Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SAN ROQUE POWER CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

G.R. No. 203249

Present:

VELASCO, JR., *J.*,
Chairperson,
BERSAMIN,
LEONEN,
MARTIRES, and
GESMUNDO, *JJ.*

Promulgated:

July 23, 2018

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DECISION

MARTIRES, *J.*:

The application of the 120-day and 30-day periods provided in Section 112 (D) [later renumbered as Section 112 (C)] of the National Internal Revenue Code *(NIRC)* is at the heart of the present case.

In *Commissioner of Internal Revenue v. Aichi Forging Company of Asia, Inc. (Aichi),*[1] the Court considered whether the simultaneous filing of both the administrative claim (before the Bureau of Internal Revenue *[BIR]*) and judicial claim (before the Court of Tax Appeals *[CTA]*) for refund/credit of input VAT under the cited law is permissible. In that case, the respondent asserted that the non-observance of the 120-day period is not fatal to the filing of a judicial claim as long as both the administrative and the judicial claims are filed within the two-year prescriptive period. We held that the

1 646 Phil. 710 (2010).

premature filing of respondent's claim for refund/credit before the CTA warrants a dismissal inasmuch as no jurisdiction was acquired by that court.

In the case before us, San Roque Power Corporation *(petitioner)* brought its judicial claims before the CTA prior to the promulgation of the *Aichi* ruling. Yet, the lower court *(CTA En Banc)* dismissed the petitioner's judicial claims on the ground of prematurity, a decision that happily coincided with the Court's ruling in *Aichi*. In its petition, San Roque Power Corporation rues the retroactive application of *Aichi* to taxpayers who merely relied on the alleged prevailing rule of procedure antecedent to *Aichi* that allowed the filing of judicial claims before the expiration of the 120-day period.

We hold that there is no established precedence prior to *Aichi* that permits the simultaneous filing of administrative and judicial claims for refund/credit under Section 112 of the NIRC. Nonetheless, we concede that the CTA has jurisdiction over the claims in this case in view of our pronouncement in *Commissioner of Internal Revenue v. San Roque Power Corporation (San Roque)*.[2] In said case, the Court, while upholding *Aichi*, recognized an exception to the mandatory and jurisdictional character of the 120-day period: taxpayers who relied on BIR Ruling DA-489-03, issued on 10 December 2003, until its reversal in *Aichi* on 6 October 2010, are shielded from the vice of prematurity. The said ruling expressly stated that "a 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 a Petition for Review."

THE FACTS

This is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the 4 April 2012 Decision[3] of the CTA En Banc in CTA EB No. 657. The CTA En Banc dismissed the petitioner's judicial claims on the ground of prematurity, thus, setting aside the CTA Second Division's partial grant of the refund claims in the consolidated CTA Case Nos. 7424 and 7492. In the subsequent 17 August 2012 Resolution[4] of the CTA En Banc, the court *a quo* denied the petitioner's motion for reconsideration.

The Antecedents

San Roque Power Corporation is a VAT-registered taxpayer which was granted by the BIR a zero-rating on its sales of electricity to National

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2 703 Phil. 310 (2013).
3 *Rollo*, pp. 7-28.
4 Id. at 35-42.

Power Corporation *(NPC)* effective 14 January 2004, up to 31 December 2004.[5]

On **22 December 2005** and **27 February 2006**, the petitioner filed two separate administrative claims for refund of its alleged unutilized input tax for the period 1 January 2004 up to 31 March 2004, and 1 April 2004 up to 31 December 2004, respectively.[6]

Due to the inaction of respondent CIR, the petitioner filed petitions for review before the CTA (raffled to the Second Division): *(1)* on **30 March 2006,** for its unutilized input VAT for the period 1 January 2004 to 31 March 2004, amounting to ₱17,017,648.31, docketed as CTA Case No. 7424; and *(2)* on **20 June 2006,** for the unutilized input VAT for the period 1 April 2004 to 31 December 2004, amounting to ₱14,959,061.57, docketed as CTA Case No. 7492.

The Ruling of the CTA Division

During trial, the petitioner presented documentary and testimonial evidence to prove its claim. On the other hand, respondent CIR was deemed to have waived its right to present evidence due to its failure to appear in the two scheduled hearings on the presentation of evidence for the defense. In due course, the CTA Division partially granted the refund claim of the petitioner in the total amount of ₱29,931,505.18 disposing as follows:

> **WHEREFORE**, premises considered, the instant Petitions for Review are hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in the reduced amount of **TWENTY-NINE MILLION NINE HUNDRED THIRTY-ONE THOUSAND FIVE HUNDRED FIVE PESOS AND 18/100 (₱29,931,505.18)** in favor of petitioner, representing unutilized input VAT attributable effectively zero-rated sales of electricity to NPC for the four quarters of 2004.
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> **SO ORDERED**.[7]

The CIR moved for reconsideration but to no avail. Thus, on 4 August 2010, the CIR filed a petition for review with the CTA En Banc.

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5 Id. at 9 (Decision of the CTA En Banc in CTA EB No. 657, p. 3).
6 Id. at 10 (Decision of the CTA En Banc in CTA EB No. 657, p. 4).
7 Id. at 363.

The Petition for Review before the CTA En Banc

Among other issues, the CIR questioned the claimant's judicial recourse to the CTA as inconsistent with the procedure prescribed in Section 112 (D) of the NIRC. The CIR asserted that the petitions for review filed with the CTA were premature, and thus, should be dismissed.

The Ruling of the CTA En Banc

The CTA En Banc sided with the CIR in ruling that the judicial claims of the petitioner were prematurely filed in violation of the 120-day and 30-day periods prescribed in Section 112 (D) of the NIRC. The court held that by reason of prematurity of its petitions for review, San Roque Power Corporation failed to exhaust administrative remedies which is fatal to its invocation of the court's power of review. The dispositive portion of the CTA En Banc's assailed decision reads:

> **WHEREFORE**, the Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **GRANTED**. Accordingly, the Petition for Review filed by respondent on March 30, 2006 docketed as CTA Case No. 7424, as well as the Petition for Review filed on June 20, 2006 docketed as CTA Case No. 7492 are hereby **DISMISSED** on ground of prematurity.
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> **SO ORDERED.**[8]

The Present Petition for Review

The petitioner argues that at the time it filed the petitions for review before the CTA on 30 March 2006 and 20 June 2006, no ruling yet was laid down by the Supreme Court concerning the 120-day and 30-day periods provided in Section 112 of the NIRC. Instead, taxpayers such as the petitioner were guided only by the rulings of the CTA[9] which consistently adopted the interpretation that a claimant is not bound by the 120-day and 30-day periods but by the two-year prescriptive period as provided in Section 112 (A) of the NIRC. Such CTA decisions, according to the petitioner, are recognized interpretations of Philippines' tax laws.

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[8] Id. at 26-27.

[9] The CTA cases cited were: *CIR v. Visayas Geothermal Power Company, Inc.*, CTA EB Case No. 282, 20 November 2007; *CIR v. CE Cebu Geothermal Power Company, Inc.*, CTA EB Nos. 426 and 427 (CTA Case Nos. 6791 and 6836), 29 May 2009; *CIR v. Accenture, Inc.*, CTA EB No. 410, 18 March 2009; *CE Luzon Geothermal Power Company, Inc. v. CIR*, CTA Case No. 7393, 2 March 2010; and *Eastern Telecommunications Philippines, Inc. v. CIR*, CTA EB Case No. 11 (CTA Case No.6255), 19 April 2005.

The petitioner also asserts that the CTA En Banc erred in applying retroactively the *Aichi* ruling as regards the 120-day and 30-day periods under Section 112 of the NIRC for the following reasons: *(1)* the *Aichi* ruling laid down a new rule of procedure which cannot be given retroactive effect without impairing vested rights; *(2)* a judicial ruling overruling a previous one cannot be applied retroactively before its abandonment; and *(3)* a judicial decision which declares an otherwise permissible act as impermissible violates the *ex post facto* rule under the Constitution.

THE COURT'S RULING

We grant the petition.

I.

No retroactive application of the Aichi ruling

At the outset, it bears stressing that while *Aichi* was already firmly established at the time the CTA En Banc promulgated the assailed decision, nowhere do we find in such assailed decision, however, that the court *a quo* cited or mentioned the *Aichi* case as basis for dismissing the subject petitions for review. As we see it, the CTA En Banc merely relied on Section 112 (D) of the NIRC, which provides –

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

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

– correctly interpreting the 120-day and 30-day periods prescribed therein as mandatory and jurisdictional. Thus, it cannot appropriately be insisted that the CTA En Banc's imputed error may be traced to a misplaced invocation of *Aichi.*

Be that as it may, the petitioner cannot find solace in the various CTA decisions that allegedly dispense with the timeliness of the judicial claim for as long as it is within the two-year prescriptive period. Such legal posturing has already been passed upon.

Thus, in *San Roque,*[10] a case involving the same parties and substantially the same factual antecedents as in the present petition, we rejected the claim that the CTA decisions may be relied upon as binding precedents. We said –

> There is also the claim that there are numerous CTA decisions allegedly supporting the argument that the filing dates of the administrative and judicial claims are inconsequential, as long as they are within the two-year prescriptive period. Suffice it to state that CTA decisions do not constitute precedents, and do not bind this Court or the public. That is why CTA decisions are appealable to this Court, which may affirm, reverse or modify the CTA decisions as the facts and the law may warrant. Only decisions of this Court constitute binding precedents, forming part of the Philippine legal system. As held by this Court in *The Philippine Veterans Affairs Office v. Segundo*:
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> > x x x Let it be admonished that decisions of the Supreme Court "applying or interpreting the laws or the Constitution . . . form part of the legal system of the Philippines," and, as it were, "laws" by their own right because they interpret what the laws say or mean. **Unlike rulings of the lower courts, which bind the parties to specific cases alone, our judgments are universal in their scope and application, and equally mandatory in character**. Let it be warned that to defy our decisions is to court contempt.[11] (emphasis supplied)

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[10] Supra note 2.
[11] Id. at 382.

We further held in said case that Article 8 of the Civil Code[12] enjoins adherence to judicial precedents. The law requires courts to follow a rule already established in a **final decision** of the **Supreme Court**. Contrary to the petitioner's view, the decisions of the CTA are not given the same level of recognition.

Concerning the 120-day period in Section 112 (D) of the NIRC, there was no jurisprudential rule **prior to *Aichi*** interpreting such provision as permitting the premature filing of a judicial claim before the expiration of the 120-day period. The alleged CTA decisions that entertained the judicial claims despite their prematurity are not to be relied upon because they are not final decisions of the Supreme Court worthy of according binding precedence. That *Aichi* was yet to be promulgated at that time did not mean that the premature filing of a petition for review before the CTA was a permissible act.

It was only in *Aichi* that this Court directly tackled the 120-day period in Section 112 (D) of the NIRC and declared it to be mandatory and jurisdictional. In particular, *Aichi* brushed aside the contention that the non-observance of the 120-day period is not fatal to the filing of a judicial claim as long as both the administrative and judicial claims are filed within the two-year prescriptive period provided in Section 112 (A) of the NIRC.

The mandatory and jurisdictional nature of the 120-day period first expressed in *Aichi*, however, is not a ***new*** rule of procedure to be followed in pursuit of a refund claim of unutilized creditable input VAT attributable to zero-rated sales. As suggested above, the pronouncement in *Aichi* regarding the mandatory and jurisdictional nature of the 120-day period was the Court's ***interpretation*** of Section 112 (D) of the NIRC. It is that law, Section 112 (D) of the NIRC, that laid the rule of procedure for maintaining a refund claim of unutilized creditable input VAT attributable to zero-rated sales. In said provision, the Commissioner has 120 days to act on an administrative claim.

Hence, from the effectivity of the 1997 NIRC on 1 January 1998, the procedure has always been definite: the 120-day period is mandatory and jurisdictional. Accordingly, a taxpayer can file a judicial claim (1) ***only within thirty days after the Commissioner partially or fully denies the claim*** within the 120-day period, or (2) ***only within thirty days from the expiration of the 120- day period*** if the Commissioner does not act within

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[12] ART. 8. Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines.

such period.[13] This is the rule of procedure beginning 1 January 1998 as *interpreted* in *Aichi.*

Given all the foregoing, it is indubitable that, subject to our discussion below on the reason why the present petition should nonetheless be granted, the petitioner's arguments have no leg to stand on –

(1) The Aichi ruling laid down a new rule of procedure which cannot be given retroactive effect without impairing vested rights.

- Section 112 (D) of the NIRC, not the *Aichi* ruling, lays down the rule of procedure governing refund claims of unutilized creditable input VAT attributable to zero-rated sales; *Aichi* is merely an interpretation of an existing law; there is no vested right to speak of respecting a wrong construction of the law[14] (permitting a premature filing of judicial claim);

(2) A judicial ruling overruling a previous one cannot be applied retroactively before its abandonment.

- There was no established doctrine abandoned or overturned by *Aichi;* the petitioner merely harps on CTA decisions that cannot be relied on as binding precedents; and

(3) A judicial decision which declares an otherwise permissible act as impermissible violates the ex post facto rule under the Constitution –

- Prior to *Aichi,* there was no law or jurisprudence permitting the premature filing of a judicial claim of creditable input VAT; *Aichi* did not declare as impermissible that which was previously recognized by law or jurisprudence as a permissible act; it is, therefore, inconsequential to consider the *ex post facto* provision of the Constitution.

To reiterate, the 120-day and 30-day periods, as held in the case of *Aichi,* are **mandatory** and **jurisdictional.** Thus, noncompliance with the mandatory 120+30-day period renders the petition before the CTA void. The ruling in said case as to the mandatory and jurisdictional character of said periods was reiterated in *San Roque* and a host of succeeding similar cases.

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[13] *CIR v. San Roque,* supra note 2 at 386-387.

[14] *Philippine Bank of Communications v. CIR,* 361 Phil. 916, 931 (1999).

Significantly, a taxpayer can file a judicial claim ***only within thirty (30) days from the expiration of the 120-day period*** if the Commissioner does not act within the 120-day period. The taxpayer cannot file such judicial claim prior to the lapse of the 120-day period, unless the CIR partially or wholly denies the claim within such period. The taxpayer-claimant must strictly comply with the mandatory period by filing an appeal to the CTA within thirty days from such inaction; otherwise, the court cannot validly acquire jurisdiction over it.

In this case, the petitioner timely filed its administrative claims for refund/credit of its unutilized input VAT for the first quarter of 2004, and for the second to fourth quarters of the same year, on **22 December 2005** and **27 February 2006**, respectively, or within the two-year prescriptive period. Counted from such dates of submission of the claims (with supporting documents), the CIR had 120 days, or until **13 April 2006,** with respect to the first administrative claim, and until **27 June 2006,** on the second administrative claim, to decide.

However, the petitioner, without waiting for the full expiration of the 120-day periods and without any decision by the CIR, immediately filed its petitions for review with the CTA on **30 March 2006**, or a mere **ninety-eight (98) days** for the first administrative claim; and on **20 June 2006**, or only **one hundred thirteen (113) days** for the second administrative claim, from the submission of the said claims. In other words, the judicial claims of the petitioner were prematurely filed as correctly found by the CTA En Banc.

II.

Ordinarily, a prematurely filed appeal is to be dismissed for lack of jurisdiction in line with our ruling in *Aichi.* But, as stated in the premises, we shall accord to the CTA jurisdiction over the claims in this case due to our ruling in *San Roque.*

BIR Ruling No. DA-489-03 constitutes an exception to the mandatory and jurisdictional nature of the 120+30-day period.

In the consolidated cases of *San Roque* , the Court en banc recognized an exception to the mandatory and jurisdictional nature of the 120+30-day period. It was noted that BIR Ruling No. DA-489-03, which expressly stated –

> [A] 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.

– is a general interpretative rule issued by the CIR pursuant to its power under Section 4 of the NIRC, hence, applicable to ***all*** taxpayers. Thus, taxpayers can rely on this ruling from the time of its issuance on 10 December 2003. The conclusion is impelled by the principle of equitable estoppel enshrined in Section 246[15] of the NIRC which decrees that a BIR regulation or ruling cannot adversely prejudice a taxpayer who in good faith relied on the BIR regulation or ruling prior to its reversal.

Then, in *Taganito Mining Corporation v. CIR,*[16] the Court further clarified the doctrines in *Aichi* and *San Roque* explaining that during the **window period** from 10 December 2003, upon the issuance of BIR Ruling No. DA-489-03 up to 6 October 2010, or date of promulgation of *Aichi*, taxpayers need not observe the stringent 120-day period.[17]

In other words, the 120+30-day period is generally mandatory and jurisdictional from the effectivity of the 1997 NIRC on 1 January 1998, up to the present. By way of an exception, judicial claims filed during the window period from 10 December 2003 to 6 October 2010, need not wait for the exhaustion of the 120-day period. The exception in *San Roque* has been applied consistently in numerous decisions of this Court.

In this case, the two judicial claims filed by the petitioner fell within the window period, thus, the CTA can take cognizance over them.

The petitioner is similarly situated as Taganito Mining Corporation *(Taganito)* in the consolidated cases of *San Roque.* In that case, Taganito prematurely filed on 14 February 2007 its petition for review with the CTA, or within the window period from 10 December 2003, with the issuance of BIR Ruling DA-489-03 and 6 October 2010, when *Aichi* was promulgated. The Court considered Taganito to have filed its administrative claim on

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[15] SEC. 246. Non-Retroactivity of Rulings. - Any revocation, modification or reversal of any of the rules and regulations promulgated in accordance with the preceding Sections or any of the rulings or circulars promulgated by the Commissioner shall not be given retroactive application if the revocation, modification or reversal will be prejudicial to the taxpayers, except in the following cases:
(a) Where the taxpayer deliberately misstates or omits material facts from his return or any document required of him by the Bureau of Internal Revenue;
(b) Where the facts subsequently gathered by the Bureau of Internal Revenue are materially different from the facts on which the ruling is based; or
(c) Where the taxpayer acted in bad faith.

[16] 736 Phil. 591 (2014).

[17] Id. at 600.

time. Similarly, the judicial claims in this case were filed on 30 March 2006 and 20 June 2006, or within the said window period. Consequently, the exception to the mandatory and jurisdictional character of the 120-day and 30-day periods is applicable.

What this means is that the CTA can validly take cognizance over the two judicial claims filed in this case. The CTA Division, in fact, did this, which eventually led to the partial grant of the refund claims in favor of the petitioner. In reversing the CTA Division for lack of jurisdiction, the CTA En Banc failed to consider BIR Ruling No. DA-489-03.

III.

It is imperative, however, to point out that the petitioner did not actually invoke BIR Ruling No. DA-489-03 in all its pleadings to justify the timeliness of its judicial claims with the CTA. To recall, the petitioner vociferously insisted on the propriety of its judicial claims in view of the prevailing interpretations of the CTA prior to *Aichi* that allowed premature filing of petitions for review before the CTA. This apparently also explains the silence on the end of the CTA En Banc regarding such BIR ruling in disposing of the matter on jurisdiction.

Hence, whether the petitioner can benefit from BIR Ruling DA-489-03 even if it did not invoke it is a question worthy of consideration.

The beneficiaries of BIR Ruling No. DA-489-03 include those who did not specifically invoke it.

We resolve to apply the exception recognized in *San Roque,* which we quote, *viz:*

> x x x 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.[18] (emphasis supplied)

As previously stated, *San Roque* has been consistently applied in a long line of cases that recognized the exception to the mandatory and jurisdictional nature of the 120+30-day period. To limit the application of

[18] Supra note 2 at 376.

BIR Ruling No. DA-489-03 only to those who invoked it specifically would unduly strain the pronouncements in *San Roque*. To provide jurisprudential stability, it is best to apply the benefit of BIR Ruling No. DA-489-03 to ***all*** taxpayers who filed their judicial claims within the window period from 10 December 2003 until 6 October 2010.

We said the same in *Commissioner of Internal Revenue v. Air Liquide Philippines, Inc.*,[19] thus –

> The Court agrees with ALPI in its survey of cases which shows that BIR Ruling No. DA-489-03 was applied even though the taxpayer did not specifically invoke the same. As long as the judicial claim was filed between December 10, 2003 and October 6, 2010, then the taxpayer would not be required to wait for the lapse of 120-day period. This doctrine has been consistently upheld in the recent decisions of the Court. On the other hand, in *Nippon Express v. CIR, Applied Food Ingredients v. CIR* and *Silicon Philippines v. CIR*, the taxpayer did not benefit from BIR Ruling No. DA-489-03 because they filed their precipitate judicial claim before December 10, 2003.
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> Indeed, BIR Ruling No. DA-489-03 is a general interpretative law and it applies to each and every taxpayer. To subscribe to the contention of the CIR would alter the Court's ruling in *San Roque*. It will lead to an unreasonable classification of the beneficiaries of BIR Ruling No. DA-489-03 and further complicate the doctrine. ALPI cannot be faulted for not specifically invoking BIR Ruling No. DA-489-03 as the rules for its application were not definite until the *San Roque* case was promulgated.
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> In the furtherance of the doctrinal pronouncements in *San Roque*, the better approach would be to apply BIR Ruling No. DA-489-03 to **all** taxpayers who filed their judicial claim for VAT refund within the period of exception from December 10, 2003 to October 6, 2010.[20] (citations omitted)

Moreover, in *Procter and Gamble Asia Pte Ltd. v. Commissioner of Internal Revenue*,[21] we considered as insignificant the failure of a taxpayer to invoke BIR Ruling No. DA-489-03 before the CTA. Our reason was that the said ruling is an official act emanating from the BIR. We can take judicial notice of such issuance and its consistent application in past rulings of the Court relating to the timeliness of judicial claims which makes it even more mandatory in taking cognizance of the same.

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19 765 Phil. 304 (2015).
20 Id. at 311-312.
21 785 Phil. 817 (2016).

All told, the CTA has jurisdiction over the judicial claims filed by the petitioner in this case. The CTA En Banc, thus, erred in setting aside the decision of the CTA Division on the ground of lack of jurisdiction. Consequently, the decision of the CTA Division partially granting the claim for refund/credit in favor of the petitioner must be reinstated.

WHEREFORE, the petition is **GRANTED**. The 4 April 2012 Decision and 17 August 2012 Resolution of the Court of Tax Appeals En Banc in CTA EB No. 657 are **REVERSED** and **SET ASIDE**. The 8 January 2010 Decision and 28 June 2010 Resolution of the CTA Former Second Division in CTA Cases Nos. 7424 and 7492 are hereby **REINSTATED**.

The public respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND** or, in the alternative, **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of the petitioner in the total sum of Twenty-Nine Million Nine Hundred Thirty-One Thousand Five Hundred Five Pesos and 18/100 Centavos (₱29,931,505.18) representing unutilized input VAT attributable to zero-rated sales to the NPC for the four taxable quarters of 2004.

SO ORDERED.

SAMUEL R. MARTIRES
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

LUCAS P. BERSAMIN
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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
Senior Associate Justice
(Per Section 12, R.A. No. 296,
The Judiciary Act of 1948, as amended)