thereof is not anymore allowed. To reiterate, the prevailing rule now is that all complete documents are to be submitted upon the filing of the taxpayer's administrative claim for refund.

APPEARANCES OF COUNSEL

Salvador Llanillo & Bernardo for petitioner.
BIR Litigation Division for respondent.

D E C I S I O N

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] is the Decision[2] dated January 21, 2019 of the Court of Tax Appeals *En Banc* (CTA *En Banc*) in CTA *EB* No. 1656, which upheld the CTA-Second Division's dismissal of petitioner Zuellig-

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[1] *Rollo*, pp. 12-48.

[2] *Id.* at 54-68. Penned by Associate Justice Ma. Belen M. Ringpis-Liban with Presiding Justice Roman G. Del Rosario and Associate Justices Juanito C. Castañeda, Jr., Erlinda P. Uy, Esperanza R. Fabon-Victorino, and Cielito N. Mindaro-Grulla, concurring, and Associate Justice Catherine T. Manahan, dissenting.

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Pharma Asia Pacific Ltd. Phils. ROHQ (Zuellig-PH)'s claim for refund or issuance of a tax credit certificate amounting to ₱39,931,971.21, representing its excess and unutilized input value-added tax (VAT) for calendar year (CY) 2010.

The Facts

Zuellig-PH is a regional operating headquarters (ROHQ) of Zuellig-Pharma Asia Pacific Ltd. (Zuellig-HK), a foreign corporation duly organized and existing under the laws of Hong Kong.[3]

For CY 2010, Zuellig-PH filed its Quarterly VAT Returns (BIR Form No. 2550-Q) on April 22, 2010,[4] July 21, 2010,[5] October 20, 2010,[6] and January 20, 2011,[7] respectively. On February 15, 2011, Zuellig-PH filed its amended Quarterly VAT Returns for all four (4) quarters of CY 2010.[8] On **February 17, 2011**, it filed an **administrative claim for refund**[9] with attached Application for Tax Credits/Refunds[10] (BIR Form No. 1914) of its excess and unutilized input VAT for CY 2010 amounting to a total of ₱39,931,971.21 with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 49.[11]

Zuellig-PH then received Letter of Authority (LOA) No. eLA201000037096[12] dated March 3, 2011 from the BIR. In

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[3] *Id.* at 55.

[4] CTA Division *rollo*, pp. 151-154.

[5] *Id.* at 159-161.

[6] *Id.* at 165-170.

[7] *Id.* at 174-179.

[8] *Id.* at 181, 185, 188, and 191-192. It appears from the records that Zuellig-PH further amended its Quarterly VAT Returns for the 4th Quarter on February 16, 2011 (see *id.* at 16 and 194-195).

[9] See letter dated February 17, 2011 of Zuellig-PH; *id.* at 59.

[10] *Id.* at 60.

[11] See *rollo*, p. 56.

[12] CTA Division *rollo*, p. 570.

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the said LOA, the BIR authorized Revenue Officer (RO) Joaquin Tinio (RO Tinio) and Group Supervisor Socrates Regala to examine Zuellig-PH's book of accounts and other accounting records for VAT for CY 2010.[13]

In a **letter**[14] **dated June 29, 2011**, the BIR requested Zuellig-PH to present its records and submit supporting documents in relation to its administrative claim for refund.[15] In response thereto, Zuellig-PH submitted the requested documents to the BIR on **July 5, 2011**.[16]

According to Zuellig-PH, the BIR made further **verbal requests for submission of documents** from 2012 until 2014, to which the former acceded. **Consequently, Zuellig-PH made submissions on May 8, 2012,**[17] **July 25, 2012,**[18] **December 6, 2012,**[19] **and September 11, 2013,**[20] **all of which were received by RO Tinio.** On February 4, 2014, Zuellig-PH's claim was forwarded to the BIR Assessment Service and assigned to RO William P. Manzanares, Jr. (RO Manzanares).[21]

Due to the inordinate delay in the processing of its refund claim, Zuellig-PH sent a letter[22] on March 5, 2014 to then Commissioner Kim S. Jacinto-Henares, requesting that its

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[13] See *rollo*, p. 56.

[14] CTA Division *rollo*, p. 252.

[15] See *rollo*, p. 56.

[16] See letter dated July 1, 2011 of Zuellig-PH; CTA Division *rollo*, p. 571.

[17] See letter (with attachments) dated May 7, 2012 of Zuellig-PH; *id*. at 572-588.

[18] See letter dated July 25, 2012 of Zuellig-PH; *id*. at 593.

[19] See letter (with attachments) dated December 6, 2012 of Zuellig-PH; *id*. at 594-597.

[20] See letter (with attachment) dated September 11, 2013 of Zuellig-PH; *id*. at 598-600.

[21] See letter dated March 12, 2014 of Deputy Commissioner Operations Group Nelson M. Aspe; *id*. at 610.

[22] See Letter dated March 4, 2014; *id*. at 608-609.

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application for refund be resolved at the soonest possible time. Deputy Commissioner Nelson M. Aspe (Deputy Commissioner Aspe) replied to Zuellig-PH in a letter[23] dated March 12, 2014, stressing that applications for refund were processed by the Assessment Service on a "first-in-first-out" basis. Nevertheless, **Deputy Commissioner Aspe assured Zuellig-PH that "[the BIR] shall exert all the necessary efforts to ensure the timely processing of [its] VAT refund claim within the 120-day period under [Section] 112 (D) of the Tax Code, as amended, provided [that] all the required documents have been submitted."**[24]

Thereafter, **RO Manzanares requested Zuellig-PH to resubmit certain documents, to which the latter complied as evidenced by a letter**[25] **dated April 29, 2014**. The aforesaid letter was **stamped received by the Assessment Service on the same date**.[26] In the same letter, Zuellig-PH manifested that it had "***already submitted the complete documents in support of [its] application (for refund of excess and unutilized input VAT (for the four (4) quarters of TY 2010 in the amount of Php39,931,971.21***."[27] Consequently, it averred that the BIR should act on its application for VAT refund "within 120 days from the date of submission x x x in accordance with Section [112(C)], National Internal Revenue Code of 1997."[28]

When the BIR failed to act on the administrative claim for refund within 120 days from receipt of Zuellig-PH's last correspondence on April 29, 2014 (the 120th day being August 27, 2014), Zuellig-PH filed a Petition for Review[29] before the CTA-

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[23] *Id.* at 610.

[24] *Id.*; emphasis supplied.

[25] *Id.* at 611.

[26] *Id.*

[27] *Id.*; emphasis and underscoring supplied.

[28] *Id.*

[29] Dated September 25, 2014. *Id.* at 14-23.

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Second Division on September 25, 2014, docketed as CTA Case No. 8899.[30]

For its part, the BIR argued that the CTA did not acquire jurisdiction over the case, considering that Zuellig-PH's judicial claim for refund was **belatedly filed**. In particular, the BIR pointed out that since Zuellig-PH filed its administrative claim for refund on February 17, 2011, the RDO had until June 11, 2011[31] to act on the claim. When the RDO failed to do so, Zuellig-PH should have filed a judicial claim with the CTA within thirty (30) days therefrom, or until July 11, 2011.[32] Since Zuellig-PH filed its judicial claim only on September 25, 2014, which was clearly long after the lapse of the 30-day period, the claim was already belatedly filed. In any event, it argued that Zuellig-PH was not able to discharge its burden of proving its entitlement to its claim for refund.[33]

The CTA-Second Division Ruling

In a Decision[34] dated March 9, 2017, the CTA-Second Division denied Zuellig-PH's Petition for Review for being **filed out of time**.

It held that the 120-day period within which the BIR should act on the administrative claim for refund must be reckoned from the date when Zuellig-PH **submitted the requested documents on July 5, 2011, which was in response to the BIR's written request for such dated June 29, 2011.** In this regard, **the CTA-Second Division disregarded the subsequent**

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[30] See *rollo*, p. 57.

[31] This appears to be an oversight since 120 days from February 17, 2011 is June 17 (not 11), 2011.

[32] Based on footnote 31, this should be July 17, 2011.

[33] See portions in the Answer (To the Petition for Review dated September 25, 2014) dated November 13, 2014; CTA Division *rollo*, pp. 77-81.

[34] *Id*. at 722-749. Penned by Associate Justice Juanito C. Castañeda, Jr. with Associate Justice Caesar A. Casanova, concurring, and Associate Justice Catherine T. Manahan, dissenting.

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verbal requests for written documents made by the BIR to Zuellig-PH, considering that, as per the case of *Pilipinas Total Gas, Inc. v. CIR* (*Pilipinas Total Gas*),[35] **the notice for additional documents should be in writing**; hence, the 120-day period for the BIR to act on the refund claim was reckoned from June 29, 2011, and upon the lapse thereof, Zuellig-PH had thirty (30) days to file its judicial claim for refund, or on December 2, 2011. However, since Zuellig-PH filed the Petition for Review only on September 25, 2014, the same was filed out of time.[36]

Aggrieved, Zuellig-PH moved for reconsideration.[37] It argued that the BIR was estopped from questioning the jurisdiction of the CTA given the subsequent representations of Deputy Commissioner Aspe (albeit verbal) regarding the continued processing of its VAT refund claim which took place even beyond July 5, 2011 (*i.e.*, the date which the CTA-Division construed as the reckoning point of the 120-day period for the BIR to act on Zuellig-PH's administrative claim for refund).[38]

In a Resolution[39] dated May 9, 2017, Zuellig-PH's motion for reconsideration was denied. Unperturbed, it then elevated[40] the matter to the CTA *En Banc*.

The CTA *En Banc* Ruling

In a Decision[41] dated January 21, 2019, the CTA *En Banc* affirmed the CTA-Second Division. It agreed with the latter's application of the ruling in *Pilipinas Total Gas* to Zuellig-PH's

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[35] 774 Phil. 473 (2015).

[36] See CTA Division *rollo*, p. 747.

[37] See motion for reconsideration (Re: Decision dated March 9, 2017) dated March 27, 2017; *id*. at 755-775.

[38] See *id*. at 766-769.

[39] *Id*. at 785-795.

[40] CTA *En Banc rollo*, pp. 20-47.

[41] *Rollo*, pp. 54-68.

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case, and further held that the government cannot be estopped by the mistakes of its agents.[42]

Hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not Zuellig-PH's judicial claim for refund was filed out of time.

The Court's Ruling

The petition is meritorious.

Section 112 (C) of the National Internal Revenue Code of 1997 (Tax Code)[43] provides for the period within which to file a claim for refund of creditable input tax:

SEC. 112. Refunds or Tax Credits of Input Tax. —

(C) *Period within which Refund or Tax Credit of Input Taxes shall be Made*. - In proper cases, **the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsection (A) hereof**.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, **within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals**. (Emphases and underscoring supplied)

As may be gleaned from the above provision, the CIR has a period of 120 days ***from the date of submission of complete documents*** within which to evaluate an administrative claim for tax credit or refund of creditable input taxes (**120-day period**).

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[42] See *id*. at 62-67.

[43] Republic Act No. (RA) 8424 as amended up to RA 9337 (July 1, 2005).

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If the CIR denies the administrative claim, or if it remains unacted upon the expiration of the said period — which is essentially considered a "denial due to inaction," **the taxpayer may, within thirty (30) days from such denial or expiration, avail of the further remedy of filing a judicial claim before the CTA**.[44]

In this relation, the BIR issued RMC No. 49-2003[45] which provides for the procedure in instances where there are pending administrative claims for refund but with incomplete documents. The circular states that the taxing authority shall require the further submission of the needed supporting documents through a notice-request, which should then be complied with by the taxpayer within thirty (30) days from receipt thereof:

Q-18: For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?

A-18: For pending claims which have not been acted upon by the investigating/processing office due to incomplete documentation, the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.

For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.

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[44] See *Pilipinas Total Gas*, *supra* note 35, at 487.

[45] Entitled "AMENDING ANSWER TO QUESTION NUMBER 17 OF REVENUE MEMORANDUM CIRCULAR NO. 42-2003 AND PROVIDING ADDITIONAL GUIDELINES ON ISSUES RELATIVE TO THE PROCESSING OF CLAIMS FOR VALUE-ADDED TAX (VAT) CREDIT/ REFUND, INCLUDING THOSE FILED WITH THE TAX AND REVENUE GROUP, ONE STOP SHOP INTER-AGENCY TAX CREDIT AND DUTY DRAWBACK CENTER, DEPARTMENT OF FINANCE (OSS-DOF) BY DIRECT EXPORTERS," issued on August 15, 2003.

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> For current and future claims for tax credit/refund, **the same shall be processed within one hundred twenty (120) days from receipt of the complete documents**. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the taxpayer-claimants shall submit such documents **within thirty (30) days from request of the investigating/processing office**, which shall be construed as within the one hundred twenty [(120)-day] period. (Emphases and underscoring supplied)

The foregoing rules were further refined by the Court in *Pilipinas Total Gas*, which resolved the question of: "In an administrative claim for tax credit or refund of creditable input VAT, from what point does the law allow the CIR to determine when it should decide an application for refund? Or stated differently: *Under present law, when should the submission of documents be deemed 'completed' for purposes of determining the running of the 120-day period?*"[46]

Confronted with this question, the Court then ruled that the reckoning point of the 120-day period would depend on the following circumstances:

(*a*) If the taxing authority does not make any notice requesting for additional documents or if the taxpayer manifests that he no longer wishes to submit any additional documents, the 120-day period begins from the date the administrative claim was made as it would be assumed that at that point, the taxpayer had already submitted complete documents in support of its claim;[47] or

(*b*) **If the taxing authority requests for additional documents, the 120-day period begins from the time the taxpayer submits the complete documents sufficient to support his claim.** In this scenario, **it is the taxpayer who ultimately determines when complete documents have been submitted for the**

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[46] *Supra* note 35, at 488 (italics in the original).

[47] See *id*. at 495.

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purpose of commencing and continuing the running of the 120-day period.[48]

Notably, there is no requirement in the Tax Code or in RMC No. 49-2003 that the taxing authority's request for additional documents should be made in a specific form. Stated differently, nowhere in the law does it require that the request for additional documents must always and absolutely be made in written form. While written requests would be preferred because it would be easier for the BIR to keep track of the documents submitted by the taxpayer in response thereto, the law does not explicitly prohibit verbal requests for additional documents as long as they are duly made by authorized BIR officials.

To be sure, while the Court in *Pilipinas Total Gas* did state that "such notice by way of a written request is required by the CIR to be sent to [the taxpayer],"[49] the said statement was not intended to foist any judicial doctrine anent the request's required form. The seeming requirement that the request for additional documents must be "written" only appears in a singular sentence of the Court's entire Decision. In fact, the word "written" only appears twice in *Pilipinas Total Gas*, the pertinent portion of which is hereby reproduced as follows:

> Second, the CIR sent **no written notice** informing Total Gas that the documents were incomplete or required it to submit additional documents. **As stated above, such notice by way of a written request is required by the CIR to be sent to Total Gas.** Neither was there any decision made denying the administrative claim of Total Gas on the ground that it had failed to submit all the required documents. It was precisely the inaction of the BIR which prompted Total Gas to file the judicial claim. Thus, by failing to inform Total Gas of the need to submit any additional document, the BIR cannot now argue that the judicial claim should be dismissed because it failed to submit complete documents.[50]

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[48] See *id*. at 493.

[49] *Id*. at 502.

[50] *Id*. at 503; emphases supplied.

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In contrast, it must be pointed out that the initial portions of the Court's ruling in *Pilipinas Total Gas* did not even qualify that the request must be in written form. As held in the same case, what is "**essential**" is that there must be "**a request from the tax collection authority to produce the complete documents**" given to the taxpayer-claimant:

> Lest it be misunderstood, the benefit given to the taxpayer to determine when it should complete its submission of documents is not unbridled. Under RMC No. 49-2003, if in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimacy of the claim, the taxpayer-claimants shall submit such documents within thirty (30) days from request of the investigating/processing office. **Again, notice, by way of a request from the tax collection authority to produce the complete documents in these cases, is essential**.[51]

Thus, the statement that "such notice by way of a written request is required by the CIR to be sent to [the taxpayer]" was only an innocuous statement of the Court which was not meant to create any doctrine on the request's required form. This is confirmed by the fact that in *Pilipinas Total Gas*, there was even no request — whether verbal or written — given by the BIR to the taxpayer.

In any event, *Pilipinas Total Gas* is not squarely applicable to the case at bar. To be sure, the core of the controversy in *Pilipinas Total Gas* only lies in the supposed prematurity of the taxpayer's judicial claim for refund, considering that the latter allegedly failed to submit complete documents in support thereof at the time the claim was filed; hence, the 120-day period for the BIR to decide the claim had not yet begun to run.[52] The Court held that the 120-day period should be reckoned from the time the taxpayer had deemed itself to have submitted the complete documents in support of its administrative claim, without prejudice to the BIR's request for additional documents which did not obtain in this case; thus, with the 120 days having

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[51] *Id*. at 494; emphasis and underscoring supplied.

[52] See *id*. at 502-505.

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lapsed therefrom, the taxpayer may then, within thirty (30) days, accordingly, file its judicial claim for refund, as was done by the taxpayer in *Pilipinas Total Gas*. To this end, the Court had summarized its disposition as follows:

> To summarize, for the just disposition of the subject controversy, the rule is that from the date an administrative claim for excess unutilized VAT is filed, a taxpayer has thirty (30) days within which to submit the documentary requirements sufficient to support his claim, unless given further extension by the CIR. Then, upon filing by the taxpayer of his complete documents to support his application, or expiration of the period given, the CIR has 120 days within which to decide the claim for tax credit or refund. Should the taxpayer, on the date of his filing, manifest that he no longer wishes to submit any other addition documents to complete his administrative claim, the 120-day period allowed to the CIR begins to run from the date of filing.[53]

Unlike in this case, the Court in *Pilipinas Total Gas* was not confronted with the issue of whether or not requests for documents should be in any particular form, for the purpose of determining the reckoning point of the 120-day period. In fact, as earlier mentioned, in *Pilipinas Total Gas*, there was no request — whether verbal or written — given by the BIR to the taxpayer. Thus, in view of the foregoing, *Pilipinas Total Gas* is not the proper basis to construe that all subsequent verbal communications made by the BIR to Zuellig-PH (or any taxpayer for that matter) are insufficient for the purpose of determining the reckoning point of the 120-day period.

In this case, records show that Zuellig-PH duly complied with the BIR officials' written and verbal requests for additional documents through its letters dated July 5, 2011,[54] May 8, 2012,[55] July 25, 2012,[56] December 6, 2012,[57] September

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[53] *Id*. at 495.

[54] CTA Division *rollo*, p. 571.

[55] *Id*. at 572-588.

[56] *Id*. at 593.

[57] *Id*. at 594-597.

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11, 2013,[58] and April 29, 2014,[59] with the last letter indicating that it had "already submitted the complete documents in support of [its] application for refund of excess and unutilized input VAT for the four (4) quarters of TY 2010 in the amount of Php39,931,971.21."[60] Notably, **all of these verbal requests for additional documents and Zuellig-PH's corresponding submissions in response thereto were well-documented and all confirmed by the BIR**; hence, there is no danger of losing track of when to reckon the 120-day period. As held in *Pilipinas Total Gas*, it is the taxpayer who ultimately determines when complete documents have been submitted for the purpose of commencing and continuing the running of the 120-day period. **As herein applied, the 120-day period should therefore be reckoned from the April 29, 2014 letter of Zuellig-PH wherein it stated that it had already submitted the complete documents in support of its refund claim. In turn, the BIR had 120 days from such time (or until August 27, 2014) to act on Zuellig-PH's administrative claim for refund.** Since it was established that the BIR failed to act within such period, Zuellig-PH had thirty (30) days, or until September 26, 2014, to file its judicial claim. **Thus, its Petition for Review was timely filed on September 25, 2014.**

At this juncture, it is well to point out that it was the BIR's own officials who led Zuellig-PH to believe that the numerous verbal requests for documents they made were all regular and above-board, and that the taxpayer's compliance therewith would result in the timely processing of its administrative claim. Were it not for the BIR's own representations, then Zuellig-PH could have filed its judicial claim for refund sooner. Thus, Zuellig-PH cannot be faulted for merely acting in accord with the representations of the BIR itself. Indeed, while the Court recognizes the well-entrenched principle that estoppel does not apply to the government, especially on matters of taxation (as

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[58] *Id*. at 598-600.

[59] *Id*. at 611.

[60] *Id*.

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taxes are the nation's lifeblood through which government agencies continue to operate and with which the State discharges its functions for the welfare of its constituents), this principle does not apply if it would work injustice against an innocent party,[61] such as Zuellig-PH in this case. Hence, all things considered, the Court holds that the CTA erred in dismissing Zuellig-PH's judicial claim for refund. Since the CTA-Second Division had already conducted a trial on the merits but instead chose to dismiss Zuellig-PH's claim on the aforementioned ground, the Court finds it proper to remand the case to it for a resolution on the merits with utmost dispatch.

As a final note, the Court clarifies that the above disquisition only finds application to those claims for refund made ***prior to*** June 11, 2014 (*i.e.*, the date that RMC No. 54-2014 was issued).[62]

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[61] See *CIR v. Petron Corporation*, 685 Phil. 119 (2012), citing *Pilipinas Shell Petroleum Corporation v. CIR*, 565 Phil. 613 (2007). See also *CIR v. San Miguel Corporation*, 804 Phil. 293 (2017) and *China Banking Corporation v. CIR*, 753 Phil. 58 (2015).

[62] Item II. Filing and Processing of Administrative Claims of RMC No. 54-2014 (entitled "CLARIFYING ISSUES RELATIVE TO THE APPLICATION FOR VALUE ADDED TAX (VAT) REFUND/CREDIT UNDER SECTION 112 OF THE TAX CODE, AS AMENDED" issued on June 11, 2014) reads:

The application for VAT refund/tax credit must be **accompanied by complete supporting documents** as enumerated in Annex "A" hereof. In addition, the taxpayer shall attach a statement under oath attesting to the completeness of the submitted documents (Annex B). The affidavit shall further state that **the said documents are the only documents which the taxpayer will present to support the claim**. If the taxpayer is a juridical person, there should be a sworn statement that the officer signing the affidavit (*i.e.*, at the very least, the Chief Financial Officer) has been authorized by the Board of Directors of the company.

Upon submission of the administrative claim and its supporting documents, the claim shall be processed and **no other documents shall be accepted/ required from the taxpayer in the course of its evaluation**. A decision shall be rendered by the Commissioner based only on the documents submitted by the taxpayer. The application for tax refund/tax credit shall be denied where the taxpayer/claimant failed to submit the complete supporting documents. For this purpose, the concerned processing/investigating office shall prepare and issue the corresponding Denial Letter to the taxpayer/ claimant. (Emphases and underscoring supplied)

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Under this new circular, **the taxpayer is now required to submit complete documents *upon its filing of an administrative claim for VAT refund/tax credit***, as no other documents shall be accepted thereafter. For this purpose, the taxpayer shall also execute a statement under oath attesting to the completeness of said documents which shall also be submitted upon such filing. Thus, under the auspices of RMC No. 54-2014, there is no more need to delineate between verbal or written requests for additional documents because the submission thereof is not anymore allowed. To reiterate, the prevailing rule now is that all complete documents are to be submitted upon the filing of the taxpayer's administrative claim for refund.[63]

WHEREFORE, the petition is **GRANTED**. The Decision dated January 21, 2019 of the Court of Tax Appeals (CTA) *En Banc* in CTA *EB* No. 1656 (CTA Case No. 8899) is hereby **REVERSED** and **SET ASIDE**. The case is **REMANDED** to the CTA-Second Division for its resolution on the merits, in accordance with this Decision.

SO ORDERED.

Hernando, Inting, Delos Santos, and *Gaerlan*,[*] *JJ.*, concur.

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[63] This same reminder was issued by the Court in *Pilipinas Total Gas* (*supra* note 35, at 496):

> It bears mentioning at this point that the foregoing summation of the rules should only be made applicable to those claims for tax credit or refund filed prior to June 11, 2014, such as the claim at bench. As it now stands, RMC 54-2014 dated June 11, 2014 mandates that [(see block quotation in footnote 62)]:
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> x x x x x x x x x
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> Thus, under the current rule, the reckoning of the 120-day period has been withdrawn from the taxpayer by RMC 54-2014, since it requires him at the time he files his claim to complete his supporting documents and attest that he will no longer submit any other document to prove his claim. Further, the taxpayer is barred from submitting additional documents after he has filed his administrative claim.

[*] Designated Additional Member per Special Order No. 2780 dated May 11, 2020.