REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PETRON CORPORATION,
Respondent.

CTA *EB* NO. 3114
(CTA Case Nos. 10232, 10266 & 10267)

x - x

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA *EB* NO. 3115
(CTA Case Nos. 10232, 10266 & 10267)

Members:

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

Promulgated:
JUL 02 2026 4:01 pm

x - x

DECISION

***MODESTO-SAN PEDRO, J.*:**

Before the Court *En Banc* are two consolidated Petitions for Review docketed as CTA *EB* No. 3114 and CTA *EB* No. 3115, both assailing the Decision, dated August 15, 2024, ("Assailed Decision"), and Resolution, dated March 11, 2025, ("Assailed Resolution"), promulgated by this Court's First Division in the case docketed as CTA Case Nos. 10232, 10266 & 10267, the dispositive portions of which respectively read:

Decision dated August 15, 2024:

> **WHEREFORE**, with the foregoing premises, the consolidated Petitions for Review filed by petitioner Petron Corporation on 26 December 2019 (CTA Case No. 10232), 11 March 2020 (CTA Case No. 10267), and 11 March 2020 (CTA Case No. 10266), respectively, are hereby **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱727,332,597.00**, representing petitioner's erroneously paid excise taxes for its locally-produced unleaded gasoline fuel and diesel fuel oil sold to Micro Dragon Petroleum, Inc., a tax-exempt entity, for the period from 01 January 2018 to 30 September 2018, or the 1st to 3rd Quarters of TY 2018.
>
> **SO ORDERED.**

Resolution dated March 11, 2025:

> **WHEREFORE**, premises considered, respondent's "Motion for Reconsideration (Re: Decision promulgated 15 August 2024)" and petitioner's "Motion for Partial Reconsideration (Re: Decision dated August 15, 2024)" are **DENIED** for lack of merit.
>
> **SO ORDERED.**

Parties to the Case[1]

The Commissioner of Internal Revenue ("CIR") is sued in his official capacity, having been duly appointed and empowered to perform the duties of his or her office, including, among others, the duty to act on and approve claims for refund as provided by law. He may be served with summons, notices and other court processes at the BIR National Office Building, Diliman, Quezon City.

Petron Corporation ("Petron") is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at San Miguel Head Office Complex, 40 San Miguel Avenue, Mandaluyong City, Metro Manila. It is registered with the Securities and Exchange Commission ("SEC") under Company Registration No. 31171. It is also registered with the Bureau of Internal Revenue ("BIR") under Taxpayer Identification No. ("TIN") 000-168-801-00000 and authorized to use Point of Sale ("POS") Machines linked to Computerized Accounting System ("CAS") with Permit No. 1709_0124_PTU_CAS_000172 dated 29 September 2017

[1] Assailed Decision, pp. 3 to 4.

Pursuant to its Amended Articles of Incorporation ("AOI"), Petron is engaged in the business of acquiring, refining, manufacturing, and trading petroleum and various mineral products. It operates the Petron Bataan Refinery ("PBR"), where crude oil is processed into a full range of petroleum products, including unleaded gasoline fuel and diesel fuel oil.

The Facts

The relevant antecedent facts of the case as culled from the Assailed Decision are as follows:[2]

> [Petron] produces unleaded gasoline fuel and diesel fuel oil, which are stored and commingled with imported unleaded gasoline and diesel fuel oil, as allowed by Commingling Permit No. (P)-028-01-18-22867 dated 19 January 2018, with validity until 31 December 2018.
>
> [Petron] pays excise taxes on the locally-produced unleaded gasoline fuel and diesel fuel oil before their removal from the PBR and delivered either directly to its customers or to its various depots for eventual sale and delivery to various customers, including tax-exempt entities.
>
> During the period from 01 January 2018 to 30 September 2018, [Petron] locally-produced unleaded gasoline fuel and diesel fuel oil. Pursuant to Section 130 (A) (2), in relation to Section 148 (f) and (i) of the National Internal Revenue Code (NIRC) of 1997, as amended, [Petron] allegedly paid the corresponding excise taxes to the BIR.
>
> . . . .
>
> In sum, the excise tax payments from the sale of locally-produced unleaded gasoline fuel and diesel fuel oil to [Micro Dragon Petroleum, Inc. ("MDPI")], an entity that is exempt from direct and indirect taxes by law, during the 1st to 3rd Quarters of TY 2018 [in the aggregate amount of ₱773,900,222.00].
>
> Since the excise taxes paid on locally-produced unleaded gasoline fuel and diesel fuel oil during the 1st to 3rd Quarters of TY 2018 pertain to those sold to MDPI, a tax-exempt entity, the total amount of ₱773,900,222.00 was allegedly paid erroneously or illegally.
>
> [Petron] then filed three (3) separate Applications for Tax Credits/Refunds (BIR Form No. 1914) with the BIR, along with accompanying Letter-Requests for the refund or issuance of a TCC for the excise taxes paid on its locally-produced unleaded gasoline fuel and diesel fuel oil, which were subsequently sold and delivered to MDPI . . .

On August 15, 2024, the Court's First Division promulgated the Assailed Decision, partially granting Petron's claim for refund of erroneously paid excise taxes for its locally-produced unleaded gasoline and diesel fuel oil

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[2] *Id.* at 4 to 7.

sold to MDPI, a tax-exempt entity. The same was received by Petron and the Office of the Solicitor General ("OSG") on September 5, 2024 and September 6, 2024, respectively.[3]

Then, the CIR filed his Motion for Reconsideration (Re: Decision promulgated 15 August 2024) on September 10, 2024, while Petron's Motion for Partial Reconsideration (Re: Decision dated 15 August 2024) filed on September 20, 2024.[4]

On March 11, 2025, the Court in Division promulgated the Assailed Resolution, denying both parties' Motions, which was received by the Petron and the OSG on March 18, 2025 and March 20, 2025, respectively.[5]

Proceedings Before this Court

On March 28, 2025, the CIR filed his Petition for Review,[6] praying that the Assailed Decision and Resolution be reversed and set aside, and that another decision be rendered denying the claim for refund. The case was docketed as CTA *EB* No. 3114.

On the other hand, Petron filed its Motion for Extension of Time to File Petition for Review on March 31, 2025,[7] and the case was docketed as CTA *EB* No. 3115. In a Minute Resolution, dated April 2, 2025,[8] the Court, subject to the condition that the motion for extension was filed on time, granted Petron a final and non-extendible period of fifteen (15) days from April 2, 2025, or until April 17, 2025, within which to file its Petition for Review. Petron then filed its Petition for Review on April 21, 2025, through registered mail.[9]

On April 24, 2025, this Court *En Banc* ordered the consolidation of CTA *EB* No. 3115 with CTA *EB* No. 3114, the case bearing the lower docket number.[10]

The CIR filed his Comment on Petron's Petition on June 2, 2025, while Petron filed its Comment/Opposition to CIR's Petition on June 13, 2025.[11]

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[3] Notice of Decision, Division Docket – Vol. IV, p. 1544.
[4] Assailed Resolution, p. 1
[5] Notice of Resolution, Division Docket – Vol. IV, p. 1661.
[6] EB Docket (CTA *EB* No. 3114), pp. 1 to 15.
[7] EB Docket (CTA *EB* No. 3115), pp. 1 to 10.
[8] *Id.* at 11.
[9] *Id.* at 13 to 49.
[10] EB Docket (CTA *EB* No. 3114), p. 82.
[11] *Id.* at 84 to 88 and 91 to 120, respectively.

In a Minute Resolution dated July 2, 2025, this Court *En Banc* submitted the consolidated cases for decision.

Hence, this Decision.

The Assigned Errors

The CIR raises the following error by the Court's First Division:

> WHETHER THE FIRST DIVISION OF THE HONORABLE COURT ERRED IN RULING THAT RESPONDENT IS ENTITLED TO REFUND IN THE REDUCED AMOUNT OF P727,332,597.00 REPRESENTING ALLEGED ERRONEOUSLY PAID EXCISE TAXES FOR ITS LOCALLY-PRODUCED UNLEADED GASOLINE FUEL AND DIESEL FUEL OIL SOLD TO MICRO DRAGON PETROLEUM, INC., A TAX-EXEMPT ENTITY, FOR THE 1ST TO 3RD QUARTERS OF TY 2018.

On the other hand, Petron raises the following error:

> The Honorable Court in Division erred in ruling that Petitioner is not entitled to the refund or credit of the excise taxes in the amount of Forty-Six Million Five Hundred Sixty-Seven Thousand Six Hundred Twenty-Five Pesos (₱46,567,625.00), representing excise taxes paid during the period January 1, 2018 to September 30, 2018, on locally-produced unleaded gasoline fuel and diesel fuel oil which were subsequently sold and delivered to Micro Dragon Petroleum, Inc., a tax-exempt entity.

Arguments of the Parties

CIR's arguments:

The CIR reiterates his arguments that Petron is liable to pay excise tax on locally-produced unleaded gasoline fuel and diesel fuel oil subsequently sold and delivered to MDPI. This liability arises because MDPI failed to meet the conditions prescribed in its SBMA-issued Certificate of Registration and Tax Exemption, particularly that MDPI's sales within the customs territory exceeded the 30% threshold. Therefore, the excise taxes paid were not erroneously or illegally paid.

Also, he asserts that claims for refund of excise taxes paid are authorized only by *Section 130(d) of the National Internal Revenue Code of 1997, as amended*, ("*Tax Code*") and not by *Section 135(c)* of the same

Petron's arguments:

Petitioner assails the Court's disallowance amounting to ₱46,567,625.00 (out of the total excise tax payments of ₱773,902,402.00) and avers that the amounts disallowed arose from fuel removals which can be traced from the Withdrawal Certificate ("WC"), Cargo Outturn Certificates ("COC"), and daily SAP-Generated Official Registry Book ("ORB"). Further, the Independent Certified Public Accountant ("ICPA") ascertained that Petron paid the corresponding excise taxes due on unleaded gasoline fuel and diesel fuel oil removals from the PBR for the period covered. These removals are reported and paid in the ETRs which corresponds to the product removals per COCs, and daily SAP-Generated ORB. These examined WC were duly signed and attested by the Internal Revenue Officer in the premises of the PBR.

Our Ruling

Both *Petitions for Review* must be denied.

The parties' arguments in their respective Petitions were already raised before the Court in Division and were accordingly addressed and resolved in the Assailed Resolution. Nevertheless, to finally put these matters to rest, the Court *En Banc* shall discuss these on their merits.

However, prior thereto, We shall first resolve whether this Court has acquired jurisdiction over the parties' respective Petitions.

The Court En Banc has jurisdiction over both Petitions.

Section 2(a)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals[12] ("*RRCTA*") provides that the Court *En Banc* shall exercise exclusive appellate jurisdiction to review by appeal the Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over cases arising from administrative agencies (*i.e.* the Bureau of Internal Revenue), thus:

> SECTION 2. *Cases Within the Jurisdiction of the Court En Banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

[12] A.M. No. 05-11-07-CTA, November 22, 2005.

> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
>
> > (1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

In relation thereto, *Section 1, Rule 8 of RRCTA* provides that in cases falling under the exclusive appellate jurisdiction of the Court *en banc*, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. On the other hand, *Section 3(b)* of the same provides that a party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

Put simply, in order for this Court to acquire jurisdiction over a case, the petition for review by the aggrieved party must be filed before the Court *En Banc* within 15 days from the date of receipt of the Court in Division's resolution on the party's timely motion for reconsideration or new trial on the decision of said Court acting in division. However, said 15-day period to file petition for review before the Court *En Banc* may be extended by a period not exceeding 15 days from the expiration of the original period within which to file the petition for review.

In this case, the CIR received the Assailed Resolution on his timely filed Motion for Reconsideration on the Assailed Decision on March 20, 2025, giving him until April 4, 2025 to file a petition for review before this Court. The instant Petition for Review, docketed as CTA *EB* No. 3114, was filed on March 28, 2025. It was thus timely made, and this Court acquired jurisdiction over the same.

On the other hand, Petron received the Assailed Resolution on its likewise timely filed Motion for Partial Reconsideration on the Assailed Decision on March 18, 2025, giving it until April 2, 2025 to file a petition for review before this Court. However, Petron instead filed a Motion for Extension of Time to File Petition for Review on March 31, 2025, docketed as CTA *EB* No. 3115. This was granted by this Court on April 2, 2025, giving Petron until April 17, 2025 to file its petition.

Petron filed its Petition for Review on April 21, 2025. Considering that the expiration date to file the petition on April 17, 2025 fell on a regular holiday (Maundy Thursday), while the following business day on April 18, 2025 was also declared as a regular holiday (Good Friday), Petron likewise filed its petition within the extended period granted by the Court on the immediately following business day on April 21, 2025. Thus, this Court likewise acquired jurisdiction over the same.

Petron's sale of fuel to MDPI is exempt from excise taxes.

The CIR insists that *Section 135 of the Tax Code* does not grant exemption to sellers; rather, it provides for an enumeration wherein petroleum products when sold to international carriers and entities enumerated therein are exempt from excise tax. Accordingly, *Section 135* cannot be invoked by the sellers, like Petron, as a ground to claim for refund of the excise tax paid, but only by the buyers who are exempt entities.

Further, the CIR asserts that MDPI is not a tax-exempt entity as it failed to meet the conditions prescribed in its SBMA-issued Certificate of Registration and Tax Exemption, particularly that MDPI's sales within the customs territory exceeded the 30% threshold.

The CIR's arguments lack merit.

First, the CIR misunderstands *Section 135 of the Tax Code*.

This matter was already settled in *Pilipinas Shell Petroleum v. Commissioner of Internal Revenue,*[13] where it was held that the tax exemption under *Section 135 of the Tax Code* must correspondingly benefit the one who actually bears the liability to pay the same (*i.e.*, the importers/manufacturers of petroleum products sold to international carriers, among others), and not the one who simply bears the economic burden thereof (*i.e.*, the purchasers of the products, such as international carriers). Considering that the status of the petroleum products as tax-exempt solidifies upon the sale to any of the entities enumerated under *Section 135 of the Tax Code*, any excise taxes which were previously paid thereon would then be considered as "erroneously or illegally collected," and therefore, subject to refund.

This was, in fact, already explained by the Court's First Division in the Assailed Decision and We hereby affirm.

[13] G.R. No. 211303, June 15, 2021.

Without new and substantial arguments to buttress his claim, this Court cannot be easily persuaded by the mere word-for-word reiteration of arguments from the CIR's Answer, Memorandum, and Motion for Reconsideration on the Assailed Decision before the Court in Division to his Petition before this Court. The Court's decision on the matter cannot be simply overturned by a stubborn repetition of a particular set of arguments, especially considering that the prevailing jurisprudence settling the same issue upon which the CIR's arguments rest was left unaddressed.

Second, MDPI is entitled to exemption from excise taxes regardless of its compliance with the 30% income threshold.

As already explained in the Assailed Decision:

> In this case, [Petron] presented the SBMA-issued Certificates of Registration and Tax Exemption to prove that its customer, MDPI, is registered with the SBMA as a Freeport Enterprise. The registration is valid from 27 October 2016 to 26 October 2021, . . .
>
> . . . .
>
> Under Article III(c), which is a common provision in the aforementioned SBMA-issued Certificates of Registration and Tax Exemption, MDPI is exempt "from all local and national taxes, including but not limited to ... internal revenue taxes, such as VAT, ad valorem and excise taxes." In lieu of these taxes, MDPI shall pay a final tax of 5% of its gross income earned.
>
> Regarding [CIR's] allegation that MDPI failed to meet the condition also mentioned under Article III(c) of the SBMA-issued Certificates of Registration and Tax Exemption, i.e., "that should [MDPI's] income from source within the Customs Territory exceed [30%] of its total income from all sources, then [MDPI] shall be subject to the income tax laws of the Customs Territory", this does not strip MDPI of its exemption from excise tax.
>
> The *proviso* explicitly subjects [MDPI] to the **income tax laws** of the customs territory if its income from sources within the customs territory exceeds 30% of its total income. As it is worded, the said proviso does not extend to other types of taxes, such as excise tax, which are distinct from income tax. Excise tax is typically imposed on specific goods, such as petroleum products, and is related to the production, sale, or consumption of these goods rather than the taxpayer's income.

The condition as stated in the SBMA-issued Certificates of Registration and Tax Exemption ("CRTE") of MDPI "that should [MDPI's] income from source within the Customs Territory exceed [30%] of its total income from all sources, then [MDPI] shall be subject to the income tax laws of the Customs Territory" finds source from *Chapter V, Section 44 of the Rules and Regulations to Implement RA No. 7227*, which provides that:

> Sec. 44. *Percentage of Income Allowable from Sources Within the Customs Territory.* SBF Enterprises *may generate income* from sources within the Customs Territory of *up to Thirty Percent (30%) of its total income* from all sources; *provided*, that should an SBF Enterprise's income from sources within the Custom Territory *exceed Thirty Percent (30%) of its total income* from all sources, then it shall be *subject to the income tax laws of the Customs Territory*; provided, further, that in any case, customs duties and taxes must be paid with the respect to income from sales of articles to the Customs Territory.
> (Italics supplied.)

The foregoing provision contemplates only SBF Enterprise's income in setting the 30% threshold, and only said income shall be affected by the consequence of violation of such threshold. Nothing therein or in MDPI's SBMA-issued CRTEs speaks that such condition and consequence of its violation extend to MDPI's exemption from excise taxes.

Thus, as correctly held by the Court in Division, petroleum products sold by Petron to MDPI, a tax-exempt entity, are exempt from excise taxes pursuant to *Section 135(c) of the Tax Code.*

The fuel removals with corresponding excise taxes amounting to ₱46,567,625.00 cannot be completely traced to the supporting documents.

Petron insists that the following fuel removals with corresponding excise taxes amounting to ₱46,567,625.00 can be traced to its supporting documents, as verified by the ICPA.

This Court is not persuaded.

First, Petron cannot insist that the Court simply rely on the ICPA's findings on its claim for refund since the latter's findings are not conclusive to this Court and is still subject to Our verification.[14]

Second, the ICPA's findings were indeed verified by the Court's First Division, and its own findings were already explained in the Assailed Decision:

[14] SEC. 3. *Findings of independent CPA.*— The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. *The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.* (*Rule 13 of the Revised Rules of the CTA*) (Italics, Ours.)

> The said removals of 18,627,050 L @ air from the PBR that were subsequently sold to MDPI cannot be verified by reconciling [Petron's] ETRs with its SAP-generated ORBs. *Specifically, the aforementioned removals of locally-produced diesel fuel oil* ***cannot be found in or traced*** *within the detailed transaction listings in the corresponding SAP-generated ORBs,* ***which reflect the breakdown*** *of the amounts paid per ETR.* This observation, coupled with the fact that the amounts paid per the corresponding ETRs tied up with the SAP-generated ORBs, suggests that these removals fall outside the scope of the subject refund claims. As a result, the Court cannot ascertain whether these removals were indeed part of the excise tax payments totaling ₱773,902,402.00 (with an adjusted amount of ₱773,900,222.00), which are the subject of the present refund claims.
> (Italics and boldfacing supplied.)

The Assailed Decision sufficiently explained its findings, and yet Petron, in its Motion for Partial Reconsideration thereon and until its Petition herein, has merely reiterated a side-by-side comparison of the figures of fuel removals (in volume) shown in the supporting documents, without providing a breakdown of the SAP-generated ORBs, which should have supposedly already addressed the Court in Division's findings in disallowing the corresponding excise taxes claimed for refund.

It is true that the figures of fuel removals (in volume @ liters) stated in the SAP-generated ORBs are higher than the figures of fuel removals (in volume @ liters) stated in the corresponding COC and WC. However, the Court cannot just assume that the fuel removals per COC and WC are already included in the fuel removals per SAP-generated ORBs. Considering that the discrepancies noted are too significant to escape the Court in Division's perusal, Petron should have accounted for or reconciled all of these discrepancies in order to shed light on the matter and eliminate any doubt that the amount claimed for refund are indeed traceable to alleged fuel removals delivered to MDPI.

The Court must consistently apply strictness in tracing the figures of fuel removals (in volume @ liters) in the supporting documents with specificity, considering that majority of the fuel removals (in volume @ liters) were properly traced one-to-one with all of its supporting documents. We thus find no reason to relax this strict one-to-one tracing on the amounts disallowed by the mere reason that the figures in one document are higher than the rest of the corroborating documents.

The Court reiterates the time-honored principle that tax refunds are construed strictly against the taxpayer and liberally in favor of the State. Hence, the law upon which the claim of refund is made, ***and the documents***

presented to prove such entitlement to the refund are construed *strictissimi juris* against the taxpayer and are *strictissimi* scrutinized.[15]

ACCORDINGLY, the *Petitions for Review* respectively filed by the parties are hereby **DENIED** for lack of merit. The *Decision dated August 15, 2024* and *Resolution dated March 11, 2025* in *CTA Case Nos. 10232, 10266 & 10267* are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

Ma. Belen
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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[15] *Tanduay Distillers, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256740 (Notice), February 13, 2023.

HENRY S. ANGELES
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 case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice