REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION, Petitioner,	**CTA CASE NO. 8535**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson, and* **BACORRO-VILLENA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, COLLECTOR OF CUSTOMS OF THE PORT BATANGAS AND THE BUREAU OF CUSTOMS, Respondents.	Promulgated: OCT 06 2021 2:15 PM

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RESOLUTION

For the Court's resolution is petitioner's **Manifestation**, filed on July 9, 2021.

In the Resolution dated March 8, 2021, the Court deemed this case submitted for decision following the submission of the parties' respective memoranda.[1]

Meanwhile, on July 9, 2021, petitioner filed the instant manifestation stating, among others, that:

1. this Court has jurisdiction over the instant petition specifically under "other matters" provided in the 2nd paragraph of Section 4 of the National Internal Revenue Code (NIRC) and Section 7(a)(1) of the R.A.

[1] Docket XXXVI, p. 17685.

1125, as amended, in accordance with the rulings in the January 28, 2013 Resolution issued by this Division as well as the June 24, 2013 and October 14, 2013 Resolutions both issued by the First Division;

2. that in the case *Games and Amusement Board and Bureau of Internal Revenue vs. Klub Don Juan De Manila, Inc., and Cesar Avila, Jr., Manila Jockey Club, Inc. Philippine Racing Club, Inc., and Metro Manila Turf Club, Inc.,* G.R. No. 252189, the Supreme Court upheld the exclusive jurisdiction of this Court to resolve all tax problems quoting therein the pertinent portion of its ruling in the Banco De oro case;

3. that in the Decision dated June 20, 2021 rendered by this Court's First Division in the case of *Petron Corporation vs. Commissioner of Internal Revenue,* CTA Case Nos. 9751, 9813 and 9848, it affirmed its jurisdiction and authority to review decisions and rulings of the Commissioner of Internal Revenue or the Commissioner of Customs implementing tax laws such as the Customs Memorandum Circular No. 164-2012, which implemented BIR Ruling No. M-059-2012 dated 19 June 2012;

4. that there is consistency in the rulings of the aforecited court resolutions with that of the June 20, 2021 Petron Case Decision with regard to the jurisdiction of this Court;

5. that similar to the abovementioned Petron Case Decision, the present case also involves Customs Memorandum Circular No. 164-2012 and BIR Ruling No. M-059-2012 dated June 19, 2012 thereby petitioner submits that, although the issue on jurisdiction has been elevated to and is still pending with the Supreme Court, this Court clearly has jurisdiction to rule over the instant case based on the previously cited jurisprudential pronouncements as well as the Decision of the First Division in Petron case;

6. that in the said June 20, 2021 Petron Case Decision, the Court gave credence to the expert testimony presented by the petitioner therein in arriving at the conclusion that alkalyte cannot be classified or embraced under the item 'other similar products of

distillation' under Section 148(e) of the National Internal Revenue Code (NIRC), as amended, so that alkalyte is not subject to excise tax whether or not used as raw materials;

7. That the same facts in the Petron case have been proven by petitioner in the present case through the presentation of a competent expert witness to testify that alkalyte is not a product of distillation but by a process called alkylation;

8. That its expert witness Mr. Mallet attests to the distinction between the process of distillation and alkylation and confirmed that alkalyte is produced by the latter process;

9. That even respondent's witness Ms. Ramos judicially admitted that there can be no direct distillation of alkalyte from crude oil and that petitioner's expert witness Mr. Mallet likewise testified that alkalyte is composed if olefins and several other products that do not come from and do not exist in crude oil;

10. That the undeniable truth is that Alkalyte is not a product of distillation considering the above judicial admissions;

11. That Alkalyte is not, by any measure, similar to naptha or a similar product of distillation as further testified by Mr. Mallet that Alkalyte and naptha are different in terms of production process, chemical composition, octane number, and sulfur content;

12. That similar to petioner Petron in the aforementioned Petron Case decided by this Court's First Division on June 20, 2021, petitioner in this case was able to prove that Alkalyte is not subject to excise tax which thus entitles it to a grant of its present petition; and

13. That in the Amended Decision dated February 15, 2021 rendered by this Division in another case of *Petron Corporation vs. Commissioner of Internal Revenue*, CTA Case Nos. 9327 and 9460, it was likewise ruled that alkalyte is not subject to excise tax and that petitioner Petron is entitled to the refund of the same.

Further, petitioner attached the following documents to its Manifestation:

1. Printed full text copy of the First Division Decision dated June 21, 2021 in the case of *Petron Corporation vs. Commissioner of Internal Revenue*, CTA Case Nos. 9751, 9813 and 9849, as Annex "A"; and

2. Printed full text copy of the Second Division Amended Decision dated February 15, 2021 in the case of *Petron Corporation vs. Commissioner of Internal Revenue*, CTA Case Nos. 9327 and 9460, as Annex "B".

At the outset, it is worthy to emphasize that the decisions of this court do not constitute precedents and do not bind the public. It is well-settled that only the decisions of the Supreme Court constitute binding precedents.[2] As such, this Court is not obliged to blindly follow the aforecited decisions and/or resolutions.

Moreover, in general, courts are not required to take judicial notice of facts involved in another case even if tried by the same court itself or involving the same parties. Each and every case is distinct and separate in character and matter, although similar parties may have been involved.[3]

At best, the Court can only take judicial notice of the fact that the Court promulgated the Decision dated June 21, 2021 and Amended Decision dated February 15, 2021 in CTA Case Nos. 9751, 9813 and 9849, and CTA Case Nos. 9327 and 9460, respectively, declaring petitioner therein entitled to the refund of its erroneously paid excise taxes on its importation of alkalyte for being able to sufficiently discharge the burden of proof of establishing the propriety of its claim for refund. This is so as not to pre-empt the Court from properly adjudicating on the merits of the issues raised in the instant petition.

WHEREFORE, premises considered, petitioner's **Manifestation** filed on July 9, 2021 is **NOTED**. Let this case be

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[2] *Commissioner of Internal Revenue vs. San Roque Power Corporation,* G.R. No. 187485, February 12, 2013.

[3] *Silkair (Singapore) Pte. Ltd vs. Commissioner of Internal Revenue,* G.R. No. 184398, February 25, 2010.

considered submitted for decision as of the date of this promulgation.

SO ORDERED.

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

I concur in the result.
JEAN MARIE A. BACORRO-VILLENA
Associate Justice