Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

SILICON PHILIPPINES, INC. (formerly INTEL PHILIPPINES MANUFACTURING, INC.), Petitioner,	**G.R. No. 173241**
	Present:
	SERENO, *CJ.*, Chairperson, LEONARDO-DE CASTRO,
- *versus* -	BERSAMIN, PEREZ, and PERLAS-BERNABE, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 2 5 2015

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DECISION

LEONARDO-DE CASTRO, *J.*:

Before the Court is a Petition for Review on *Certiorari* filed by petitioner Silicon Philippines, Inc. (SPI) seeking the reversal and setting aside of the following: (1) the Decision[1] dated January 27, 2006 of the Court of Tax Appeals (CTA) *en banc* in CTA EB Case No. 24, which affirmed the Decision[2] dated November 24, 2003 and Resolution[3] dated August 10, 2004 of the CTA Division in CTA Case No. 6170; and (2) Resolution[4] dated June 26, 2006 of the CTA *en banc* also in CTA EB Case No. 24, which denied the Motion for Reconsideration of SPI. The CTA Division only granted the claim of SPI for tax credit/refund of input Value-Added Tax (VAT) on its purchases of capital goods, but not the input VAT attributable to its zero-rated sales.

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1 *Rollo*, pp. 12-30; penned by Associate Justice Caesar A. Casanova with Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, and Olga Palanca-Enriquez, concurring, and Presiding Justice Ernesto D. Acosta, concurring and dissenting.

2 Id. at 121-131; penned by Associate Justice Lovell R. Bautista with Presiding Justice Ernesto D. Acosta and Associate Justice Juanito C. Castañeda, Jr., concurring.

3 Id. at 171-185; approved by Associate Justices Lovell R. Bautista and Juanito C. Castañeda, Jr. with Presiding Justice Ernesto D. Acosta, dissenting.

4 Id. at 31-37; approved by Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, and Caesar A. Casanova with Presiding Justice Ernesto D. Acosta and Associate Justice Olga Palanca-Enriquez, on leave.

SPI, formerly known as Intel Philippines Manufacturing, Inc., is a corporation duly organized and existing under Philippine laws, and engaged in the business of designing, developing, manufacturing, and exporting advance and large-scale integrated circuit components, commonly referred to in the industry as Integrated Circuits or "ICs." It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer and with the Board of Investments as a preferred pioneer enterprise enjoying a six-year income holiday, in accordance with the provisions of the Omnibus Investments Code.

SPI filed on May 6, 1999 with the One-Stop Shop Inter-Agency Tax Credit and Duty Drawback Center of the Department of Finance an Application for Tax Credit/Refund of Value-Added Tax Paid covering the Third Quarter of 1998.[5] SPI sought the tax credit/refund of input VAT for the said tax period in the sum of ₱25,531,312.83, broken down as follows:

	Amount
Tax paid on Imported/Locally Purchased Capital Equipment	₱ 2,425,764.00
Total VAT Paid on Purchases per Invoices Received During the Period for which this Application is Filed	23,105,548.83
Amount of Tax Credit/Refund Applied For	₱ 25,531,312.83

When respondent Commissioner of Internal Revenue (CIR) failed to act upon its aforesaid Application for Tax Credit/Refund, SPI filed on September 29, 2000 a Petition for Review before the CTA Division, which was docketed as CTA Case No. 6170.

The CTA Division rendered a Decision on November 24, 2003 only partially granting the claim of SPI for tax credit/refund. The CTA Division disallowed the claim of SPI for tax credit/refund of input VAT in the amount of ₱23,105,548.83 for failure of SPI to properly substantiate the zero-rated sales to which it attributed said taxes. The CTA Division particularly pointed out the failure of SPI to comply with invoicing requirements under Sections 113, 237, and 238 of the National Internal Revenue Code of 1997 (1997 Tax Code) and Section 4.108-1 of Revenue Regulations No. 7-95, *i.e.*, registration of receipts or sales or commercial invoices with the BIR; securing an authority to print receipts or sales or commercial invoices from the BIR; and imprinting the words "zero-rated" on the invoices covering zero-rated sales. As for the claim of SPI for tax credit/refund of input VAT on its purchases of capital goods in the amount of ₱2,425,764.00, the CTA Division held that Section 112(B) of the 1997 Tax Code did not require that such a claim be attributable to zero-rated sales; and that SPI was able to comply with all the requirements under said provision. The CTA Division decreed in the end:

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[5] Id. at 113.

> **WHEREFORE**, in view of the foregoing, the instant petition for review is hereby ***PARTIALLY GRANTED***. [CIR] is **ORDERED** to **ISSUE A TAX CREDIT CERTIFICATE** in favor of SPI in the amount of ₱2,425,764.00 representing input VAT on importation of capital goods. However, the claim for refund of input VAT attributable to [SPI's] alleged zero-rated sales in the amount of ₱23,105,548.83 is hereby **DENIED** for lack of merit.[6]

SPI filed a Motion for Partial Reconsideration and Supplemental Motion for Partial Reconsideration of the foregoing Decision dated November 24, 2003 of the CTA Division. In a Resolution dated August 10, 2004, the CTA Division additionally noted that the claim of SPI covered the period of July 1, 1998 to September 30, 1998 and it was issued a permit to generate computerized sales invoices and official receipts only on August 31, 2002. Hence, the CTA Division resolved:

> **WHEREFORE**, the instant motion of [SPI] is hereby **DENIED** for lack of merit. The pronouncement in the assailed decision is **REITERATED**.[7]

SPI sought recourse from the CTA *en banc* by filing a Petition for Review assailing the Decision dated November 24, 2003 and Resolution dated August 10, 2004 of the CTA Division. The Petition was docketed as CTA EB Case No. 24.

In its Decision dated January 27, 2006, the CTA *en banc* found no cogent justification to disturb the conclusion spelled out in the assailed Decision dated November 24, 2003 and Resolution dated August 10, 2004 of the CTA Division. The dispositive portion of the CTA *en banc* judgment reads:

> **WHEREFORE**, the instant Petition is hereby **DENIED DUE COURSE** and **DISMISSED** for lack of merit.[8]

SPI filed a Motion for Reconsideration but said Motion was denied for lack of merit by the CTA *en banc* in a Resolution dated June 26, 2006.

SPI now comes before this Court via the instant Petition for Review, assigning three errors on the part of the CTA *en banc*, to wit:

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> THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN DENYING [SPI'S] CLAIM FOR REFUND ON THE GROUNDS THAT [SPI] FAILED TO IMPRINT [CIR'S] BUREAU'S PERMIT TO PRINT NUMBER AND THE WORDS "ZERO-RATED" ON ITS SALES INVOICES THAT WERE PRESENTED AND FORMALLY OFFERED IN EVIDENCE[.]

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6 Id. at 130.
7 Id. at 175.
8 Id. at 23.

II

THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN DISREGARDING THE ENTIRE EVIDENCE OF [SPI] IN PROVING ITS CLAIM FOR TAX CREDIT/REFUND[.]

III

THE HONORABLE COURT OF TAX APPEALS *EN BANC* ERRED IN NOT GRANTING THE WHOLE CLAIM OF [SPI] FOR REFUND OF ITS EXCESS AND UNUTILIZED INPUT VAT FOR THE PERIOD JULY 1, 1998 TO SEPTEMBER 30, 1998 IN THE TOTAL AMOUNT OF PhP25,531,312.83 BY DENYING ITS CLAIM ATTRIBUTABLE TO ZERO-RATED EXPORT SALES IN THE AMOUNT OF PHP23,105,548.83[.][9]

During the pendency of the present Petition, this Court *en banc* promulgated on February 12, 2013 its Decision in the consolidated cases of *Commissioner of Internal Revenue v. San Roque Power Corporation*, *Taganito Mining Corporation v. Commissioner of Internal Revenue*, and *Philex Mining Corporation v. Commissioner of Internal Revenue*[10] (hereinafter collectively referred to as *San Roque*). In *San Roque*, the Court settled the rules on the prescriptive periods for claiming credit/refund of input VAT under Section 112 of the 1997 Tax Code.

The pertinent provisions of the 1997 Tax Code[11] provided:

SEC. 110. **Tax Credits.** –

x x x x

(B) *Excess Output or Input Tax.* – If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarter or quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 112.

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),

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9 Id. at 52.

10 G.R. Nos. 187485, 196113 and 197156, February 12, 2013, 690 SCRA 336.

11 Prior to the amendments introduced by Republic Act No. 9337 (which took effect on November 1, 2005) and Republic Act No. 9361 (which took effect on November 28, 2006).

> 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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> (B) *Capital Goods.* – A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.
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> x x x x
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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.
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> 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 supplied.)

The Court interpreted the aforequoted provisions, as well as the seemingly conflicting jurisprudence and administrative rulings on the same provisions, in *San Roque*, thus:

> At the time San Roque filed its petition for review with the CTA, the 120+30 day mandatory periods were already in the law. Section 112(C) expressly grants the Commissioner 120 days within which to decide the taxpayer's claim. The law is clear, plain, and unequivocal: "x x x 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." Following the *verba legis* doctrine, this law must be applied exactly as worded since it is clear, plain, and unequivocal. The taxpayer cannot simply file a petition with the CTA without waiting for the Commissioner's decision within the 120-day mandatory and jurisdictional period. The CTA will have no jurisdiction because there will be no "decision" or "deemed a denial" decision of the Commissioner for the CTA to review. In San Roque's case, it filed its petition with the CTA a mere 13 days after it filed its administrative claim with the Commissioner. Indisputably, San Roque knowingly violated the mandatory 120-day period, and it cannot blame anyone but itself.

Section 112(C) also expressly grants the taxpayer a 30-day period to appeal to the CTA the decision or inaction of the Commissioner, thus:

> x x x 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.

This law is clear, plain, and unequivocal. Following the well-settled *verba legis* doctrine, this law should be applied exactly as worded since it is clear, plain, and unequivocal. As this law states, the taxpayer may, if he wishes, appeal the decision of the Commissioner to the CTA within 30 days from receipt of the Commissioner's decision, or if the Commissioner does not act on the taxpayer's claim within the 120-day period, the taxpayer may appeal to the CTA within 30 days from the expiration of the 120-day period.

x x x x

Section 112(A) and (C) must be interpreted according to its clear, plain, and unequivocal language. The taxpayer can file his administrative claim for refund or credit at anytime within the two-year prescriptive period. If he files his claim on the last day of the two-year prescriptive period, his claim is still filed on time. The Commissioner will have 120 days from such filing to decide the claim. If the Commissioner decides the claim on the 120th day, or does not decide it on that day, the taxpayer still has 30 days to file his judicial claim with the CTA. This is not only the plain meaning but also the only logical interpretation of Section 112(A) and (C).

x x x x

The *Atlas* doctrine, which held that claims for refund or credit of input VAT must comply with the two-year prescriptive period under Section 229, should be **effective only from its promulgation on 8 June 2007 until its abandonment on 12 September 2008 in *Mirant***. The *Atlas* doctrine was limited to the reckoning of the two-year prescriptive period from the date of payment of the output VAT. Prior to the *Atlas* doctrine, the two-year prescriptive period for claiming refund or credit of input VAT should be governed by Section 112(A) following the *verba legis* rule. The *Mirant* ruling, which abandoned the *Atlas* doctrine, adopted the *verba legis* rule, thus applying Section 112(A) in computing the two-year prescriptive period in claiming refund or credit of input VAT.

x x x x

When Section 112(C) states that "the taxpayer affected may, within thirty (30) days from 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," the law does not make the 120+30 day periods optional just because the law uses the word "may." The word "may" simply means that the taxpayer may or may not appeal the decision of the Commissioner within 30 days from receipt of the decision, or within 30 days from the expiration of the 120-day period. x x x.

x x x x

To repeat, a claim for tax refund or credit, like a claim for tax exemption, is construed strictly against the taxpayer. One of the conditions for a judicial claim of refund or credit under the VAT System is compliance with the 120+30 day mandatory and jurisdictional periods. Thus, strict compliance with the 120+30 day periods is necessary for such a claim to prosper, whether before, during, or after the effectivity of the *Atlas* doctrine, except for the period from the issuance of BIR Ruling No. DA-489-03 on 10 December 2003 to 6 October 2010 when the *Aichi* doctrine was adopted, which again reinstated the 120+30 day periods as mandatory and jurisdictional.

x x x x

BIR Ruling No. DA-489-03 does provide a valid claim for equitable estoppel under Section 246 of the Tax Code. BIR Ruling No. DA-489-03 expressly states that the "taxpayer-claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA by way of Petition for Review." Prior to this ruling, the BIR held, as shown by its position in the Court of Appeals, that the expiration of the 120-day period is mandatory and jurisdictional before a judicial claim can be filed.

x x x x

Clearly, BIR Ruling No. DA-489-03 is a general interpretative rule. Thus, all taxpayers can rely on BIR Ruling No. DA-489-03 from the time of its issuance on 10 December 2003 up to its reversal by this Court in *Aichi* on 6 October 2010, where this Court held that the 120+30 day periods are mandatory and jurisdictional.[12] (Emphasis supplied, citations omitted.)

In the subsequent case of *Commissioner of Internal Revenue v. Mindanao II Geothermal Partnership*,[13] the Court summarized the rules on prescriptive periods for claiming credit/refund of input VAT, to wit:

SUMMARY OF RULES ON PRESCRIPTIVE PERIODS FOR CLAIMING REFUND OR CREDIT OF INPUT VAT

The lessons of this case may be summed up as follows:

A. Two-Year Prescriptive Period

1. It is only the administrative claim that must be filed within the two-year prescriptive period. (*Aichi*)

2. The proper reckoning date for the two-year prescriptive period is the close of the taxable quarter when the relevant sales were made. (*San Roque*)

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12 *Commissioner of Internal Revenue v. San Roque Power Corporation*, supra note 10 at 387-404.

13 G.R. No. 191498, January 15, 2014, 713 SCRA 645, 676-677.

3. The only other rule is the *Atlas* ruling, which applied only from **8 June 2007** to **12 September 2008**. *Atlas* states that the two-year prescriptive period for filing a claim for tax refund or credit of unutilized input VAT payments should be counted from the date of **filing of the VAT return and payment of the tax**. (*San Roque*)

B. 120+30 Day Period

1. The taxpayer can file an appeal in one of two ways: (1) file the judicial claim within thirty days after the Commissioner denies the claim within the 120-day period, or (2) file the judicial claim within thirty days from the expiration of the 120-day period if the Commissioner does not act within the 120-day period.

2. The 30-day period always applies, whether there is a denial or inaction on the part of the CIR.

3. As a general rule, the 30-day period to appeal is both mandatory and jurisdictional. (*Aichi* and *San Roque*)

4. As an exception to the general rule, premature filing is allowed only if filed between 10 December 2003 and 5 October 2010, when BIR Ruling No. DA-489-03 was still in force. (*San Roque*)

5. Late filing is absolutely prohibited, even during the time when BIR Ruling No. DA-489-03 was in force. (*San Roque*)

The Court proceeds to apply the prescriptive periods set forth in Section 112 of the 1997 Tax Code, as construed by the Court in the aforementioned cases.

SPI filed on **May 6, 1999** its administrative claim for tax credit/refund of the input VAT attributable to its zero-rated sales and on its purchases of capital goods for the Third Quarter of 1998. The two-year prescriptive period for filing an administrative claim, reckoned from the close of the taxable quarter, prescribed on **September 30, 2000**. Therefore, the herein administrative claim of SPI was timely filed. For the 120/30-day prescriptive periods, the relevant dates are presented in table form below:

Tax Period 1998	**Date of Filing of Administrative Claim**	**End of 120-Day Period for CIR to Decide**	**End of 30-day Period to File Appeal with CTA**	**Date of Actual Filing of Judicial Claim**	**No. of Days: End of 120-day Period to Filing of Judicial Claim**
Third Quarter	May 6, 1999	September 3, 1999	October 4, 1999[14]	September 29, 2000	391 days

[14] The thirty (30)-day period actually ends on September 3, 1999 which was a Sunday. SPI had until the next working day, September 4, 1999, Monday, to file its Petition for Review with the CTA.

Evidently, SPI belatedly filed its judicial claim. It filed its Petition for Review with the CTA **391 days** after the lapse of the 120-day period without the CIR acting on its application for tax credit/refund, way beyond the 30-day period under Section 112 of the 1997 Tax Code. SPI herein is in exactly the same position as Philex Mining in *San Roque*. Thus, the declarations of the Court on the judicial claim of Philex Mining in *San Roque* are just as applicable to that of SPI:

> Philex timely filed its administrative claim on 20 March 2006, within the two-year prescriptive period. Even if the two-year prescriptive period is computed from the date of payment of the output VAT under Section 229, Philex still filed its administrative claim on time. Thus, the *Atlas* doctrine is immaterial in this case. The Commissioner had until 17 July 2006, the last day of the 120-day period, to decide Philex's claim. Since the Commissioner did not act on Philex's claim on or before 17 July 2006, Philex had until 17 August 2006, the last day of the 30-day period, to file its judicial claim. **The CTA EB held that 17 August 2006 was indeed the last day for Philex to file its judicial claim. However, Philex filed its Petition for Review with the CTA only on 17 October 2007, or four hundred twenty-six (426) days after the last day of filing. In short, Philex was late by one year and 61 days in filing its judicial claim**. As the CTA EB correctly found:
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> > **Evidently, the Petition for Review in C.T.A. Case No. 7687 was filed 426 days late**. Thus, the Petition for Review in C.T.A. Case No. 7687 should have been dismissed on the ground that the Petition for Review was filed way beyond the 30-day prescribed period; thus, no jurisdiction was acquired by the CTA Division; x x x.
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> **Unlike San Roque and Taganito, Philex's case is not one of premature filing but of late filing. Philex did not file any petition with the CTA within the 120-day period. Philex did not also file any petition with the CTA within 30 days after the expiration of the 120-day period. Philex filed its judicial claim long after the expiration of the 120-day period, in fact 426 days after the lapse of the 120-day period. In any event, whether governed by jurisprudence before, during, or after the *Atlas* case, Philex's judicial claim will have to be rejected because of late filing**. Whether the two-year prescriptive period is counted from the date of payment of the output VAT following the *Atlas* doctrine, or from the close of the taxable quarter when the sales attributable to the input VAT were made following the *Mirant* and *Aichi* doctrines, Philex's judicial claim was indisputably filed late.
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> The *Atlas* doctrine cannot save Philex from the late filing of its judicial claim. **The inaction of the Commissioner on Philex's claim during the 120-day period is, by express provision of law, "deemed a denial" of Philex's claim. Philex had 30 days from the expiration of the 120-day period to file its judicial claim with the CTA. Philex's failure to do so rendered the "deemed a denial" decision of the Commissioner final and inappealable**. **The right to appeal to the CTA from a decision or "deemed a denial" decision of the Commissioner is merely a statutory privilege, not a constitutional right. The exercise**

> **of such statutory privilege requires strict compliance with the conditions attached by the statute for its exercise. Philex failed to comply with the statutory conditions and must thus bear the consequences**.[15] (Emphases supplied, citations omitted.)

Because the 30-day period for filing its judicial claim had already prescribed by the time SPI filed its Petition for Review with the CTA Division, the CTA Division never acquired jurisdiction over the said Petition. The CTA Division had absolutely no jurisdiction to act upon, take cognizance of, and render judgment upon the Petition for Review of SPI in CTA Case No. 6170, regardless of the merit of the claim of SPI. The Court stresses that the 120/30-day prescriptive periods are mandatory and jurisdictional, and are not mere technical requirements. The Court should not establish the precedent that noncompliance with mandatory and jurisdictional conditions can be excused if the claim is otherwise meritorious, particularly in claims for tax refunds or credit. Such precedent will render meaningless compliance with mandatory and jurisdictional requirements.[16]

The Court reiterates its pronouncements in a previously decided case which also involved SPI and similar claims for tax credit/refund but for different tax periods:

> Courts are bound by prior decisions. Thus, once a case has been decided one way, courts have no choice but to resolve subsequent cases involving the same issue in the same manner.
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> As this Court has repeatedly emphasized, a tax credit or refund, like tax exemption, is strictly construed against the taxpayer. The taxpayer claiming the tax credit or refund has the burden of proving that he is entitled to the refund by showing that he has strictly complied with the conditions for the grant of the tax refund or credit. Strict compliance with the mandatory and jurisdictional conditions prescribed by law to claim such tax refund or credit is essential and necessary for such claim to prosper. Noncompliance with the mandatory periods, nonobservance of the prescriptive periods, and nonadherence to exhaustion of administrative remedies bar a taxpayer's claim for tax refund or credit, whether or not the CIR questions the numerical correctness of the claim of the taxpayer. For failure of Silicon to comply with the provisions of Section 112(C) of the NIRC, its judicial claims for tax refund or credit should have been dismissed by the CTA for lack of jurisdiction.[17] (Citations omitted.)

It is not lost upon the Court that the prescription of the judicial claim has not been raised as an issue by any of the parties whether before the CTA Division, CTA *en banc*, or this Court. Nonetheless, the 120/30-day prescriptive periods are mandatory and jurisdictional, and the matter of jurisdiction cannot be waived because it is conferred by law and is not

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15 *Commissioner of Internal Revenue v. San Roque Power Corporation*, supra note 10 at 389-390.

16 Id. at 399.

17 *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, G.R. Nos. 184360, 184361 and 184384, February 19, 2014, 717 SCRA 30, 50-51.

dependent on the consent or objection or the acts or omissions of the parties or any one of them.[18] In addition, when a case is on appeal, the Court has the authority to review matters not specifically raised or assigned as error if their consideration is necessary in reaching a just conclusion of the case.[19] More importantly, courts have the power to *motu proprio* dismiss an action that already prescribed. According to Rule 9, Section 1 of the Revised Rules of Court:

> SECTION 1. *Defenses and objections not pleaded.* – Defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or by statute of limitations, the court shall dismiss the claim.

The second sentence of the foregoing provision does not only supply exceptions to the rule that defenses not pleaded either in a motion to dismiss or in the answer are deemed waived, it also allows courts to dismiss cases *motu proprio* on any of the enumerated grounds – (1) lack of jurisdiction over the subject matter; (2) *litis pendentia*; (3) *res judicata*; and (4) prescription – provided that the ground for dismissal is apparent from the pleadings or the evidence on record.[20]

WHEREFORE, premises considered, the Decision dated January 27, 2006 and Resolution dated June 26, 2006 of the Court of Tax Appeals *en banc* in CTA EB Case No. 24, which affirmed the Decision dated November 24, 2003 and Resolution dated August 10, 2004 of the Court of Tax Appeals Division in CTA Case No. 6170, are **REVERSED** and **SET ASIDE**. The Petition for Review of Silicon Philippines, Inc. seeking tax credit/refund of the input Value-Added Tax attributable to its zero-rated sales and on its purchases of capital goods for the Third Quarter of 1998, docketed as CTA Case No. 6170 before the Court of Tax Appeals Division, is **DISMISSED** for being filed out of time.

SO ORDERED.

Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

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18 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 196907, March 13, 2013, 693 SCRA 456, 465.

19 *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. Commissioner of Internal Revenue*, supra note 17 at 43.

20 *Heirs of Domingo Valientes v. Ramas*, 653 Phil. 111, 117-118 (2010).

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

ESTELA M. PERLAS-BERNABE
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.

MARIA LOURDES P. A. SERENO
Chief Justice