P10

Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

TEAM SUAL CORPORATION (formerly MIRANT SUAL CORPORATION),
Petitioner,

G.R. Nos. 201225-26
(From CTA-EB Nos. 649 & 651)

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x----------x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

G.R. No. 201132
(From CTA-EB No. 651)

- versus -

TEAM SUAL CORPORATION (formerly MIRANT SUAL CORPORATION),
Respondent.

x----------x

Reyes

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

TEAM SUAL CORPORATION (formerly MIRANT SUAL CORPORATION),
Respondent.

G.R. No. 201133
(From CTA-EB No. 649)

Present:

CARPIO,* *Acting Chief Justice*,
Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., *J.*

Promulgated:

18 APR 2018

x----------x

DECISION

REYES, JR., *J.*:

Nature of the Petitions

Challenged before the Court *via* Petitions for Review on *Certiorari*[1] under Rule 45 of the Rules of Court is the Consolidated Decision[2] of the Court of Tax Appeals (CTA) *En Banc* dated September 15, 2011 and its subsequent Resolution[3] dated March 21, 2012 in CTA-EB Nos. 649 and 651. The assailed Decision and Resolution modified the Amended Decision[4] of the CTA Special First Division dated June 7, 2010 and partially granted Team Sual Corporation's (TSC) claim for refund in the amount of ₱123,110,001.68 representing unutilized input Value Added Tax (VAT) for the second, third, and fourth quarters of taxable year 2001.

The Antecedent Facts

TSC is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines with principal office at Barangay Pangascasan, Sual, Pangasinan. It is principally engaged in the business of

---

* Acting Chief Justice per Special Order No. 2539, dated February 28, 2018.
1 *Rollo* (G.R. No. 201225-26), Vol. I, pp. 104-129 & *Rollo*, (G.R. No. 201132), Vol. I, pp. 12-50.
2 *Rollo* (G.R. No. 201225-26), Vol. I, pp. 136-163.
3 *Rollo* (G.R. No. 201132), Vol. I, pp. 186-204.
4 *Rollo* (G.R. No. 201225-26), Vol. I, pp. 12-25.

power generation and subsequent sale thereof to the National Power Corporation (NPC) under a *Build*, *Operate*, and *Transfer* scheme. TSC was originally registered with the Securities and Exchange Commission under the name "Pangasinan Electric Corporation." On August 17, 1999, it changed its name to "Southern Energy Pangasinan, Inc.," which was then changed to "Mirant Sual Corporation" on June 28, 2001, and finally to "Team Sual" on July 23, 2007. [5]

As a seller of services, TSC is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer with Certificate of Registration bearing RDO Control No. 05-0181 and Taxpayer's Identification No. 003-841-103.[6]

On December 6, 2000, TSC filed with the BIR Revenue District Office No. 5-Alaminos, Pangasinan an application for zero-rating arising from its sale of power generation services to NPC for the taxable year 2001. The same was subsequently approved. As a result, TSC filed its VAT returns covering the four quarters of taxable year 2001.[7]

For the first, second, third, and fourth quarters of 2001, TSC reported excess input VAT amounting to ₱37,985,009.25, ₱29,298,556.12, ₱32,869,835.40, and ₱66,566,967.02, respectively. The total excess input VAT claimed by TSC for the taxable year amounted to ₱166,720,367.79.[8]

On March 20, 2003, TSC filed with the BIR an administrative claim for refund in the aggregate amount of ₱166,720,367.79 for its unutilized input VAT for taxable year 2001.[9]

On March 31, 2003, without waiting for the resolution of its administrative claim for refund or tax credit, TSC filed with the CTA Division a petition for review docketed as CTA Case No. 6630. It prayed for the refund or issuance of a tax credit certificate for its alleged unutilized input VAT for the first quarter of taxable year 2001 in the amount of ₱37,985,009.25.[10]

On July 23, 2003, TSC filed another petition for review docketed as CTA Case No. 6733, seeking the refund or issuance of a tax credit certificate

---

5 Id. at 137-138.

6 Id. at 137.

7 The VAT returns for the first, second, third, and fourth quarters of taxable year 2001 were filed on April 18, 2001, July 24, 2001, October 24, 2001, and January 24, 2002, respectively; id. at 35.

8 Id. at 139.

9 Id.

10 Id.

for its alleged unutilized input VAT for the second, third, and fourth quarters of taxable year 2001 in the amount of ₱128,735,358.54. Both cases were consolidated on August 7, 2003.[11]

Trial of the case ensued.

In its Decision dated June 9, 2006, the CTA Division partially granted TSC's claim. It allowed the refund of unutilized input VAT for the first, third, and fourth quarters of taxable year 2001, but disallowed the refund for the second quarter. The CTA Division ruled that the claim for the second quarter did not fall within the two-year prescriptive period. The dispositive portion of the CTA Division's decision reads:

> **WHEREFORE,** the instant Petition for Review 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 **ONE HUNDRED SEVENTEEN MILLION THREE HUNDRED THIRTY THOUSAND FIVE HUNDRED FIFTY PESOS AND 62/100 (P117,330,550.62)** to petitioner Mirant Sual Corporation, representing unutilized input VAT from its domestic purchases of goods and services and importation of goods attributable to its effectively zero-rated sales to the National Power Corporation for the first, third, and fourth quarters of taxable year 2001.[12]

The Commissioner of Internal Revenue (CIR) filed a Motion for Partial Reconsideration on July 3, 2009, praying that the entire claim for refund be denied. The CIR argued that TSC has not sufficiently proven its entitlement to refund and that the CTA had no jurisdiction to act on the judicial claim for refund because the same was prematurely filed.[13]

Likewise, in its Motion for Partial Reconsideration dated July 7, 2009 and Supplemental Motion for Partial Reconsideration dated July 31, 2009, TSC prayed that the CTA, in addition to the amount already granted, refund the amounts of: (1) ₱29,298,556.12 representing input VAT for the second quarter of taxable year 2001, and (2) ₱12,761,224.50 for input VAT on local purchases of goods and services for the same year.[14]

---

11 Id.
12 Id. at 37.
13 Id.
14 Id. at 37-38.

On June 7, 2010, the CTA Division promulgated an Amended Decision which partially granted TSC's additional claim for refund. In said decision, the CTA denied the claim for input VAT on local purchases of goods and services, but allowed the refund for input VAT for the second quarter of taxable year 2001. However, the grant was reduced from ₱29,298,556.12 to ₱27,233,561.57 for failure to substantiate the difference.[15] The dispositive portion of the amended decision states:

> **WHEREFORE**, respondent's *Motion for Partial Reconsideration* filed on July 3, 2009 and petitioner's *Supplemental Motion for Partial Reconsideration* filed on July 31, 2009 are hereby **DENIED** for lack of merit. Petitioner's *Motion for Partial Reconsideration* filed on July 7, 2009 is hereby **PARTIALLY GRANTED** and this Court's Decision dated June 9, 2009 denying petitioner's claim for refund of unutilized input VAT for the second quarter of 2001 is hereby **MODIFIED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED** to **REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in the amount of **ONE HUNDRED FORTY FOUR MILLION FIVE HUNDRED SIXTY FOUR THOUSAND ONE HUNDRED TWELVE PESOS AND 19/100 (P144,564,112.19)** to petitioner Team Sual Corporation (formerly: Mirant Sual Corporation), representing unutilized input VAT from its domestic purchases of goods and services and importation of goods attributable to its effectively zero-rated sales to the National Power Corporation for the first, second, third, and fourth quarters of taxable year 2001.
>
> **SO ORDERED**.[16]

Dissatisfied, TSC filed a Petition for Review docketed as CTA EB No. 649 before the CTA *En Banc*. It posits that the CTA Division erred in disallowing the amount of ₱12,761,224.50 for input VAT on local purchases of goods and services on the mere fact that the pertinent supporting documents were issued under TSC's former name. TSC argues that a corporation's change of name does not affect its identity or rights. Thus, it should still be entitled to claim the said input VAT.[17]

The CIR also filed a petition for review praying that the Decision dated June 9, 2009 and the Amended Decision dated June 7, 2010 be reversed and set aside and another one be rendered denying the entire claim for refund. The CIR reiterated the arguments she raised in her Motion for Partial Reconsideration. The case was docketed as CTA EB No. 651.[18]

---

15 Id. at 23.
16 Id. at 24.
17 Id. at 39.
18 Id. at 39-40.

On September 15, 2010, the CTA *En Banc* resolved[19] to consolidate CTA EB No. 649 with CTA EB No. 651.

On September 15, 2011, the CTA *En Banc* rendered a Consolidated Decision[20] granting petitioner's claim for refund of input VAT for the second, third, and fourth quarters of taxable year 2001 amounting to ₱123, 110, 001.68. Insofar as the refund of the input VAT for the first quarter of taxable year 2001 is concerned, the CTA *En Banc* ruled that the CTA did not acquire jurisdiction over it as it had been filed prematurely. The dispositive portion of said decision reads as follows:

> **WHEREFORE**, all the foregoing considered, the Commissioner's Petition for Review in CTA EB No. 651 is hereby **DENIED**.
>
> On the other hand, Team Sual's Petition for Review in CTA EB No. 649 is hereby **PARTIALLY GRANTED**, but only insofar as the consideration of the portion of the refund claim disallowed by the court *a quo* upon the reason that the supporting documents were in Team Sual's former names.
>
> The Decision promulgated on June 9, 2009 and Amended Decision dated June 7, 2010 by the Court in Division, are therefore **MODIFIED**. Accordingly, the Commissioner is hereby **ORDERED** to **REFUND** to Team Sual the amount of, or to **ISSUE A TAX CREDIT CERTIFICATE** in its favor amounting to, **ONE HUNDRED TWENTY THREE MILLION ONE HUNDRED TEN THOUSAND ONE PESOS and SIXTY EIGHT CENTAVOS (₱123,110,001.68)**, representing Team Sual's unutilized input VAT attributable to its effectively zero-rated sales to NPC for the second, third and fourth quarters of taxable year 2001.
>
> **SO ORDERED**.[21]

TSC filed a Motion for Partial Reconsideration of the CTA *En Banc*'s decision. It insists that the judicial claim for refund over the first quarter of 2001 was not prematurely filed and that the CTA Division did in fact have jurisdiction to act on it. Similarly, the CIR filed a motion for reconsideration, praying that TSC's claim be denied altogether.[22]

In its Resolution dated March 21, 2012, the CTA *En Banc* denied the motions of both TSC and the CIR, affirming its September 15, 2011 Decision as follows:

---

19 Id. at 41.
20 *Rollo* (G.R. No. 201225-26), Vol. I, pp. 136-163.
21 Id. at.59.
22 Id. at 110.

> **WHEREFORE**, premises considered, the *Motion for Reconsideration* of the Commissioner and the *Motion for Partial Reconsideration* of Team Sual are hereby **DENIED** for lack of merit.
>
> **SO ORDERED**.[23]

Aggrieved, the CIR and TSC filed their respective Petitions for Review on *Certiorari* under Rule 45 before the Court. TSC's petition was docketed as G.R. No. 201225-26,[24] while the CIR's petitions were docketed as G.R. Nos. 201132[25] and 201133.[26]

In the Resolutions dated June 25, 2012[27] and July 18, 2012,[28] the Court resolved to consolidate G.R. Nos. 201132, 201133, and 201225-26.

The Issues

On one hand, the CIR argues the following for the total disallowance of TSC's claim:

I. The Honorable Court of Tax Appeals *En Banc* erred, when it affirmed, with modification, the former First Division's decision promulgated on June 9, 2009 and Amended Decision dated June 7, 2012, granting respondent's claim for refund in the amount of ₱123,110,001.68 allegedly representing unutilized input VAT attributable to its effectively zero-rated sales to the National Power Corporation for the second, third, and fourth quarters of taxable year 2001, because the Honorable Court of Tax Appeals had no jurisdiction to act on respondent's petitions for review; and

II. Assuming that the former First Division had jurisdiction, petitioner avers that its denial by inaction was proper and that respondent has not sufficiently proven its entitlement to a refund.[29]

---

23 Id. at 100.

24 Team Sual Corporation challenging the Decisions of the CTA *En Banc* in CTA-EB Nos. 649& 651.

25 Commissioner of Internal Revenue challenging the Decision of the CTA *En Banc* in CTA-EB No. 651.

26 Commissioner of Internal Revenue challenging the Decision of the CTA *En Banc* in CTA-EB No. 649.

27 *Rollo* (G.R. No. 201132), Vol. I, p. 183-A.

28 *Rollo* (G.R. No. 201225-26), Vol. I, p. 224.

29 *Rollo* (G.R. No. 201132), Vol. I, pp. 22-23.

On the other hand, TSC raises the following grounds for the allowance of its judicial claim for refund covering the first quarter of taxable year 2001:

I. The CTA acquired jurisdiction over the case filed with and tried by the First Division of the CTA due to the failure of respondent CIR to invoke the rule of non-exhaustion of administrative remedies; and

II. The CTA *En Banc*'s application of the doctrine laid down in the case of *Commissioner Of Internal Revenue vs. Aichi Forging Company of Asia*[30] to petitioner's claim for refund is erroneous as:

A.) It will violate established rules on non-retroactivity of judicial decisions;
B.) It will cause injustice to petitioner who relied in good faith on the existing jurisprudence at the time of the filing of the claim for refund; and
C.) It will unjustly enrich the government at the expense of the petitioner.[31]

In sum, the rise or fall of the instant petitions rest upon whether the CTA has jurisdiction to act on TSC's two judicial claims for refund.

The Court's Ruling

The petitions are bereft of merit.

In order for the CTA to acquire jurisdiction over a judicial claim for refund or tax credit arising from unutilized input VAT, the said claim must first comply with the mandatory 120+30-day waiting period. Any judicial claim for refund or tax credit filed in contravention of said period is rendered premature, depriving the CTA of jurisdiction to act on it.[32]

Pursuant to Section 112, Subsections (A) and (C) of the National Internal Revenue Code (NIRC) of 1997,[33] the procedure to be followed in claiming a refund or tax credit of unutilized input VAT are as follows:

---

30 646 Phil. 710 (2010).
31 *Rollo* (G.R. No. 201225-26), Vol. I, p. 111.
32 Supra note 27.
33 As amended by R.A. No. 9337.

> Sec. 112. *Refunds or Tax Credits of Input Tax.*—
>
> *(A) Zero-rated or Effectively Zero-rated Sales.* - Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales**, except transitional input tax, to the extent that such input tax has not been applied against output tax: Provided, however, That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (b) and Section 108 (B)(1) 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 of 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. Provided, finally, that for a person making sales that are zero-rated under Section 108(B) (6), the input taxes shall be allocated ratably between his zero-rated and non-zero-rated sales.
>
> x x x x
>
> *(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 Subsections (A) hereof.
>
> In case of **full or partial denial of the claim** for tax refund or tax credit, or the **failure on the part of the Commissioner to act on the 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)

It is clear from the above-quoted provisions that 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. This claim for refund or tax credit must be filed within two years after the close of the taxable quarter when the sales were made.

The CIR is then given a period of 120-days from the submission of complete documents in support of the application to either grant or deny the claim. If the claim is denied by the CIR or the latter has not acted on it within the 120-day period, the taxpayer-claimant is then given a period of 30 days to file a judicial claim *via* petition for review with the CTA.

As such, the law provides for two scenarios before a judicial claim for refund may be filed with the CTA: (1) the full or partial denial of the claim within the 120-day period, or (2) the lapse of the 120-day period without the CIR having acted on the claim. It is only from the happening of either one may a taxpayer-claimant file its judicial claim for refund or tax credit for unutilized input VAT. Consequently, failure to observe the said period renders the judicial claim premature, divesting the CTA of jurisdiction to act on it.

This mandatory and jurisdictional nature of the 120-day waiting period has been reiterated time and again by the Court.[34] In the case of *Commissioner of Internal Revenue vs. San Roque Power Corporation*,[35] the Court *En Banc* categorically stated:

> Failure to comply with the 120-day waiting period violates a mandatory provision of law. It violates the doctrine of exhaustion of administrative remedies and renders the petition premature and thus without a cause of action, with the effect that the CTA does not acquire jurisdiction over the taxpayer's petition. Philippine jurisprudence is replete with cases upholding and reiterating these doctrinal principles.[36]

Likewise, in *Harte-Hanks Philippines, Inc. vs. Commissioner of Internal Revenue*,[37] the Court illustrated the fatal effect of non-observance of the 120-day period. In said case, the Court dismissed the judicial claim for refund because it was filed a mere seven days after taxpayer-claimant HHPI filed its administrative claim, without waiting for it to be first resolved. The Court explained that the CTA must wait for the Commissioner's decision on the administrative claim or the lapse of the 120-day waiting period otherwise there would be nothing to review. It is the denial or inaction "deemed a denial" which the taxpayer-claimant takes to the CTA for review. Without any 'decision,' the CTA as a court of special jurisdiction acquires no jurisdiction over a taxpayer-claimant's judicial claim for refund.[38]

In the instant case, TSC filed its administrative claim for refund for taxable year 2001 on March 20, 2003, well within the two-year period

---

34 *See Commissioner of Internal Revenue v. Deutsche Knowledge Services, Pte. Ltd.*, G.R. No. 211072, November 7, 2016, 807 SCRA 90, 98; *Commissioner of Internal Revenue v. Toledo Power Company*, 766 Phil. 20, 26 (2015); *Taganito Mining Corporation v. Commissioner of Internal Revenue*, 747 Phil. 469, 475-476 (2014).

35 703 Phil. 311 (2013).

36 Id. at 354.

37 G.R. No. 205721 September 14, 2016.

38 Id.

Reyes

provided for by law. TSC then filed two separate judicial claims for refund: one on March 31, 2003 for the first quarter of 2001, and the other on July 23, 2003 for the second, third, and fourth quarters of the same year.[39]

Given the fact that TSC's administrative claim was filed on March 20, 2003, the CIR had 120 days or until July 18, 2003 to act on it. Thus, the first judicial claim was premature because TSC filed it a mere 11 days after filing its administrative claim.

On the other hand, the second judicial claim filed by TSC was filed on time because it was filed on July 23, 2003 or five days after the lapse of the 120-day period.[40] Accordingly, it is clear that the second judicial claim complied with the mandatory waiting period of 120 days and was filed within the prescriptive period of 30 days from the CIR's action or inaction. Therefore, the CTA division only acquired jurisdiction over TSC's second judicial claim for refund covering its second, third, and fourth quarters of taxable year 2001.

TSC submits that at the time of the filing of its claims for refund, prevailing jurisprudence espoused that the 120-day waiting period was merely permissive instead of mandatory.[41] Otherwise stated, TSC argues that as long as a taxpayer-claimant filed both its administrative and judicial claim within the two year prescriptive period under Section 112(A) of the NIRC then there would be no need to comply with the 120-day waiting period. This assertion has no basis.

In support of its position, TSC cites[42] the cases of *Intel Technology Philippines, Inc. vs. Commissioner of Internal Revenue*,[43] *San Roque Power Corporation vs. Commissioner of Internal Revenue*,[44] *AT&T Communications Services Philippines, Inc. vs. Commissioner of Internal Revenue*,[45] and *Southern Philippines Power Corporation vs. Commissioner of Internal Revenue.*[46] TSC insists that in said cases, because the Court allowed the filing of the judicial claim even before the CIR could act on the administrative claim, then the Court implicitly ruled that the 120-day period is not mandatory. However, a more thorough study of the cases reveals that they are inapplicable to this controversy as they involve different issues.

---

39 *Rollo* (G.R. No. 201225-26), Vol. I, p. 139.
40 Id.
41 *Rollo* (G.R. No. 201225-26), Vol. I, pp. 116-127.
42 Id. at 117-118.
43 550 Phil. 751 (2007).
44 620 Phil. 554 (2009).
45 640 Phil. 613 (2010).
46 675 Phil. 732 (2011).

In *Intel Technology Philippines*,[47] the Court resolved the issue of whether entities engaged in business are required to indicate in their receipts or invoices the authority from the BIR to print the same. Nowhere in the case did the Court rule that the 120-day period may be dispensed with as long as the administrative and judicial claims are filed within the two-year prescriptive period.

In *San Roque Power Corporation*,[48] the main issue revolved around the coverage of the terms, "zero-rated or effectively zero-rated sales." The Court discussed that the NIRC does not limit the definition of "sale" to commercial transactions in the normal course of business, but extends the term to transactions which are also "deemed" sale under Section 106(B) of the NIRC. Again, nowhere in said case was the 120-day period even remotely mentioned or ruled upon.

Finally, in *AT&T Communications Services Philippines, Inc.*[49] and *Southern Philippines Power Corporation*,[50] the issues resolved by the Court dealt with the substantiation requirements in relation to a claim for tax refund or credit. Likewise, the Court never even touched upon the nature of the 120-day waiting period in said case.

Given the foregoing, it is apparent that none of these cases constitute binding precedent as to the nature of the 120-day period. As such, TSC cannot now claim that at the time they filed their judicial claims, they relied in good faith on the then-prevailing interpretation as to the nature of the 120-day period.

Nevertheless, TSC insists that assuming arguendo that the 120-day period was indeed mandatory and jurisdictional, the issue of its non-compliance with said period, as a ground to deny its claim, was already waived since the CIR did not raise it in the proceedings before the CTA Division. It claims that non-compliance with the 120-day period prior to the filing of a judicial claim with the CTA merely results in a lack of cause of action, a ground which may be waived for failure to timely invoke the same.[51]

---

47 Supra note 43, at 788.
48 Supra note 44, at 578.
49 Supra note 45, at 615.
50 Supra note 46, at 739.
51 *Rollo* (G.R. No. 201225-26), Vol. I, pp.112-115.

However, it is apparent from the records that the issue of TSC's non-compliance with the 120-day waiting period has been raised by the CIR throughout the pendency of the entire case. In fact, the records reveal that the CIR raised it at the earliest possible opportunity, when it filed its motion for partial reconsideration with the CTA Division dated July 3, 2009.[52]

In any case, even if the CIR failed to raise the issue of TSC's non-compliance with the 120-day waiting period at the first instance, such failure would not operate to vest the CTA with jurisdiction over TSC's judicial claims for refund. The Court has already settled that a judicial claim for refund which does not comply with the 120-day mandatory waiting period renders the same void. [53] As such, no right can be claimed or acquired from it, notwithstanding the failure of a party to raise it as a ground for dismissal. In *San Roque*,[54] the Court expounded on such point, *to wit*:

> San Roque's failure to comply with the 120-day mandatory period renders its petition for review with the CTA void. Article 5 of the Civil Code provides, "Acts executed against provisions of mandatory or prohibitory laws shall be void, except when the law itself authorizes their validity." San Roque's void petition for review cannot be legitimized by the CTA or this Court because Article 5 of the Civil Code states that such void petition cannot be legitimized "except when the law itself authorizes [its] validity." There is no law authorizing the petition's validity.
>
> It is hornbook doctrine that **a person committing a void act contrary to a mandatory provision of law cannot claim or acquire any right from his void act. A right cannot spring in favor of a person from his own void or illegal act.** This doctrine is repeated in Article 2254 of the Civil Code, which states, "No vested or acquired right can arise from acts or omissions which are against the law or which infringe upon the rights of others." For violating a mandatory provision of law in filing its petition with the CTA, San Roque cannot claim any right arising from such void petition. Thus, San Roque's petition with the CTA is a mere scrap of paper.[55] (Emphasis supplied)

Being a mere scrap of paper, TSC's judicial claim for refund filed on March 31, 2003 covering the first quarter of taxable year 2001 cannot be the source of any rights.

Thus, considering the foregoing, the Court agrees with the ruling of the CTA *En Banc* which held that between the March 31 and the July 23

---

52 *Rollo* (G.R. No. 201132), Vol. I, p.60.

53 *Commissioner of Internal Revenue v. Team Sual Corporation (formerly Mirant Sual Corporation)*, 726 Phil. 266, 282 (2014).

54 Supra note 35.

55 Id. at 356

petitions for review filed by TSC, the CTA Division only acquired jurisdiction over the latter.

Seeing as the CTA validly acquired jurisdiction over the July 23 petition for review covering the second, third, and fourth quarters of taxable year 2001, we give full accord to its factual findings with respect to the amount of duly substantiated excess input VAT for said periods.

The CTA *En Banc*, based on their appreciation of the evidence presented to them, unequivocally ruled that TSC has sufficiently proven its entitlement to the refund or the issuance of a tax credit certificate in its favor for unutilized input VAT in the amount of ₱123,110,001.68.[56]

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.[57]

It must be emphasized that generally, it is not the province of an appeal by petition for review on *certiorari* to determine factual matters. Although there are exceptions[58] to this general rule, none of these exist in the instant case. 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.[59]

---

[56] *Rollo* (G.R. No. 201225-26), Vol.I, pp.49-58.

[57] *Commissioner of Internal Revenue v. San Miguel Corporation*, G.R. No. 205045 and G.R. No. 205723 January 25, 2017, 815 SCRA 563, 617.

[58] *See Pascual v. Burgos*, G.R. No. 171722, January 11, 2016, 778 SCRA 189, 207. Where the Court held that the following are known exceptions, *to wit*:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
(2) When the inference made is manifestly mistaken, absurd or impossible;
(3) Where there is a grave abuse of discretion;
(4) When the judgment is based on a misapprehension of facts;
(5) When the findings of fact are conflicting;
(6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
(7) The findings of the Court of Appeals are contrary to those of the trial court;
(8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
(9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and
(10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

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

meyes

As a final note, tax refunds or tax credits, just like tax exemptions, are strictly construed against the taxpayer-claimant. A claim for tax refund is a statutory privilege and the mere existence of unutilized input VAT does not entitle the taxpayer, as a matter of right, to it. As such, the rules and procedure in claiming a tax refund should be faithfully complied with. Non-compliance with the pertinent laws should render any judicial claim fatally defective.[60]

WHEREFORE, premises considered, the instant petitions are DENIED. The Consolidated Decision dated September 15, 2011 and the Resolution dated March 21, 2012 of the Court of Tax Appeals *En Banc* in CTA EB No. 649 and CTA EB No. 651 are hereby **AFFIRMED** in *toto*.

SO ORDERED.

ANDRES B. REYES, JR.
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

---

60 Supra note 37.

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.

ANTONIO T. CARPIO
Acting Chief Justice