REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PHILIPPINE ASSOCIATED SMELTING AND REFINING (PASAR) CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF CUSTOMS AND THE BUREAU OF CUSTOMS,
Respondents.

C.T.A. CASE NO. 8404

Members:

BAUTISTA, *Chairperson*;
FABON-VICTORINO, *and*
RINGPIS LIBAN, *JJ.*

Promulgated:

FEB 20 2014

4:12 p.m.

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DECISION

Fabon-Victorino, *J.:*

In this Petition for Review, petitioner Philippine Associated Smelting and Refining (PASAR) Corporation seeks to nullify the Decision dated November 29, 2011 of respondent Commissioner of Customs (COC), denying its claim for refund in the amount of Five Million One Hundred Forty-Five Thousand Five Hundred Seventy-Three Pesos and 38/100 (P5,145,573.38), allegedly representing the duties and taxes it paid on its purchases of petroleum products from Petron Corporation during the period January 2009 to September 2009.

Petitioner is a Philippine corporation engaged in the production of copper and its by-products for export, with plants and principal office at Leyte Industrial Development Estate (LIDE) Isabel, Leyte, a Special Export Processing Zone established pursuant to Presidential Decree (P.D.) No. 66, as amended, and Executive Order (E.O.) No. 567 dated November 13, 1979. As a registered Zone Export Enterprise with the Export Processing Zone (EPZA), it was issued a Certificate of Registration No. 82-40 dated September 23, 1982.[1]

On the other hand, respondent Commissioner of Customs (COC) is the head of respondent Bureau of Customs (BOC), the government agency charged with the responsibility to collect duties and taxes from importation, with principle office at Port Area, South Harbor, Manila.

Petitioner avers that it uses for its operations petroleum products such as industrial diesel oil (IDO), automotive diesel (ADO), diesel, bunker fuel oil (BFO) or industrial fuel oil (IFO) and lubricants purchased from local distributors like Petron Corporation (Petron). Petron imports these petroleum products and pays the corresponding customs duties to the BOC and excise taxes to the Bureau of Internal Revenue (BIR). Petron, in turn, bills petitioner the duties it paid on the petroleum products.[2]

For purchases of petroleum products during the period January 2009 to September 2009, Petron billed petitioner the duties paid to the BOC in the total amount of Five Million One Hundred Forty-Five Thousand Five Hundred Seventy-Three Pesos and 38/100 (P5,145,573.38).

On January 29, 2010, petitioner filed with the District Collector of the Port of Manila (POM) a claim for refund or issuance of tax credit certificate (TCC) in the amount of P5,145,573.38, representing customs duties it paid on petroleum products[3] purchased from Petron Corporation from January 2009 to September 2009.[4] This claim for refund/TCC was however denied in the Memorandum dated November 17, 2010.[5]

Petitioner challenged such denial in a letter dated December 9, 2010 before then BOC Commissioner Angelito

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[1] Parties and Statement of Facts, Petition for Revew (Petition), docket, pp. 10-11.
[2] Par. 4, Statement of Facts, Petition, docket, pp 11-12.
[3] Par. 5, *Ibid*, docket, p. 12.
[4] Exhibit "C".
[5] Par. 2, Admitted Facts, Pre-Trial Order, docket, p. 270; Exhibit "D".

Alvarez,[6] who endorsed the incident to the District Collector of the POM for comment with instruction to submit the entire docket of the claim.[7]

On December 30, 2010, the District Collector of the POM forwarded to the office of the COC a Memorandum dated December 20, 2010 by the Officer-in-Charge, Law Division, recommending the denial of petitioner's claim for refund with finality.[8]

In view of the said recommendation, the Deputy Commissioner for Revenue Collection returned the Resolution of the Tax Credit Committee to the Tax Credit Secretariat on April 19, 2011 for endorsement to the Ruling and Research Division of the Legal Division.[9]

On June 27, 2011, the Ruling and Research Division of the Legal Division forwarded petitioner's claim for refund/TCC to the Legal Service for referral to the appellate division of the Legal Service.[10]

On November 28, 2011, the POM received the COC's 1st Endorsement dated November 25, 2011 for the dismissal of petitioner's appeal.[11]

On December 2, 2011, petitioner received a copy of the Notice of Decision dated November 29, 2011, dismissing its appeal[12] for failure to perfect the same within the reglementary period.

Hence, the instant the instant Petition for Review filed on December 29, 2011.

On February 22, 2012, respondents COC and BOC filed their Comment, with the following arguments:[13]

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[6] Exhibit "E".
[7] Exhibit "F".
[8] Par. 5, Admitted Facts, Pre-Trial Order, docket,p. 270.
[9] Par. 7, *Ibid.*, docket, pp. 270-271.
[10] Par. 8, *Ibid.*, docket, p. 271.
[11] Par. 9, *Ibid.*, docket, p. 271.
[12] Par. 10, Admitted Facts, Pre-Trial Order, docket, p. 271.
[13] Docket, pp. 63-72.

I.

Petitioner failed to perfect its appeal within the reglementary period.

II.

Respondents did not violate petitioner's right to due process and equal protection of laws.

III.

In any case, petitioner failed to prove its claim for refund.

On March 14, 2012, petitioner filed a Reply (To Respondent's Comment)[14] arguing that its action is an ordinary claim for refund of payments of tax and duties and not a protest, thus, compliance with Sections 2313 and 2308 of the Tariff and Customs Code of the Philippines (TCCP) is not required. Further, petitioner was denied due process as its claim for refund was acted upon or denied after twenty three (23) months on the ground that it was not perfected within the reglementary period.

To substantiate its allegations, petitioner presented Attorney Gil Valera, Shermila J. Yasay, Emilio Jacinto and Alfredo Palma.

In his Judicial Affidavit,[15] **Attorney Gil A. Valera**, declared that he was petitioner's Tax Counsel since 2007 and had represented petitioner in its claim for refunds of indirectly paid customs duties.

Allegedly, petitioner's previous claim for refund dated July 25, 2007[16] in the amount of P3,795,019.31 representing the duties it paid for its purchase of petroleum products from Petron for the period October to December 2006 was granted by the District Collector of the POM and the Tax Credit Committee on October 30, 2007. Consequently, Tax Credit Certificate No. 000358 was issued in favor of petitioner.

[14] Docket, pp. 111-124.
[15] Exhibit "P".
[16] Exhibit "A".

On January 25, 2010, petitioner filed the subject claim for refund in the amount of P5,145,573.38, representing customs duties on petroleum products it purchased from Petron covering the period January to September 2009.[17] This was however denied on November 17, 2010[18] on the ground that petitioner failed to establish that such claim represents the proportionate amount of the customs duties and taxes paid by Petron on the importation of Arab Light and/or Super Arab Light. The said Decision did not contain a computation of the proportionate amount of customs duties that petitioner was entitled to claim.

On December 9, 2010, petitioner appealed to the COC,[19] who endorsed it to the District Collector of the POM on December 12, 2010 with the instruction to submit to the Tax Credit Committee the entire docket of case as well as the corresponding comment/opposition thereto within five (5) days from notice. On December 30, 2010, the District Collector of the POM interposed his objection to petitioner's appeal citing petitioner's failure to appeal within the reglementary period of fifteen (15) days and to pay the P3,000.00 processing fee as additional grounds.

On January 18, 2011, petitioner paid the processing fee of P3,000.00[20] required under Customs Administrative Order (CAO) No. 2-2001.[21]

On November 25, 2011, the COC denied petitioner's claim for refund.[22]

Petitioner's Vice President (VP) for Finance, **Shermila J. Yasay** also executed a Judicial Affidavit[23] in which she alleged that as petitioner's VP for Finance, she oversees its financial affairs, prepares its annual budget, and monitors claim for refund it filed with the BOC.

She explained that part of Petron's selling price of

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[17] Exhibit "C".
[18] Exhibit "D".
[19] Exhibit "E".
[20] Exhibit "G'.
[21] Exhibit "G-1".
[22] Exhibit "O".
[23] Exhibit "Q".

petroleum products constitutes the proportionate amount of duties and taxes paid on its importation of crude oil. Petitioner's claim for refund of such indirectly paid customs duties is authorized under the Philippine Export Zone Authority (PEZA) Law as incentives to PEZA locators like petitioner. The amount for refund is computed based on the Certification issued by Petron indicating the duties it passed on to petitioner for its purchase of bunker fuel oil and diesel fuel oil.

She claims that petitioner's previous claim for refund was processed and approved within 60 days in accordance with Section 106(e) of the TCCP as it was found to be in order and supported by Petron's Certification indicating the correct computations of the proportionate amount of duties upon which the refund was based. Petitioner requests for this certification for every purchase made with Petron.

She confirmed that petitioner filed another claim for refund for P5,144,573.38, representing the customs duties it indirectly paid to Petron for its purchases from January to September 2009 but the same was denied by respondents.

When confronted, the witness admitted that the subject Certification from Petron refers to the amount of customs duties and taxes that Petron paid for the importation of crude oil or Arab Light but petitioner actually purchased bunker fuel and the diesel fuel. In any event, incorporated in the purchase price paid by petitioner were the duties and taxes paid by Petron for its importation.

The first claim for refund was immediately acted upon by respondents unlike the second which was denied after ten (10) months from its filing in violation of the law. Petitioner's motion for reconsideration was likewise denied.

Petitioner's third witness **Emilio L. Jacinto**, the Chief Accountant of BOC admitted that as a member of the Tax Credit Committee, he prepares the computation or summary of refund applications as what he did in the case of petitioner[24] which had a total claim of P5,145,574.49.

[24] Exhibit "J", "J-1" to "J-9".

However, he was not aware that petitioner's claim was denied, for which he was not consulted by the District Collector of the POM.

Processing of claims is among the functions of TCC Secretariat. His computations are based on the rate of the Industry Technology Development Institute (ITDI) and the standard output per barrels. He prepares a computation to determine the correctness of the amount subject of the claim and not to ascertain the entitlement of the claimant to a refund. In any event, his computation is not binding upon the person who issues the ruling.

He believes that petitioner is entitled to the subject refund as it is supported by the Computation of Drawback Claims from January to September 2009.[25]

Petitioner's last witness **Alfredo Palma** testified that his Second Endorsement dated February 18, 2011 stating that the amount of P5,145,573.38 subject of the instant claim for refund/TCC was correct based on the attached documents and computations,[26] which he sent to the TCC Committee. However, he was unaware of what occurred thereafter.

In the Manifestation and Motion dated July 16, 2013, respondents stated that it was unnecessary to present countervailing evidence.[27]

STATEMENT OF ISSUES

The parties submitted the following issues[28] for the resolution of the Court:

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[25] Exhibits "J-1" to "J-9".
[26] Exhibit "I-1".
[27] Docket, pp. 518-519.
[28] Issues, Pre-Trial Order, docket, pp. 271-272.

> 1. Whether or not the ordinary claim for refund of petitioner is a Protest or a Protestable case subject of the provisions of Section 2308 of the Tariff and Customs Code of the Philippines (TCCP);
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> 2. Whether or not petitioner's rights to substantive due process and equal protection have been violated by the Customs Commissioner and the Bureau of Customs;
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> 3. Whether or not petitioner's appeal filed on December 9, 2011, or seven (7) days after receipt of the District Collector's Decision and the payment of the Processing Fee of P3,000 on January 18, 2012, was perfected within the reglementary period;
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> 4. Whether or not Section 2313 of the Tariff and Customs Code of the Philippines applies to ordinary case of refund claim or only to cases of protest and seizures;
>
> 5. Whether or not respondents are allowed to invoke technicalities to keep money that does not belong to the State;
>
> 6. Whether or not respondents violated Article 19 of the Civil Code of the Philippines; and
>
> 7. Whether or not petitioner is entitled to the refund of P5,145,573.38.

Petitioner's arguments:

Petitioner asserts that it is entitled to a refund/TCC in the amount of P5,145,573.38, representing the customs duties it erroneously paid for its purchases of petroleum product from Petron for the period January to September 2009.

Petitioner claims that it is exempt from customs and internal revenue taxes as well as local taxes pursuant to Presidential Decree No. 66 (The EPZA Law), Republic Act No. 7916 (the PEZA Law), the Rules and Regulations to Implement Republic Act No. 7916. These laws were fortified by the ruling of the Supreme Court in the case of *Commissioner of Customs vs. Philippine Phosphate Fertilizer Corporation*[29] *(Philippine Phosphate case)* which declared that EPZA-registered entity are exempt from indirect taxes and duties on petroleum products used in its operation as provided under Section 17(1) of P.D. No. 66 and Article 77 of E.O. No. 226.

When respondents denied the subject claim for refund, they in effect violated petitioner's rights to substantive due process and equal protection of law given that a similar claim for refund filed by another PEZA Locator, namely, Pan Century Surfactants, was granted despite non-payment of the P3,000.00 processing fee.

Petitioner also insists that its appeal letter which it claimed to have been seasonably filed substantially complied with the requisites to perfect an appeal. The appeal letter alleged the names of the parties, the material dates, the order subject of appeal and the payment of the proper docket and appeal fees. In relation to its subsequent payment of processing fee, petitioner argues that Customs Administrative Order No. 2-2001 does not indicate when payment of the processing fee should be made. Further, the present case is an ordinary case of refund of customs duties hence, not covered by Section 2313 of the TCCP which pertains to protests and seizures cases.

Finally, respondents violated Article 19 of the Civil Code of the Philippines when they did not act with justice and observe honesty and good faith when they denied petitioner's claim for refund/TCC.

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[29] G.R. No. 144440, September 1, 2004.

Respondents' arguments:

On the other hand, respondents counter-argue that the denial of petitioner's refund claim was correct since it failed to file a Notice of Appeal with the Office of the District Collector of POM pursuant to Section 2313 of the TCCP. Even if petitioner's appeal letter is deemed a Notice of Appeal, the same is still infirm as it failed to indicate the parties to the appeal, the assailed judgment or final order as well as the material dates showing the timeliness of the filing of the appeal, as required under Section 3 of Rule 40 of the Rules of Court. Further, petitioner failed to pay the required docket/appeal fee under Customs Administrative Order No. 2-2001 and to perfect its appeal within the reglementary period as mandated in Section 2313 of the TCCP.

RULING OF THE COURT

The primordial issue in this case is whether petitioner, an EPZA-registered enterprise, is entitled to the refund/TCC in the amount of P5,145,573.38, allegedly representing indirectly paid custom duties and taxes on its purchases of petroleum products from Petron during the period January 2009 to September 2009.

Petitioner, a duly registered Zone Export Enterprise with the Export Processing Zone Authority ("EPZA"), anchors its alleged entitlement to refund/TCC on Section 17 (1) of P.D. No. 66, which provides as follows:

> ***Section 17. Tax Treatment of Merchandise in the Zone.*** -
>
> (1) Except as otherwise provided in this Decree, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description,

> except those prohibited by law, brought into the Zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleared, graded or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise or used whether directly or indirectly in such activity, shall not be subject to customs and internal revenue laws and regulations nor to the local tax ordinances, the provisions of the law to the contrary notwithstanding.

Respondents, on the other hand, denied the claim for refund/TCC mainly on the theory that petitioner failed to comply with the procedure and prescriptive periods provided under Sections 2308, 2309 and 2313 of the Tariff and Customs Code of the Philippines.

In point is the case of *Commissioner of Customs vs. Philippine Phosphate Fertilizer Corporation.*[30] In the said case, the Supreme Court categorically ruled that the supplies cited in Section 17 of P.D. No. 66[31] are not subject to customs and internal revenue laws and regulations nor to local tax ordinances, the pertinent portion of which reads:

> Section 17 of the EPZA Law particularizes the tax benefits accorded to duly registered enterprises. It states:
>
> > SEC. 17. *Tax Treatment of Merchandize in the Zone*. – (1) Except as otherwise provided in this Decree, foreign and domestic merchandise, raw materials, **supplies, articles, equipment, machineries, spare parts and wares of every description,** except those prohibited by law, brought

[30] *Supra*, Note 35.
[31] Export Processing Zone Authority Law.

> into the Zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise **or used whether directly or indirectly in such activity, shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the following provisions of law to the contrary notwithstanding.**

The cited provision certainly covers petroleum supplies used, **directly or indirectly**, by Philphos to facilitate its production of fertilizers, subject to the minimal requirement that these supplies are brought into the zone. **The supplies are not subject to customs and internal revenue laws and regulations, nor to local tax ordinances. It is clear that Section 17(1) considers such supplies exempt even if they are used indirectly, as they had been in this case.**

Since Section 17(1) treats these supplies for tax purposes as beyond the ambit of customs laws and regulations, the arguments of the Commissioner invoking the provisions of the Tariff and Customs Code must fail. xxxx Moreover, the cited provisions of the Tariff and Customs Code if related to Section 17(1) of the EPZA Law would significantly render the argument strained and, if upheld, obviate many of the benefits granted by Section 17(1), **for the provision does not limit the tax exemption only to direct taxes**. Following the Commissioner's interpretation, any duly registered

> enterprise sought to be held liable for the controverted custom's duty because the importer had shifted the duty to the buyer would forever be precluded from challenging the duty, which it is not in the first place obliged to pay under the law. **Hand in hand with its patent noxiousness to the spirit of the EPZA Law, the approach calls for the unwarranted application of the Tariff and Customs Code to investors and players in the zones, which under the EPZA Law are beyond the reach of domestic customs and tax laws, as well as regulations.**

Basically, respondent denied petitioner's claim for refund for the latter's failure to comply with the procedure and prescriptive periods provided under the TCCP, such as Sections 2308, 2309 and 2313. But as explained in the above-cited case, refunds of indirect taxes and duties on supplies cited in Section 17(1) of the EPZA Law are neither subject to customs and internal revenue laws, regulations nor to local tax ordinances.

Anent petitioner's alleged non-compliance with Section 2313 of the TCCP, suffice it to say that the appeal under the said provision applies only to protestable and seizure cases and not to refund of indirectly paid customs duties. Section 2313 of the TCCP reads:

> SECTION. 2313. *Review by Commissioner*. - The person aggrieved by the decision or action of the Collector in any matter presented upon protest or by his action in any case of seizure may, within fifteen (15) days after notification in writing by the Collector of his action or decision, file a written notice to the Collector with a copy furnished to the Commissioner of his intention to appeal the action or decision of the Collector to the Commissioner. Thereupon the Collector shall forthwith transmit all the records of

> the proceedings to the Commissioner, who shall approve, modify or reverse the action or decision of the Collector and take such steps and make such orders as may be necessary to give effect to his decision: Provided, That when an appeal is filed beyond the period herein prescribed, the same shall be deemed dismissed. xxx. (Emphasis supplied)

Evidently, the foregoing provision is not applicable since the instant Petition for Review involves a claim for refund of customs duties based on petitioner's alleged exemption from taxation being a duly registered enterprise under the EPZA Law. What is applicable is Section 1708 of the TCCP which states as follows:

> Sec. 1708. *Claim for Refund of Duties and Taxes and Mode of Payment*. - All claims for refund of duties shall be made in writing and forwarded to the Collector to whom such duties are paid, who upon receipt of such claim, shall verify the same by the records of his Office, and if found to be correct and in accordance with law, shall certify the same to the Commissioner with his recommendation together with all necessary papers and documents. Upon receipt by the Commissioner of such certified claim he shall cause the same to be paid if found correct.

Further discussion in *Philippine Phosphate case* on the applicability of the prescriptive periods and/or procedural requirements of the TCCP to a refund claim of an exempt corporation under the EPZA Law is instructive, thus:

> **Neither would the prescriptive periods or procedural requirements**

provided under the Tariff and Customs Code serve as a bar for the claim for refund. The holding of the CTA on this point is illuminating:

> Contrary to the allegation of the Respondent that Section 17(1) does not provide for duty and tax exemption privilege, this Court disagrees. That phrase shall not be subject to customs and internal revenue laws and regulations nor to local tax ordinances, the provisions of law to the contrary notwithstanding cannot be interpreted in any other manner than to mean that merchandise or supplies brought into the zone are exempt from customs duties and taxes. **The incentive given under Section 17(1) is broader than a mere tax exemption. The phrase is so broad to include not only the exemption from customs duties and taxes but everything required in the enforcement of the customs and internal revenue laws save on the exceptions and conditions specified in the EPZA law itself. Considering that the customs and internal revenue laws are primarily enacted to impose duties and taxes, the phrase cannot be interpreted to exclude these impositions. More so, the phrase will also include exemption from other rules and regulations which are normally followed in the discharge of importation such as the filing of import entries, examinations and other requirements attendant to**

> **the importation of goods into the country**.
>
> Even our recent ruling in *Nestle Philippines, Inc. v. Court of Appeals,* to the effect that the claim for refund of customs duties in protestable cases may be foreclosed by the failure to file a written protest, is not *apropos* in the case at bar because petitioner therein was not a duly registered enterprise under the EPZA Law and thus not entitled to the exemptions therein.
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> This leads to another question well-worth resolving — what is the prescriptive period which a duly registered enterprise should observe in applying for a refund to which it is entitled under the EPZA Law? The EPZA Law itself is silent on the matter, and the prescriptive periods under the Tariff and Customs Code and other revenue laws are inapplicable, by specific mandate of Section 17(1) of the EPZA Law. This does not mean though that prescription will not lie, as the Civil Code provisions on *solutio indebiti* may find application. The Civil Code is not a customs and internal revenue law. The Court has in the past sanctioned the application of the provisions on *solutio indebiti* in cases when taxes were collected thru error or mistake. *Solutio indebiti* is a quasi-contract, thus the claim for refund must be commenced within six (6) years from date of payment pursuant to Article 1145(2) of the New Civil Code. Clearly then, Philphos's right to refund has not yet prescribed.

Clearly, petitioner, as an EPZA-registered entity, is likewise exempt from the enforcement of the customs laws and other rules and regulations, such as the prescriptive periods and or procedural requirements of the TCCP to a refund claim. In other words, Sections 2308, 2309 and 2313 of the TCCP do not apply to petitioner.

Even if the Court considers applicable Section 2313 of the TCCP to the present case, petitioner is still deemed to have substantially complied with the notice of appeal requirement provided therein as it was able to perfect its appeal on January 29, 2010 when it filed its claim for refund with the District Collector of POM, or less than a year from the time of payment of customs duties on its purchases of petroleum products from Petron Corporation.

Record also reveals that on December 9, 2010, petitioner furnished the Office of the District Collector of POM with a copy of its letter of appeal signifying its intention to elevate the matter to respondent COC. Pursuant to Section 2313 of the TCCP, petitioner had fifteen (15) days from receipt of the Collector's denial on December 2, 2010,[32] or until December 17, 2010, within which to perfect its appeal. Thus, under Section 2313 of the TCCP, the said letter of appeal is deemed seasonably filed on December 9, 2010.

But is petitioner, as an entity exempted from paying customs duties pursuant to Section 17(1) of P.D. No. 66 and as ruled in the *Philippine Phosphate case,* entitled to refund in the amount of P5,145,573.38?

While there exists no issue as to the legal basis of the refund claim as admitted by both parties,[33] record shows that petitioner failed to present documentary evidence to prove among others, the amount of petroleum products imported by Petron; the specific amount of taxes and duties actually paid by it for the importation of the same; as well as the amount or portion of the said petroleum product actually used in petitioner's operations. As correctly ruled by the District Collector of the POM in his Memorandum dated November 17, 2010, to be entitled to refund being claimed, petitioner must first establish the following: payment of duties and taxes actually due; amount of duties and taxes legally passed on by the importer to the claimant; actual delivery in the zone of the subject petroleum products, and the utilization thereof.[34]

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[32] Par. 8, Petition, docket p. 13; Par. 14, respondent's Memorandum, docket p. 549.
[33] Par. 6, Pre-Trial Order, docket, p. 270.
[34] Exhibit "D".

Petitioner only presented the Summary of Refund of Customs Duties on Petroleum Products purchased from Petron covering the period of January to September 2009 made by Alfredo A. Palma[35] and Emilio L. Jacinto, Chief Accountants of the Revenue Accounting Division[36], and the Computation of Drawback Claims from January to September 2009 prepared by Emilio Jacinto.[37] But *sans* documents substantiating the entries in the said summaries and computations, there is no way to verify the veracity and correctness of the amounts reflected therein.

Under Section 8 of Republic Act No. 1125, the Court of Tax Appeals is described as a court of record. As cases filed before this Court are litigated *de novo*, party-litigants should prove every minute aspect of their cases.[38]

On a final note, actions for tax refund, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven.[39] Considering that the evidence presented by petitioner failed to support its claim for refund, the subject claim must be denied.

WHEREFORE, the instant Petition for Review dated December 29, 2011, is hereby **DENIED** for insufficiency of evidence.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

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[35] Exhibit "I-1".
[36] Exhibit "J".
[37] Exhibits "J-1" to "J-9".
[38] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[39] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 159490, February 18, 2008.

We Concur:

LOVELL R. BAUTISTA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
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.

LOVELL R. BAUTISTA
Chairperson

CERTIFICATION

Pursuant to Section 13 of Article VIII of the Constitution, and the Division's Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice