REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 2615
(CTA Case No. 9512)

Present:

DEL ROSARIO, *P.J.*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
FEB 0 1 2024 2:10 pm

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration (Re: Decision promulgated 7 July 2023)*[1] filed on July 25, 2023, with petitioner's *Opposition (Re: Motion for Reconsideration dated 25 July 2023)* filed on August 10, 2023.

Respondent seeks reconsideration of the *Decision*[2] promulgated on July 7, 2023, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **GRANTED**. The *Decision* dated September 16, 2021, and the *Resolution* dated March 31, 2022, of the Court's Third Division in CTA Case No. 9512 are **REVERSED** and **SET ASIDE**.

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[1] *En Banc (EB)* Docket, pp. 1127-1137.
[2] *EB* Docket, pp. 1100-1121.

> Accordingly, respondent is **ORDERED** to **REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of Nineteen Million Nine Hundred Ninety-Seven Thousand Twenty-Eight Pesos (₱19,997,028.00), representing excise taxes erroneously paid for its importation of alkylate under Import Entry & Internal Revenue Declaration No. 00379406065.
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> **SO ORDERED.**

In his bid to reverse and set aside the aforesaid *Decision* of July 7, 2023, respondent re-stated the ratiocination of the Court in Division, which found that *alkylate*, being a product of distillation, is subject to excise tax pursuant to Section 148(e) of the National Internal Revenue Code (NIRC) of 1997, as amended. Hence, the subject excise tax payments are not erroneous or illegal.

By way of an *Opposition*, petitioner submits that respondent's *Motion for Reconsideration* should be denied on the following grounds:

I. The CIR's Motion should be denied outright for being *pro forma*. Not only does the Motion fail to comply with the requirements for a motion for reconsideration, the CIR merely quoted the Decision of this Honorable Court in one case and a dissenting opinion in another case. The CIR's sole argument is a mere rehash of the argument already passed upon and rejected by the Honorable Court.

II. This Honorable Court correctly ruled that alkylate is not a product of distillation and is not similar to naphtha or regular gasoline.

Respondent's *Motion* must fail.

Indeed, all the arguments set forth by respondent have already been considered and rejected in the assailed *Decision* of July 7, 2023. To rule on the same issues again is a waste of time and dwindling the Court's resources.

Nevertheless, it is well to emphasize that the Supreme Court has already spoken on the present controversy. In the very recent case of *Petron Corporation v. Commissioner of*

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Internal Revenue,[3] the Highest Tribunal categorically declared that **alkylate does not fall under the category of "*other similar products of distillation*"** as stated in Section 148(e) of the NIRC of 1997, as amended.

The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is; it is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[4] Thus, the Court *En Banc* cannot rule on the matter in any other way.

WHEREFORE, premises considered, respondent's *Motion for Reconsideration (Re: Decision promulgated 7 July 2023)* is **DENIED** for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

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[3] G.R. No. 255961, March 20, 2023.
[4] *GSIS v. Court of Appeals*, 334 Phil. 163, 175 [1997], citing *Ang Ping v. RTC of Manila, Br. 40*, G.R. No. L-75860, 17 September 1987, 154 SCRA 77 and *Tugade v. Court of Appeals*, G.R. L-47772, 31 August 1978, 85 SCRA 226.

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JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice