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Equitable estoppel is the exemption of the Aichi Doctrine

The Aichi decision (GR 184823), promulgated on October 6, 2010, has led to the dismissal of quite a number of claims for refund filed with the Court of Tax Appeals (CTA), mainly due to non-compliance with the prescriptive period for filing judicial claims for the refund of unutilized input value-added tax (VAT).

As held in the Aichi case, compliance with the 120-30-day rule under Section 112 of the 1997 Tax Code is mandatory. This means that a taxpayer claiming unutilized input VAT refund/credit attributable to zero-rated sales must file an administrative claim with the Commissioner of Internal Revenue (CIR) within two years from the close of the quarter when the sales were made. The taxpayer can only invoke the jurisdiction of the Court within the period of 30 days reckoned from the notice of the Bureau of Internal Revenue commissioner's denial on the administrative claim or expiration of the 120-day period without any action on the part of the CIR. Aggrieved taxpayers felt that the playing field was not level at all, especially considering that there were claims for refund that were granted despite non-compliance with the 120-30-day rule. Somehow, instability in this area of the law was felt.

Recently though, the Supreme Court en banc finally laid to rest the controversy. With the promulgation of the decision in the consolidated cases of GRs 187485, 196113 and 197156 on February 12, 2013, the High Court confirmed that compliance with the 120-30-day rule is both mandatory and jurisdictional. Since the decision is an en banc decision, it will probably remain as a precedent for a long time. As such, taxpayers contemplating to file a claim for refund on unutilized input taxes are left with no option but to comply strictly with the mandatory and jurisdictional nature of the 120-30-day rule, as non-compliance is fatal to the claim for refund.

The Court recognized that the issue involved is a difficult question of law, thus, the ruling is not without exemption. Hence, the Court partly reversed the retroactive application of the Aichi Doctrine. The Court clarified that the mandatory and jurisdictional nature of the 120-30-day rule does not apply on claims for refund that were prematurely filed during the interim period from December 10, 2003, to October 6, 2010. As such, if the judicial claim was filed during the period from December 10, 2003, to October 6, 2010, and the taxpayer filed the

same within 120 days from the filing of the administrative claim without waiting for the decision of the CIR, the judicial claim is not premature.

The exemption was premised on the fact that prior to the promulgation of the Aichi decision on October 6, 2010, there was an existing interpretation laid down in BIR Ruling DA-489-03 dated December 10, 2003, where the BIR expressly ruled that “the taxpayer claimant need not wait for the lapse of the 120-day period before it could seek judicial relief with the CTA.” Ergo, taxpayers should not be prejudiced by an erroneous interpretation by the commissioner, particularly on a difficult question of law. BIR Ruling DA-489-03 provides a valid claim for equitable estoppel against the CIR, under Section 246 of the Tax Code.

The doctrine of equitable estoppel as an exception to the Aichi Doctrine applies only during the period from December 10, 2003, to October 6, 2010. Outside the interim period from December 10, 2003, to October 6, 2010, the 120-30-day rule should be observed strictly. Also, the doctrine of equitable estoppel applies only to premature filing, that is, when a taxpayer does not wait for the 120-day period for the BIR to decide the administrative claim for refund before elevating its claim with the court. Thus, if a taxpayer files the administrative and judicial claims for refund within the two-year prescriptive period but the judicial claim is filed more than 150 (120+30) days after the filing of the administrative claim for refund, the claim should be denied on the ground of late filing. All taxpayers can rely on the interpretation made on BIR Ruling DA 489 03 since the same is a general interpretative rule, having been issued in response to a query made not by a particular taxpayer, but by a government agency.

In this decision, six justices, including the new Chief Justice, ruled otherwise. In her dissent, Chief Justice Ma. Lourdes Sereno disposed of the case more liberally and expressed the view that the mandatory nature of the 120-30-day rule (or 120+30 period as illustrated in the dissenting opinion) must be completely applied prospectively in order to create stability and consistency in our tax laws. However, as the Supreme Court is a collegial body, it is the opinion concurred in by the majority that becomes a binding precedent.

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