Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PHILIPPINE AIRLINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE and COMMISSIONER OF CUSTOMS,
Respondents.

CTA Case No. 7868

Members:
CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JUN 22 2012 10:40 a.m.

x--x

DECISION

CASANOVA, *J.*:

This is a Petition for Review[1] filed by petitioner- Philippine Airlines Inc., (PAL) to review, by appeal, the inaction of respondent Commissioner of Internal Revenue over petitioner's administrative claim for tax refund in the amount of P4,550,858.85, allegedly representing specific taxes paid on petitioner's importation of commissary supplies for the months of February and March 2007.

Petitioner PAL is a domestic corporation organized in accordance with the laws of the Republic of the Philippines with principal office at the 9th Floor, PAL Center, Legazpi St., Legazpi Village, Makati City, (now 8th Floor, PNB Financial Center, Pres. Diosdado Macapagal Ave., CCP Complex, Pasay City).[2]

---

[1]Division Docket (Vol. I), pp. 1-20.
[2]Par.1, Facts, Joint Stipulation of Facts and Issues (JSFI), Ibid, p. 271.

Respondent Commissioner of Internal Revenue (CIR) is the government agency in charge of the assessment and collection of all national internal revenue taxes, fees, charges, including excise taxes imposed on wines and cigarettes under Sections 142 and 145 of the National Internal Revenue Code, as amended, with principal office at the BIR National Office Building, Agham Road, Diliman,Quezon City.[3]

Respondent Commissioner of Customs (COC) is the government agency in charge of the assessment and collection of customs duties and other lawful revenues from imported articles, including excise taxes imposed on wines and cigarettes under Sections 142 and 145 of the 1997 NIRC, as amended, on the basis of the delegation and authority of the respondent CIR through an Authority to Release Imported Goods duly issued by the respondent CIR addressed to respondent COC in accordance with Section 12(a) of the 1997 NIRC, as amended.[4]

On June 11, 1978, by virtue of Presidential Decree No. 1590 (PD No. 1590), petitioner was granted a franchise to operate air transport services domestically and internationally.[5]

On January 1, 2005, Republic Act No. 9334 (RA No. 9334), otherwise known as *"An Act Increasing the Excise Tax Rates Imposed on Alcohol and Tobacco Products, Amending for the Purpose Sections 131, 141, 142, 143, 144, 145 and 288 of the National Internal Revenue Code of 1997, as Amended"* took effect. Section 6 of the said law provides:

> "SEC. 6. Section 131 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:
>
> ' SEC. 13, Payment of Excise Taxes on Imported Articles. –
>
> '(A) Persons Liable. – Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers,

---

[3] Par. 2, Id., pp. 271 – 272.
[4] Par. 3, Id., p. 272.
[5] Par. 5, Id., p. 273.

conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

'In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.

'The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: Provided, further, That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Phillippines (DFP), shall be exempted from all applicable duties only: Provided, still further, That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': Provided, finally, That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory."[6]

---

[6] Par. 4, Id., pp. 272 – 273.

Pursuant to the above-quoted provisions of law, and despite the exemption granted to petitioner by its franchise under PD No. 1590, petitioner was subjected to excise tax due on its importation of various commissary supplies used in its international flights.[7] Petitioner paid under protest the said excise taxes, the details of which are as follows:

BOC OFFICIAL RECEIPT NUMBER	DATE OF PAYMENT	AMOUNT PAID
138110892	February 5, 2007[8]	P1,497,182.00
138348761	February 26, 2007[9]	P1,525,480.00
138773503	March 23, 2007[10]	P1,528,196.85

Thereafter, petitioner filed separate administrative claims for refund before the Bureau of Internal Revenue for the alleged excise taxes it erroneously paid on February and March 2007.[11]

However, respondent CIR failed to act on petitioner's administrative claims. Thus, on February 4, 2009, petitioner filed the instant Petition for Review.

In her Answer, respondent CIR interposed the following defenses, to wit:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;
>
> 5. The amount of P4,550,858.85 being claimed by petitioner as alleged specific taxes paid on 5 February 2007, 26 February 2007 and 23 March 2007 was not properly documented.

---

[7] Par. 11, Petition for Review, Division Docket (Vol. I), p. 5.
[8] Exhibit "R".
[9] Exhibit "KK".
[10] Exhibit "EEE".
[11] Exhibits "AA, UU and OOO".

> 6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit.
>
> 7. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation *(Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and such, they are looked upon with disfavor *(Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211).*"[12]

On the other hand, respondent COC raised the following arguments in his Comment to the Petition for Review:

> "1. The Commissioner of Customs is merely an agent of the Commissioner of Internal Revenue deputized to collect internal revenue taxes on imported goods.
>
> 2. PD No. 1590 has been amended by RA 9334 in so far as its exemption from payment of excise tax is concerned."[13]

During trial, petitioner presented its testimonial and documentary evidence. On the other hand, upon manifestation by respondents that they have no witnesses to present in this case and, upon motion by both parties, this Court ordered the parties to file their respective memorandum.[14] The case was submitted[15] for decision on April 23, 2012, taking into consideration respondent Commissioner of Internal Revenue's "Memorandum"[16] filed on March 13, 2012, respondent Commissioner of Customs' "Memorandum"[17] filed on April 2, 2012 and petitioner's "Memorandum"[18] filed through registered mail on April 16, 2012.

The parties stipulated the following issues for resolution:

---

[12] Pars. 4-7, Answer, Division Docket (Vol. I), p.192.
[13] Arguments, Comment, Ibid, p, 221.
[14] Minutes of the Hearing dated February 15, 2012, Division Docket (Vol. II), p. 769.
[15] Resolution dated April 23, 2012, Ibid, p. 849.
[16] Id., pp. 771-782.
[17] Id., pp. 792-819.
[18] Id., pp. 820-843.

(a) Whether the Commissioner of Customs acted within the scope of his authority;

(b) Whether or not RA No. 9334 amended petitioner's franchise insofar as to its exemption from payment of excise tax on the wines and cigarettes imported by petitioner.

(c) Whether or not petitioner, under its franchise, Presidential Decree No. 1590, is EXEMPT from the payment of specific taxes on all its importations of cigarettes, liquor, and wine for its catering and commissary supplies for international consumption;

(d) Whether or not PAL is entitled to a refund of the:

(i) PHP1,497,182.00 specific taxes paid under protest on 05 February 2007 under Official Receipt No. 138110892;

(ii) PHP1,525,480.00 specific taxes paid under protest on 26 February 2007 under Official Receipt No. 138348761; and

(iii) PHP1,528,196.85 specific taxes paid under protest on 23 March 2007 under Official Receipt No. 138773503, or a total of PHP4,550,858.85. [19]

In sum, the core issues in this case are the following: (a) whether or not petitioner's franchise (PD No. 1590) was expressly amended by RA No. 9334 with respect to petitioner's exemption from the payment of excise taxes on imported cigarettes, liquor and wine for its catering and commissary supplies for its international flights; and (b) whether or not it is entitled to a tax refund in the amount of P4,550,858.85, representing its erroneously paid excise tax on February and March 2007.

This Court will first determine whether petitioner complied with the procedures governing the proper filing of administrative claim for refund. The Supreme Court in the case of *Republic of the Philippines vs. Hon. Ramon S.*

---

[19] Issues to be Tried or Resolved, JSFI, Division Docket (Vol. I), pp. 275-276.

Caguioa, et al.,[20] provides that the relief of the taxpayer in case of excise taxes erroneously or illegally collected is the refund or recovery of taxes provided under Sections 204 and 229 of the 1997 NIRC, as amended, to wit:

> "Besides, private respondents are not altogether lacking an appropriate relief under the law. As petitioners point out in their Petition before this Court, private respondent may avail themselves of a tax refund or tax credit should R.A. No. 9334 be finally declared invalid.
>
> Indeed, **Sections 204 and 229 of the NIRC provide for the recovery of erroneously or illegally collected taxes which would be the nature of the excise taxes paid by private respondents should Section 6 of R.A. No. 9334 be declared unconstitutional or invalid"** (Emphasis supplied)

Based on the aforequoted jurisprudence, taxpayer has two years from the date of payment of the tax or penalty to file its claim for refund before this Court. Sections 204 and 229 of the 1997 NIRC, as amended, respectively provides:

> **SEC. 204.** ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** **-** The Commissioner may -
>
> **xxx xxx xxx**
>
> **(B) Abate or Cancel a Tax Liability, when:**
>
> (1) The tax or any portion thereof appears to be unjustly or excessively assessed; or
> (2) The administration and collection costs involved do not justify the collection of the amount due.
>
> All criminal violations may be compromised except: (a) those already filed in court, or (b) those involving fraud.
>
> **(C)** Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem

[20] G.R. No. 168584, October 15, 2007.

or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty:** *Provided, however,* That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

xxx xxx xxx"

SEC. 229. ***Recovery of Tax Erroneously or Illegally Collected.* -** no suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (Emphasis supplied)

In the case at bench, a careful scrutiny of the records would show that petitioner timely filed its administrative and judicial claims as shown below:

BOC OFFICIAL RECEIPT NUMBER	AMOUNT PAID	DATE OF PAYMENT	DATE OF FILING OF THE ADMINISTRATIVE CLAIM FOR REFUND	DATE OF FILING OF THE JUDICIAL CLAIM FOR REFUND	LAST DATE OF FILING BOTH CLAIMS FOR REFUND
138110892	P1,497,182.00	February 5, 2007[21]	April 16, 2008	February 4, 2009	February 5, 2009
138348761	P1,525,480.00	February 26, 2007[22]	April 16, 2008	February 4, 2009	February 26, 2009
138773503	P1,528,196.85	March 23, 2007[23]	April 16, 2008	February 4, 2009	March 23, 2009

Petitioner, likewise, proved that it paid the corresponding excise taxes for the said supplies as evidenced by the official receipts issued by the Bureau of Customs, to wit:

Exhibit	OR Number	OR Date	Excise Taxes
R[24]	138110892	2/5/2007	P1,497,182.00
KK[25]	138348761	2/26/2007	1,525,480.00
EEE[26]	138773503	3/23/2007	1,528,196.85
			P4,550,858.85

Having found that petitioner timely filed its administrative and judicial claims, this Court shall now resolve the issue on whether petitioner's franchise (PD No. 1590) was amended by RA No. 9334 with respect to petitioner's exemption from the payment of excise taxes on imported cigarettes, liquor and wine for its catering and commissary supplies for its international flights.

---

[21] Exhibit "R".
[22] Exhibit "KK".
[23] Exhibit "EEE".
[24] BC Form No. 38-A, Petition for Review, Division Docket (Vol. I), p. 88.
[25] Ibid, p. 124.
[26] Id., p. 161.

Petitioner argues that it is exempt from the payment of excise taxes under Section 13 of PD No. 1590 and that Section 13 of PD No. 1590 was not amended by Section 6 of RA No. 9344.

On the other hand, BOC contends that RA No. 9344 is a special law which amends petitioner's franchise with respect to the taxes it has to pay. Section 6 of RA No. 9334 states in part:

> "**SEC. 6.** Section 131 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:
>
> 'SEC. 131. *Payment of Excise Taxes on Imported Articles.* -
>
> '(A) *Persons Liable.* – xxx
>
> xxx xxx xxx
>
> 'The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon."

Section 10 of RA No. 9334, on the other hand, reads:

> "**SEC. 10.** ***Repealing Clause.*** - All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly."

Based on the foregoing provisions, respondent COC is of the view that the statement "(T)he provision of any special or general law to the contrary notwithstanding..." under Section 6 of RA No. 9334, "couched with the repealing clause of the statute, strongly manifests the intent of Congress to amend any special or general law inconsistent with it. This amendment includes PD 1590."[27]

[27] Respondent BOC's Comment, Division Docket (Vol. I), pp. 226-227.

We disagree with respondent COC's contention.

This matter had already been resolved in the case of *Philippine Airlines, Inc., (PAL) vs. Commissioner of Internal Revenue and Commissioner of Customs,*[28] to wit:

> **"While it is true that Section 6 of RA No. 9334 states the all-encompassing phrase, 'The provision of any special or general law to the contrary notwithstanding', such phrase cannot be considered as an express repeal of the exemptions granted under petitioner's franchise because it fails to identify or designate the acts that are intended to be repealed.** As laws are presumed to be passed with deliberation and with knowledge of all existing ones on the subject, it is logical to conclude that in passing a statute, it is not intended to interfere with or abrogate a former law relating to the same subject matter, unless the repugnancy between the two is not only irreconcilable but also clear and convincing as a result of the language used, or unless the latter Act fully embraces the subject matter of the earlier. It is a cardinal rule in statutory construction that implied repeals are disfavored and will not be declared unless the intent of the legislators is manifest.
>
> Equally noteworthy is the fact that **Republic Act no. 1590 *(sic)* is a special law, which governs the franchise of petitioner. Between the provisions under P.D. 1590 as against the provisions under the NIRC of 1997, as amended by RA No. 9334, which is a general law, the former necessarily prevails.** This is in accordance with the rule that on a specific matter, the special law shall prevail over the general law, which shall be resorted to only to supply deficiencies in the former. In addition, where there are two statutes, the earlier special and the later general— the terms of the general broad enough to include the matter provided for in the special— the fact that one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, one as a general law of the land, the other as the law of a particular case.
>
> **Considering respondent's failure to prove that the exemption granted to petitioner under P.D. 1590**

[28] CTA Case no. 7665 and 7713, April 17, 2012.

> **was already repealed by RA No. 9334, the Court shall proceed to determine whether petitioner is entitled to be refunded of the amount claimed on the basis of the exemption granted under its franchise."** (Emphasis supplied)

Corollary thereto, this Court further ruled in the more recent case of *Philippine Airlines, Inc., vs. Commissioner of Internal Revenue and Commissioner of Customs*[29] promulgated on May 18, 2012, that: "Section 6 of RA No. 9334 cannot be considered as an express repeal of the exemptions granted under petitioner's franchise. Had Congress intended to repeal petitioner's franchise, it could have easily included P.D. No. 1590 among the enumeration of those liable for such excise tax, not only under RA No. 9334, but also under the later law, RA No. 9337".

Based on the foregoing, *We* stress that Section 6 of RA No. 9334 cannot be considered as an express or implied repeal of the exemptions granted under petitioner's franchise (PD No. 1590).

This Court shall now resolve the last issue on whether petitioner is entitled to a tax refund. *We* quote Section 13 of PD No. 1590 which provides:

> "SECTION 13. In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:
>
> (a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or
>
> (b) A franchise tax of two percent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or non-transport operations; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

---

[29] CTA Case No. 7843, May 18, 2012.

> **The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency**, now or in the future, including but not limited to the following:
>
> (1) xxx
>
> (2) **All taxes,** including compensating taxes, duties, charges, royalties, or fees due on **all importations by the grantee** of aircraft, engines, equipment, machinery, spare parts, accessories, **commissary and catering supplies,** aviation gas, fuel and oil, whether refined or in crude form **and other articles, supplies or materials; provided that such articles or supplies or materials are imported for the use of the grantee in its transport and non-transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price."** (Emphasis supplied)

On the basis of the foregoing provisions, petitioner shall pay the Government basic corporate income tax or franchise tax, whichever is lower; and the tax paid by petitioner, shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees due on all importations of the said catering and commissary supplies, provided that the following are present:

1. such articles or supplies or materials are imported for the use of the grantee in its transport and non-transport operations and other activities incidental thereto; and

2. they are not locally available in reasonable quantity, quality or price.

In the case at bar, petitioner was able to establish that it has chosen to pay the basic corporate income tax for the fiscal year ending March 2007 as evidenced by its Annual Income Tax Return[30] and Amended Income Tax Return[31] that showed a Negative Income Tax Payable in the amount of P3,476,209.55.[32] Petitioner likewise proved, through its various Authority to Release Imported Goods[33] issued by BIR, that the imported articles subject of the instant petition would be used exclusively for international consumption. Furthermore, in order to satisfactorily prove that the said supplies were not locally available at a reasonable quantity, quality or price, petitioner presented the affidavit of Mr. Victor Santos, Assistant Vice-President in charge of the Catering and In-flight Sub-department of the petitioner. In his affidavit, Mr. Santos stated that importing the subject supplies is much cheaper for the petitioner than purchasing them locally[34] as shown by the various price lists[35] attached to his affidavit. Thus, *We* find that petitioner fully complied with the requirements of PD No. 1590.

Congress subsequently passed RA No. 9337 on July 1, 2005, which amended petitioner's franchise pertinent portion of which is hereby quoted for easy reference:

"**SEC. 22.** *Franchises of Domestic Airlines.* - The provisions of P.D. No. 1590 on the franchise tax of Philippine Airlines, Inc., R.A. No. 7151 on the franchise tax of Cebu Air, Inc., R.A. No. 7583 on the franchise tax of Aboitiz Air Transport Corporation, R.A. No. 7909 on the franchise tax of Pacific Airways Corporation, R.A. No. 8339 on the franchise tax of Air Philippines, or any other franchise agreement or law pertaining to a domestic airline to the contrary notwithstanding:

(A) **The franchise tax is abolished;**

(B) The franchisee shall be liable to the corporate income tax;

---

30 Exhibit "UUU".
31 Exhibit "VVV".
32 Exhibit "VVV-1".
33 Exhibits "S, T, U, V, W, X, Y, LL, MM, NN, OO, PP, QQ, RR, SS, FFF, GGG, HHH, III, JJJ, KKK, LLL and MMM".
34 Exhibit "DDD".
35 Exhibit "BBBB, CCCC and DDDD".

(C) The franchisee shall register for value-added tax under Section 236, and to account under Title IV of the National Internal Revenue Code of 1997, as amended, for value-added tax on its sale of goods, property or services and its lease of property; and

(D) **The franchisee shall otherwise remain exempt from any taxes, duties, royalties, registration, license, and other fees and charges, as may be provided by their respective franchise agreement.** (Emphasis supplied)

Petitioner pointed out that RA No. 9337 specifically abolished the franchise tax, but still obliged petitioner to pay the corporate income tax and the value-added tax in lieu of all other taxes.

To show compliance with the aforementioned law, petitioner submitted in evidence the following documents: a) Certificate of Registration[36] dated December 18, 2007; b) Certificate of Registration[37] dated August 6, 2004; c) Payment Form No. 0605[38]; and d) Quarterly VAT Return for the 4th Quarter of 2007[39]. These documents proved that petitioner is a VAT registered entity and that it paid the VAT for the fiscal year ending March 2007.

Lastly, petitioner was able to prove that it paid the corresponding excise taxes for the said supplies as evidenced by the official receipts issued by the Bureau of Customs as shown below:

Exhibit	**OR Number**	**OR Date**	**Specific Taxes**
R[40]	138110892	2/5/2007	P1,497,182.00
KK[41]	138348761	2/26/2007	1,525,480.00
EEE[42]	138773503	3/23/2007	1,528,196.85
			P4,550,858.85

---

[36] Exhibit "XXX".
[37] Exhibit "XXX-1".
[38] Exhibit "YYY".
[39] Exhibit "ZZZ".
[40] BC Form No. 38-A, Petition for Review, Division Docket (Vol. I), p. 88.
[41] Ibid, p. 124.
[42] Id., p. 161.

Thus, based on the foregoing findings, this Court finds that petitioner was able to substantially comply with the requirements of PD No. 1590, as further amended by RA No. 9337. Consequently, *We* find petitioner entitled to a tax refund in the amount of P4,550,858.85, representing excise taxes paid on February and March 2007, covering petitioner's importation of commissary supplies.

WHEREFORE, premises considered, the instant Petition for Review is hereby **GRANTED.** Accordingly, respondents are hereby **ORDERED TO REFUND** to petitioner the amount of P4,550,858.85, representing petitioner's erroneously paid excise taxes.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

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

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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 case was assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice