REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PHILIP MORRIS PHILIPPINES MANUFACTURING INC., *Petitioner,*	CTA EB No. 1893 (CTA CASE No. 9228)
-versus-	*Present*: DEL ROSARIO, P.J., CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 23 2020 1:09 p.m.

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RESOLUTION

MINDARO-GRULLA, J.:

Submitted for resolution of this Court En Banc is petitioner's **"Motion for Reconsideration (of the Decision dated 13 August 2019)"** with respondent's **"Opposition (Re: Motion for Reconsideration)"**. The Motion seeks for the reversal of the Decision[1] promulgated on August 13, 2019, the dispositive portion of which reads as follows:

Decision dated August 13, 2019:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **DENIED** for lack of merit. The Decision dated April 18, 2018 and the Resolution dated 02 July 2018 rendered by the

[1] En Banc Docket, pp. 225-248.

Second Division of this Court are hereby **AFFIRMED**. No pronouncement as to costs.

SO ORDERED."

In support of its motion, petitioner restates that the amounts it advanced or deposited under Revenue Regulations (RR) No. 03-08 should be refunded pursuant to the principle of *solutio indebiti* and Section 130(D) of the NIRC of 1997, as amended.

With this in mind, petitioner further insists that the two-year prescriptive period under Section 204(C) and 229 of the NIRC of 1997, as amended, is not applicable to this case as it purportedly seeks the recovery of excise tax advanced or deposited to the government and not erroneously or illegally collected tax and Section 130(D) of the NIRC of 1997, as amended, does not provide a deadline for filing a claim for refund.

To begin with, it is evident that the issues raised by petitioner is a mere slashed adaptation of its arguments already considered and exhaustively discussed by the Court En Banc in the assailed Decision. Nevertheless, the Court shall pass upon the arguments for purposes of petitioner's enlightenment.

Petitioner is misguided when it relied upon the six (6)-year prescriptive period for initiating an action on the ground of quasi-contract or *solutio indebiti* under Article 1145 of the New Civil Code.[2]

The quasi-contract of *solutio indebiti* is based on the ancient principle that no one shall enrich oneself unjustly at the expense of another. There is *solutio indebiti* when*:*

(1) Payment is made when there exists no binding relation between the payor, who has no duty to pay, and the person who received the payment; and

(2) Payment is made through mistake, and not through liberality or some other cause.

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[2] Commissioner of Internal Revenue vs. Manila Electric Company, G.R. No. 181459, June 9, 2014.

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Though the principle of *solutio indebiti* may be applicable to some instances of claims for a refund, the elements thereof are wanting in this case.

First, there exists a binding relation between petitioner and the CIR, the former being a taxpayer obligated to pay the excise tax on tobacco and cigarette products it exported for the period January 7, 2010.

Second, the payment of excise tax was not made through mistake, since petitioner was legally obligated to pay for that liability.

In the case at bar, the excise taxes petitioner allegedly advanced was made in accordance with the provisions of the National Internal Revenue Code (NIRC) and its implementing regulations. It is specifically provided under RR 03-08, which requires among others, all manufacturers of articles subject to excise tax under Title VI of the NIRC of 1997, as amended, **to pay the excise tax** on every removal thereof from the place of production even if intended for exportation or sale/delivery to international carriers or to tax-exempt entities/agencies, **subject to the subsequent filing of a claim for excise tax credit/refund or product replenishment**.

Notably, while it is true that petitioner's advance payment became erroneously collected when it allegedly exported the goods it locally manufactured, it bears emphasis that petitioner's entitlement to the refund is subject to its compliance with the requirements set forth in under the provisions of the NIRC.

Under this premise, since the CIR's obligation to refund erroneously collected excise taxes is an **obligation created by law**, specifically by Section 130(D) of the NIRC of 1997, as amended,[3] petitioner must therefore strictly abide by it.

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[3] SEC 130. Filing of Return and Payment of Excise Tax on Domestic Products. -

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(D) Credit for Excise Tax on Goods Actually Exported. - When goods **locally produced or manufactured are removed and actually exported without returning to the Philippines**, whether so exported in their original state or as ingredients or parts of any manufactured goods or products, **any excise tax paid thereon shall be credited or refunded upon submission of the proof of actual exportation and upon receipt of the corresponding foreign exchange payment**: Provided, That the excise tax on mineral products, except coal and coke, imposed under Section 151 shall not be creditable or refundable even if the mineral products are actually exported."

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In this regard, the Court reiterates Articles 1138, 1144 and 1148 of the New Civil Code of the Philippines which state as follows:

> "**Art. 1139**. Actions prescribe by the mere lapse of time fixed by law."
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> xxx xxx xxx
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> "**Art. 1144**. The following actions must be brought within ten years from the time the right of action accrues:
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> xxx xxx xxx
>
> (2) Upon an obligation created by law;"
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> xxx xxx xxx
>
> "**Article 1148**. The **limitations of action** mentioned in Articles 1140 to 1142, and **1144** to 1147 **are without prejudice to those specified in other parts of this Code, in the Code of Commerce, and in <u>special laws</u>**." (emphasis and underscoring supplied)

Based on the afore-cited provisions, the two-year prescriptive period is found in Sections 204[4] and 229[5] of the NIRC of 1997, as amended, which is a special law, thus, the

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[4] SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. - The Commissioner may -

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> (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 or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **<u>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</u>**: Provided, however, that a return filed showing an overpayment shall be considered as a written claim for credit or refund.

[5] 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, 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.

<u>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</u> 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.

same should accordingly prevail over the prescriptive period provided under the New Civil Code of the Philippines.

Lastly, as a matter of course, claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation and as such, they are looked upon with disfavor. Basic is the rule that tax refunds are regarded as tax exemptions that are in derogation of the sovereign authority and are to be construed in *strictissimi juris* against the person or entity claiming the exemption. All told, petitioner's claim for refund has no bases in fact and in law.

Likewise, considering **no new matter** invested with legal significance was raised in petitioner's Motion for Reconsideration, the Court finds no cogent reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, petitioner's "Motion for Reconsideration (of the Decision dated 13 August 2019)" is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ON LEAVE
ERLINDA P. UY
Associate Justice

(Took no part)
ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen S. L.
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice