REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SAN MIGUEL BREWERY, INC.,
Petitioner,

CTA *EB* NO. 2144
(CTA Case No. 9513)

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

x -- x

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA *EB* NO. 2156
(CTA Case No. 9513)

Present:
DEL ROSARIO, P.J.,
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

-versus-

SAN MIGUEL BREWERY, INC.,
Respondent.

Promulgated:
FEB 04 2021
3:07 p.m.

x -- x

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* are (a) **SAN MIGUEL BREWERY, INC.'s ("San Miguel") PETITION FOR REVIEW ("San Miguel's Petition")**, filed last 15 October 2019,[1] with the **COMMISSIONER OF INTERNAL**

[1] Records, CTA EB No. 2144, pp. 9-87.

REVENUE's ("CIR") COMMENT ("CIR's Comment"), filed on 9 January 2020;[2] and b) **CIR's PETITION FOR REVIEW ("CIR's Petition")**, filed last 24 October 2019,[3] with **San Miguel's COMMENT ON THE PETITION FOR REVIEW IN CTA EB NO. 2156 ("San Miguel's Comment")**, filed last 22 January 2020.[4]

The Parties

San Miguel is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at 40 San Miguel Avenue, Mandaluyong City, Metro Manila. It is engaged in the business of manufacture, sale, and distribution of fermented and malt-based beverages, as follows: (1) San Mig Light in bottle and in can, Pale Pilsen in can, San Mig Zero in bottle, San Mig Zero in carton, San Miguel Premium All Malt in bottle, San Miguel Premium All Malt in can, San Miguel Premium All Malt in carton, Super Dry in can, Red Horse in can, San Miguel Flavored Beer-Apple in bottle, and San Miguel Flavored Beer-Lemon in bottle (San Mig Light in bottle and in can and other products); and (2) San Mig Light in Keg.

The **CIR** is the Commissioner of the Bureau of Internal Revenue ("BIR"), duly appointed to exercise the powers and perform the duties of his office including, *inter alia,* the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

The Facts

The following are the undisputed facts:

> "On January 1, 2013, Republic Act (RA) No. 10351 took effect and effectively amended Section 143 of the National Internal Revenue Code (NIRC) of 1997, as amended. Thus:
>
> > 'SEC. 143. Fermented Liquors. - There shall be levied, assessed and collected an excise tax on beer, lager beer, ale porter and other fermented liquors except tuba, basi, tapuy and similar fermented liquors in accordance with the following schedule:
> >
> > xxx xxx xxx
> >
> > Effective on January 1, 2015

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[2] *Id.*, pp. 123-140.
[3] Records, CTA EB No. 2156, pp. 6-65.
[4] Records, CTA EB No. 2144, pp. 141-163.

(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (P50.60) or less, the tax shall be Nineteen pesos (P19.00) per liter; and

(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (P50.60), the tax shall be Twenty-two pesos (P22.00) per liter.

xxx xxx xxx

The rates of tax imposed under this Section shall be increased by four percent (4%) every year thereafter effective on January 1, 2018, through revenue regulations issued by the Secretary of Finance. However, in case of fermented liquors affected by the 'no downward reclassification' provision prescribed under this Section, the four percent (4%) increase shall apply to their respective applicable tax rates.

xxx xxx xxx

Any downward reclassification of present categories, for tax purposes, of fermented liquors duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.

xxx xxx xxx

All fermented liquors existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of the fermented liquors conducted by the Bureau of Internal Revenue.'

RA No. 10351 effectively increased the excise taxes imposed on fermented liquors, as follows:

Net Retail Price per liter of Volume Capacity (Effective January 1,2015)	Excise Tax
Tier 1. Less than or equal to P50.60	Php19.00
Tier 2. Greater than P50.60	Php22.00

Meanwhile, RA No. 10351 veered from the previous classifications set forth under RA No. 9334, *i.e.*, variants of existing brands and new brands, by simplifying the classification to two (2) tiers based on net retail price per liter of volume capacity, as illustrated above. The data on net retail price shall be based on the latest price survey under oath conducted by the BIR. Further, such proper tax classification of fermented liquors, whether registered before or after the effectivity of the said law, shall be determined every two (2) years from the date of its effectivity.

It also adopted the 'no downward reclassification' provision which was previously set forth under RA No. 9334, where duly registered fermented liquors at the time of the effectivity of RA No. 10351 are prohibited from making downward reclassification of their present categories, i.e., from Tier 2 to Tier 1, in order to reduce the imposable excise taxes.

To implement the said law, the BIR issued Revenue Regulations (RR) No. 17-2012. Relevant to this case is its Section 5, which provides:

> '**SEC. 5. DOWNWARD RECLASSIFICATION OF FERMENTED LIQUORS.** Any downward reclassification of any fermented liquor product that is duly registered with the BIR at the time of effectivity of the Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited. Starting January 1, 2014, the applicable tax rate shall be increased by four percent (4%) annually; Provided, however, it shall not be lower than the rates prescribed under Section 3 of these regulations.'

Meanwhile, the BIR likewise issued Revenue Memorandum Circular (RMC) No. 90-2012. Annex A-1 of the said RMC imposed a uniform excise tax of P22.25 on petitioner's (1) San Mig Light in bottle and in can and other products and (2) San Mig Light in Keg.

In order for petitioner to make removals of its products, it paid the excise taxes thereon at P22.25 per liter thereof. Consequently, petitioner alleges that it wrongfully or excessively paid the total amount of P48,266,780.24, representing excise taxes on its removals from January 1, 2015 to December 31, 2015.

Thus, on December 15, 2016, petitioner filed a claim for refund or issuance of tax credit dated December 14, 2016. Then, on December 28, 2016, petitioner filed the instant Petition due to respondent's inaction." [5]

Thereafter, on 13 June 2019, the Court in Division partially granted San Miguel's claim for tax refund, to wit.:[6]

> "WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED** in the reduced amount of P44,474,387.74. Accordingly, respondent is **ORDERED** to **REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner for the erroneously, excessively, and/or illegally collected excise taxes on its San Mig Light and other beer products in bottles and cans for the taxable year 2015.
>
> **SO ORDERED."**

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[5] CTA Case No. 9513, 13 June 2019.
[6] Records, CTA EB No. 2144, Annex "A", pp. 31-57.

The Court in Division partially denied San Miguel's claim for refund (*i.e.*, excise taxes paid on its San Mig Light in Kegs) on the ground that it failed to present the required sworn statements.

This was affirmed by the Court in Division in the Resolution, dated 17 September 2019,[7] which denied for lack of merit San Miguel's Motion for Partial New Trial and the CIR's Motion for Partial Reconsideration Re: Decision dated 13 June 2019.[8]

Consequently, on 27 August 2019 and 8 October 2019, San Miguel[9] and the CIR[10] filed their respective Motions for Extension of Time to File Petition for Review with this Court *En Banc,* which was granted in a Resolution, dated 2 October 2019,[11] and a Resolution, dated 10 October 2019,[12] respectively.

On 15 October 2019, San Miguel's Petition was filed while the CIR's Petition was filed on 24 October 2019. Both Petitions were ordered consolidated in the Resolution of the Court *En Banc* dated 25 October 2019.[13]

In a Resolution, dated 7 November 2019, the CIR was ordered to file a Comment on San Miguel's Petition,[14] which was complied with through the filing of the CIR's Comment on 9 January 2020. Similarly, in a Resolution, dated 13 December 2019, San Miguel was ordered to file a Comment on the CIR's Petition,[15] which was complied with through the filing of San Miguel's Comment on 22 January 2020.

On 6 February 2020, this Court *En Banc* issued a Resolution submitting both Petitions for decision.[16]

<u>**The Assigned Errors**</u>

The issues to be resolved are as follows:

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[7] *Id.*, Annex "A-1", pp. 58-67.
[8] *Id.*, p. 67.
[9] Records, CTA EB No. 2144, pp. 1-7.
[10] Records, CTA EB No. 2156, pp. 1-4.
[11] Records, CTA EB No. 2144, p. 8.
[12] Records, CTA EB No. 2156, p. 5.
[13] Records, CTA EB No. 2144, p. 87.
[14] *Id.*, pp. 88-90.
[15] *Id.*, pp. 120-122.
[16] *Id.*, pp. 164-166.

a) For San Miguel's Petition:[17]

i. Whether the Court in Division erred in denying San Miguel's claim for refund with respect to erroneously paid excise taxes on its San Mig Light in Kegs for the taxable year ("TY") 2015 in the amount of Php3,792,392.50 on the ground that it did not submit the required sworn statements provided under ***Section 7 of Revenue Regulations No. 17-2012 ("RR 17-12")*** necessary to establish the net retail price of said San Mig Light in Kegs;

ii. Whether the Court in Division erred in holding that the reasons advanced by San Miguel in the Motion for Partial New Trial do not fall under the definition of mistake or excusable neglect;

iii. Whether the Court in Division erred in not taking judicial notice, pursuant to the second paragraph of ***Section 3 of Rule 129 of the Rules on Evidence*** pertaining to judicial notice, of the sworn declarations filed by the petitioner with the BIR with respect to such San Mig Light in Kegs;

iv. Whether the Court in Division erred in not holding that, in any case, there is evidence on record as to the net retail price of San Mig Light in Kegs, independent of the required sworn statements; and

b) For the CIR's Petition: whether the Court in Division erred in holding that San Miguel is entitled to a refund or tax credit certificate in the amount of Php44,474,387.74.[18]

Arguments of the Parties

San Miguel argued the following:[19]

1. The Court in Division erred in denying San Miguel's claim for refund with respect to erroneously paid excise taxes on its San Mig Light in Kegs for TY 2015 in the amount of Php3,792,392.50 on the basis of non-submission of the requisite sworn statements as required by ***Section 7 of RR 17-12***. Said sworn statements have been submitted to the BIR.

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[17] *Id.*, pp. 20-21.
[18] Records, CTA EB No. 2156, p. 8.
[19] Records, CTA EB No. 2144, pp. 22-27.

2. The issue in the Motion for Partial New Trial is not whether San Miguel complied with ***Section 7 of RR 17-12*** but whether there was excusable negligence and mistake in the non-presentation of the same to the Independent Certified Public Accountant ("ICPA") and, ultimately, to the Court in Division. As testified to by Atty. Andrei Josef Y. Kasilag (the judicial affidavit of whom was attached to the Motion for Partial New Trial), the excusable negligence and mistake consisted in the following: "because of the voluminous documents which we were then collating and considering the deadline set by the Court for the submission of the Report of the ICPA, the only documents that we were able to present to the ICPA were those documents mentioned in the ICPA's report. Also, the ICPA no longer asked for the Sworn Statements after SMB was requested and thereafter provided a Schedule of Net Retail price of SML Products which was based on the Sworn Statements duly submitted to the BIR." This excusable neglect described in said testimony is one which ordinary prudence could not have guarded against. Also, mistake was present under said circumstances considering that the ICPA no longer asked for said sworn statements. As such, San Miguel's Tax Services Group was made to believe that the schedule of net retail prices which they submitted to the ICPA suffices and said sworn statements were no longer necessary.

3. The Court in Division should have taken judicial notice of the sworn statements with respect to the San Mig Light in Kegs considering that these have been filed already with the BIR. ***Section 3, Rule 129 of the Rules on Evidence*** clearly allow appellate courts to take judicial notice of any matter or matters even after judgment. On this basis, this Court should have taken judicial notice of the said sworn declaration in resolving the Motion for Partial New Trial.

4. Even if the sworn statements were not taken into consideration, there is evidence on record showing the net retail price of the San Mig Light in Kegs. This evidence has not been contradicted by the CIR. Hence, the same is deemed conclusive. The testimony of Ms. Ronquillo that the net retail price of the San Mig Light in Kegs was below Php50.60 and within the Tier 1 bracket was not controverted by the CIR. Hence, this testimony is conclusive proof of the net retail price of the San Mig Light in Kegs.

The CIR alleged the following:[20]

1. This Court has no jurisdiction to entertain the present suit. The nullification of the Php20.57 per liter excise tax rate specified in ***Revenue Memorandum Circular No. 90-2012 ("RMC 90-12")*** does not fall under the special jurisdiction granted to the Court of Tax

[20] Records, CTA EB No. 2156, pp. 8-22.

Appeals ("CTA") as the same clearly falls under the general jurisdiction of the trial courts. A collateral attack on presumably valid administrative issuance is not allowed. Hence, a taxpayer should not be allowed to challenge the validity of a tax issuance under the guise of a refund case.

2. San Miguel is not entitled to a tax refund because there was no erroneous or illegal collection of excise taxes. There was no reclassification of San Mig Light because it has always been classified as a variant of an existing brand.

3. Claims for refund are construed strictly against the taxpayer and in favor of the government.

In response to the CIR's allegations, San Miguel counter-argued the following:[21]

1. The CTA has jurisdiction to entertain the present suit. This matter has already been settled in ***San Miguel Brewery, Inc. v. Commissioner of Internal Revenue***,[22] which involved the same parties, facts, and issues as the case at hand. In said case, this Court *En Banc* ruled that the CTA has exclusive jurisdiction to determine the validity and constitutionality of rules and regulations, and other administrative issuances of the CIR. Moreover, this has been confirmed by the Supreme Court in ***Banco de Oro, et al. v. Republic of the Philippines, et al***[23] and the recent case of ***Commissioner of Internal Revenue v. Court of Tax Appeals and Petron Corporation***.[24] Consequently, the CTA has undoubted jurisdiction to pass upon the validity of ***RR 17-12*** and ***RMC 90-12***.

2. The invalidity of the excise tax rate provided under ***RR 17-12*** and ***RMC 90-12*** is not merely related to the claim for refund. It is the direct basis and foundation of San Miguel's claim for refund. Hence, the present claim for refund is a direct challenge of said revenue issuances.

3. The issue on San Mig Light being an existing brand or new brand is inconsequential considering that ***Republic Act No. 10351 ("RA 10351")*** already simplified the taxation system wherein excise tax is now being imposed based on the net retail prices.

4. San Miguel's claim for refund is not a claim for tax exemption, nor is it an ordinary and simple claim for refund, but one that arose from the illegal and unlawful imposition. Consequently, the rule of *strictissimi juris* should not be applied.

[21] Records, CTA EB No. 2144, pp. 145-162.
[22] CTA EB No. 1772, 19 September 2018.
[23] G.R. No. 198756, 16 August 2016.
[24] G.R. No. 207843, Resolution, dated 14 February 2018.

In response to San Miguel's allegations, the CIR counter-argued by restating the arguments in his Petition.[25]

The Ruling of the Court En Banc

Both Petitions lack merit.

This Court has jurisdiction to entertain the present suit.

With respect to the CIR's contention that the CTA has no jurisdiction entertaining the present suit (*i.e.,* a challenge on the constitutionality or validity of revenue issuances), considering that the same falls under the general jurisdiction of the regular courts, this issue has long been settled. The CTA has undoubted jurisdiction to pass upon the validity of a tax law or regulation regardless if the same was made an ancillary issue in a tax assessment or tax refund case, or an actual direct challenge of said tax law or regulation. In ***Banco De Oro, et al., v. Republic of the Philippines, et al.***,[26] the Supreme Court declared as follows:

> **"The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all maters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.**
>
> **This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).**
>
> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.
>
> In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of certiorari against the acts and omissions of the said

[25] Records, CTA EB No. 2144, pp. 123-137.
[26] G.R. No. 198756, 16 August 2016.

> quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.
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> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.
>
> Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. Hence, the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7(1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424."
> (Emphasis, Ours)

Consequently, it cannot be denied that this Court has absolute jurisdiction to entertain the present refund case for erroneously paid excise taxes, the success of which is dependent on the invalidity or unconstitutionality of certain revenue issuances.

In tax refund cases, it is incumbent upon the taxpayer-claimant to prove every minute aspect of his claim.

As to San Miguel's contentions that the Court in Division erred in not granting its claim for refund of erroneously paid excise tax with respect to its San Mig Light in Kegs, considering that it submitted the requisite sworn statements of said product's net retail price before the BIR, hence, the same should have already been taken judicial notice of by this Court considering that it has appellate jurisdiction over the CIR's decisions in tax refund cases, this argument lacks merit.

Indeed, in tax refund cases filed before this Court, it is incumbent upon the taxpayer-claimant to prove every minute aspect of his claim. He cannot simply rely on the evidence he has already presented in the administrative claim before the BIR for the success of the judicial claim for refund. He must present and offer anew with this Court the evidence already presented before the CIR and such other evidence (although was not submitted to the CIR during the administrative proceedings) which are necessary to prove his entitlement to his tax refund claim.

This was stressed in ***Commissioner of Internal Revenue v. Manila Mining Corporation***, where the Supreme Court held that evidence submitted before the BIR in tax refund cases cannot be given probative value by this Court unless presented and formally offered anew by the taxpayer-claimant,[27] to wit:

> "Under Section 8 of RA 1125, the CTA is described as a court of record. As cases filed before it are litigated *de novo,* party litigants should prove every minute aspect of their cases. No evidentiary value can be given the purchase invoices or receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA."

Erasing any doubt on the matter is ***Philippine Airlines, Inc. v. Commissioner of Internal Revenue***,[28] where the High Court ruled as follows:

> "The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence that was not presented in the administrative claim in the Bureau of Internal Revenue. Republic Act No. 1125 states that the Court of Tax Appeals is a court of record:
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>> Section 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.
>
> **As such, parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted in the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. Thus, the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner. As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings."** (Emphasis, Ours)

[27] G.R. No. 153204, 31 August 2005.
[28] G.R. Nos. 206079-80, 17 January 2018.

Consequently, San Miguel is misplaced in arguing that the presentation of the sworn statements before the BIR already suffices. The sworn statements should have been similarly presented and formally offered before this Court in order that these would be taken into consideration in determining San Miguel's entitlement to a tax refund of erroneously paid excise taxes. By failing to present and formally offer these sworn statements, San Miguel failed to adduce proof of the net retail prices of its San Mig Light in Kegs. Under the amendments introduced by ***RA 10351***, the net retail price is the crucial factor in determining the excise tax actually due to an alcoholic beverage. Consequently, without presenting and formally offering the necessary sworn statements, San Miguel cannot justify its entitlement to a tax refund of erroneously paid excise tax with respect to San Mig Light in Kegs.

Moreover, there is no merit in San Miguel's position that this Court can already take judicial notice of these sworn statements even if not presented or formally offered therewith as the same has already been submitted before the BIR. ***Section 1 of Rule 129 of the Rules on Evidence***[29] clearly provides what matters should mandatorily be taken judicial notice of. On the other hand, ***Section 2 of Rule 129 of the Rules on Evidence***[30] details what can be discretionarily be taken judicial notice of. In both cases, no hearing is necessary before a matter can be taken judicial notice of as long as it qualifies within the enumerations provided under said provisions. The sworn statements (or the declared net retail price of the San Mig Light in Kegs found therein) do not qualify under any of the enumerations provided under ***Sections 1 and 2 of Rule 129 of the Rules on Evidence***. As such, the same cannot be instantly taken judicial notice of by this Court. To be considered in determining San Miguel's entitlement to a tax refund of erroneously paid excise tax, the sworn statements should have thus been presented and formally offered before this Court.

Even assuming, for the sake of argument, that the sworn statements (or the declared net retail price of the San Mig Light in Kegs found therein) can be taken judicial notice of under ***Section 3 of Rule 129 of the Rules on Evidence***,[31] the said provision still requires that a hearing on the matter be conducted before it can be taken judicial notice of. No such hearing was conducted. Hence, neither can the sworn statements (or the declared net retail

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[29] Section 1. Judicial notice, when mandatory. – A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, official acts of the legislative, executive and judicial departments of the National Government of the Philippines, the laws of nature, the measure of time, and the geographical divisions. (1a)

[30] Section 2. Judicial notice, when discretionary. – A court may take judicial notice of matters which are of public knowledge, or are capable of unquestionable demonstration, or ought to be known to judges because of their judicial functions. (2)

[31] Section 3. Judicial notice, when hearing necessary. – During the pre-trial and the trial, the court, motu proprio or upon motion, shall hear the parties on the propriety of taking judicial notice of any matter.
Before judgment or on appeal, the court, motu proprio or upon motion, may take judicial notice of any matter and shall hear the parties thereon if such matter is decisive of a material issue in the case. (3a)

price of the San Mig Light in Kegs found therein) be taken judicial notice of under the said provision.

New Trial is unavailing in the case at bar.

San Miguel contends that its Motion for Partial New Trial should have been granted on the ground of mistake and excusable neglect, considering that its failure to present the requisite sworn statements (showing the net retail price of San Mig Light in Kegs) was brought about by the tremendous pressure caused by the hasty collation of voluminous documents requested by the ICPA, given the deadline set by the Court in Division for the submission of the ICPA Report, and the mistaken belief that said sworn statements were no longer necessary as the ICPA did not list the same as one of the documents requested for the preparation of the ICPA Report. This is misplaced.

Elementary is the rule that a Motion for New Trial can only be granted upon specific, well-defined grounds, set forth in the Rules of Court.[32] ***Sections 1 and 2, Rule 37 of the Rules of Court*** provide:

> "Section 1. Grounds of and period for filing motion for new trial or reconsideration. - Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.
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> Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.
>
> Section 2. Contents of motion for new trial or reconsideration and notice thereof.- The motion shall be made in writing stating the ground or grounds therefor, a written notice of which shall be served by the movant on the adverse party. A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in paragraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by affidavits. A motion

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[32] Reynante Tadeja, Ricky Tadeja, Ricardo Tadeja and Ferdinand Tadeja vs. People of the Philippines, G.R. No. 145336, 20 February 2013.

> for the cause mentioned in paragraph (b) shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> xxx xxx xxx
>
> A pro forma motion for new trial or reconsideration shall not toll the reglementary period of appeal."

In relation to this, ***Sections 5 and 6 of the Revised Rules of the Court of Tax Appeals*** state that:

> "SEC. 5. Grounds of motion for new trial. - A motion for new trial may be based on one or more of the following causes materially affecting the substantial rights of the movant:
>
> (a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which the rights of such aggrieved party has probably been impaired in his rights; or
>
> (b) Newly discovered evidence, which the party could not, with reasonable diligence, have discovered and produced at the trial and, which, if presented, would probably alter the result. A motion for new trial shall include all grounds then available and those not included shall be deemed waived.
>
> SEC. 6. Contents of motion for reconsideration or new trial and notice.- The motion shall be in writing stating its grounds, a written notice of which shall be served by the movant on the adverse party.
>
> A motion for new trial shall be proved in the manner provided for proof of motions. A motion for the cause mentioned in subparagraph (a) of the preceding section shall be supported by affidavits of merits which may be rebutted by counter-affidavits. A motion for the cause mentioned in subparagraph (b) of the preceding section shall be supported by affidavits of the witnesses by whom such evidence is expected to be given, or by duly authenticated documents which are proposed to be introduced in evidence.
>
> A motion for reconsideration or new trial that does not comply with the foregoing provisions shall be deemed pro forma, which shall not toll the reglementary period for appeal."

From the foregoing, it can be seen that the rules allow the filing of a motion for new trial on the grounds of fraud, accident, mistake, or excusable negligence; or of newly discovered evidence, in the manner provided for proof of motions.

San Miguel's request for partial new trial shows that the same is not based on fraud, accident, mistake, or excusable negligence; or of newly discovered evidence. We agree with the Court in Division that the reasons advanced by San Miguel do not fall under the definition of mistake or excusable neglect. Had San Miguel exercised ordinary diligence and prudence in preparing the evidence in support of its claim, it could not have failed to comply with the categorical requirement laid down under ***Section 7 of RR 17-12***, which requires the submission of a sworn statement as proof of the net retail price of an alcoholic beverage. Said provision provides, as follows:

> "SEC. 7. Submission of Sworn Statement. - Every local manufacturer or importer of alcohol and tobacco products shall a [sic] **duly notarized manufacturer's or importer's sworn statement** for alcohol or tobacco product showing, among others, the following information:
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> (a) Name, address, TIN and assessment number of the manufacturer or importer;
>
> (b) Complete root name of the brand as well as the complete brand name with modifiers, if any;
>
> (c) Complete specifications of the brand detailing the specific measurements, weights, manner of packaging, etc.;
>
> (d) Name(s) of the region(s) where the brand is/are to be marketed;
>
> (e) Wholesale price per case, gross and net of VAT and excise tax;
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> (f) Suggested retail price, gross and net of VAT and excise tax, per pack or per bottle, as the case may be;
>
> (g) Detailed production/importation costs and all other expenses incurred or to be incurred until the product is finally sold (e.g., materials, labor, overhead, selling and administrative expenses) per case;
>
> (h) Applicable rate of excise tax per unit of measure or value, as the case may be; and
>
> (i) Corresponding excise and value-added taxes per case."
> (Emphasis supplied)

Given the foregoing, San Miguel's request for a partial new trial cannot be given due course as its failure does not qualify as excusable neglect and mistake. Rather, this could have easily been averted had it been more circumspect in preparing its pieces of evidence to support its claim for refund. Tax refunds being in the similar nature of tax exemptions are naturally frowned upon, and are construed *strictissimi juris* against the taxpayer-claimant. A taxpayer-claimant has the burden of proving every minute aspect of his case to show his entitlement to a tax refund and that he complied with the procedure relating to a tax refund.

WHEREFORE, the Petitions for Review filed by San Miguel and the CIR are hereby **DENIED** for lack of merit. Accordingly, the Decision, dated 13 June 2019, and Resolution, dated 17 September 2019, promulgated by the Court in Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

CERTIFICATION

Pursuant to *Article VIII, Section 13 of the Constitution,* it is hereby certified that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice