REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-*versus*-

SAN MIGUEL BREWERY, INC.,
Respondent.

CTA *EB* NO. 3157
(CTA Case No. 10745)

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

Promulgated:
APR 14 2026 4:05

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is petitioner's Petition for Review ("Petition") filed on May 22, 2025,[1] with respondent's Comment (on the *Petition for Review* dated May 16, 2025) ("Comment") filed on June 20, 2025.[2] The Petition prays that the Assailed Decision, dated November 18, 2024, and the Assailed Resolution, dated May 6, 2025, be nullified and a new one be rendered denying respondent's entire claim for refund.[3]

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[1] *Rollo,* pp. 1-88.
[2] *Id.,* at 91-516.
[3] *Id.,* at 29.

The Parties

Petitioner Commissioner of Internal Revenue ("CIR") is the Commissioner of the Bureau of Internal Revenue ("BIR"), duly appointed to exercise the powers and perform the duties of his office including, *inter alia,* the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[4]

Respondent San Miguel Brewery, Inc. ("San Miguel") is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at 40 San Miguel Avenue, Mandaluyong City, Metro Manila. It is engaged in the business of, among others, the manufacture, sale, and distribution of fermented and malt-based beverages.[5]

The Facts

On December 19, 2012, Congress enacted *Republic Act No. ("RA") 10351*, amending, among others, *Section 143 of the National Internal Revenue Code, as amended, ("NIRC")* which imposes an excise tax on fermented liquors at tiered rates from 2013 to 2016, a uniform rate in 2017 and a 4% indexation starting 2018. *RA 10351* took effect on December 21, 2012.[6]

To implement *RA No. 10351,* then Secretary of Finance ("SOF") Cesar V. Purisima, upon recommendation of then CIR, Kim S. Jacinto-Henares, issued *Revenue Regulation No. ("RR") 17-2012* on December 21, 2012. In turn, CIR Henares issued *Revenue Memorandum Circular No. ("RMC") 90-2012* on December 27, 2012. [7]

On January 22, 2020, *RA No. 11467* was signed into law further amending *Section 143 of the NIRC* and increasing the excise tax for fermented liquors effective January 1, 2020 to P35.00, among others. [8]

Relative thereto, then CIR Caesar R. Dulay issued *RMC 65- 2020,* dated June 22, 2020, which states that *RA No. 11467* took effect immediately after its complete publication in a newspaper of general circulation on January 27, 2020. On October 14, 2020, CIR Dulay issued *RMC No. 113-2020* clarifying

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4 *Id.*, at 2.
5 *Id.*, at 93.
6 See Assailed Decision, Annex "A", Petition, *Rollo*, p. 41.
7 *Id.*, at 42.
8 *Id.*, at 42.

that *RA No. 11467* was published in the Official Gazette on January 23, 2020 through its website. [9]

To remove its beer products from the breweries for the period from January 23, 2020 to February 9, 2020, respondent paid excise taxes thereon at the tax rate of P27.07, instead of P26.44, per liter. For this payment, respondent filed with the BIR a claim for refund amounting to Php8,278,851.12, representing the difference in the tax rates per liter under *RA No. 10351.* ("Claim A")[10]

The BIR Large Taxpayers Service ("LTS") - Excise LT Field Operations Division issued a Notice of Discrepancy ("NOD"), dated July 8, 2020, assessing respondent for deficiency excise tax amounting to Php941,871,604.98, inclusive of increments, covering withdrawals of beer products from January 27, 2020 to February 12, 2020, allegedly due to the increase in the excise tax rates on fermented liquors which purportedly took effect on January 27, 2020.[11]

On September 4, 2020, respondent paid the excise tax difference in the amount of Php168,959,037.24 covering withdrawals of beer products for the period from February 10, 2020 to February 12, 2020, premised on the effectivity of *RA No. 11467* on February 10, 2020 upon its actual publication in the Official Gazette on even date. [12]

The BIR then issued a revised NOD, dated September 22, 2020, which reiterated its new position that *RA No. 11467* took effect on January 23, 2020, and adjusted respondent's alleged deficiency excise tax to Php1,035,355,418.45 (net of the payment of Php168,959,037.24). [13]

In its Letter, dated December 10, 2020, respondent advised the BIR that it would pay under protest the alleged deficiency excise tax on December 21, 2020 in the adjusted amount of Php1,060,496,977.92 through Tax Credit Certificates ("TCCs").[14]

The BIR issued a revised NOD, dated December 15, 2020, adjusting the alleged deficiency taxes to Php1,060,496,977.92. On December 21, 2020, respondent paid the alleged deficiency excise tax, as adjusted.[15]

[9] *Id.*, at 42.
[10] *Id.*, at 42.
[11] *Id.*, at 42-43.
[12] *Id.*, at 43.
[13] *Id.*, at 43.
[14] *Id.*, at 43.
[15] *Id.*, at 43.

On January 12, 2022, respondent filed with the BIR a claim for refund, dated January 10, 2022, amounting to Php1,060,496,977.92, representing excise taxes excessively passed on, or collected from, respondent in respect of its beer products from January 23, 2020 to February 9, 2020. ("Claim B")[16]

Citing the inaction of petitioner on both claims, respondent filed a Petition for Review on February 2, 2022 with the Court in Division.[17]

The Court in Division then granted San Miguel's claim for refund in the Decision, dated November 18, 2024, to wit:[18]

> **WHEREFORE,** the Petition for Review is **GRANTED.** Accordingly:
>
> (i) Section 5 of Revenue Regulations No. 17-2012 dated December 21, 2012 insofar as it implements the 'no downgrading' rule embedded in the 'no downward reclassification' provision is deemed null and void;
>
> (ii) Annex 'A-1' of Revenue Memorandum Circular No. 90-2012 dated December 27, 2012 insofar as it prescribes the excise tax rate of Php 20.57 is deemed null and void;
>
> (iii) Revenue Memorandum Circular No. 65-2020 dated June 22, 2020 and Revenue Memorandum Circular No. 113- 2020 dated October 14, 2020 insofar as they provide an erroneous effectivity date of Republic Act No. 11467 are deemed null and void;
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> (iv) The excise tax rate of Php27.07 per liter imposed during the period from January 23, 2020 to February 9, 2020 pursuant to Revenue Regulations No. 17-2012 in relation to Revenue Memorandum Circular No. 90-2012 is void; and,
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> (v) Respondent Commissioner of Internal Revenue is ordered to refund or issue a tax credit certificate in favor of petitioner San Miguel Brewery, Inc. in the amount of Php1,068,775,829.04 representing the excise taxes erroneously, excessively, illegally and/or wrongfully collected from petitioner for the period from January 23, 2020 to February 9, 2020.
>
> SO ORDERED.

This was affirmed by the Court in Division in the Resolution, dated May 6, 2025, which denied for lack of merit the CIR's Motion for Reconsideration filed on December 11, 2024.[19]

Consequently, on May 22, 2025, the CIR filed the instant Petition.[20]

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[16] *Id.*, at 43.
[17] *Id.*, at 43.
[18] *Id.*, at 78-79.
[19] Assailed Resolution, Annex "B", Petition, *Rollo*, pp. 80-88.
[20] *Rollo*, pp. 1-88.

On June 4, 2025, the Court *En Banc* issued a Resolution ordering San Miguel to file a Comment on the Petition.[21]

Then, on June 20, 2025, San Miguel filed its Comment.[22]

The Court *En Banc* issued a Resolution, dated July 16, 2025, submitting the Petition for decision.[23]

Hence, this Decision.

The Assigned Errors

The issues to be resolved are as follows:[24]

i. Whether the Court in Division erred in declaring *Section 5 of RR 17-2012,* dated December 21, 2012, insofar as it implements the "no downgrading" rule embedded in the "no downward reclassification" provision, null and void;

ii. Whether the Court in Division erred in declaring Annex A-1 of *RMC 90-2012,* dated December 27, 2012, insofar as it prescribes the excise tax rate of Php20.57, null and void;

iii. Whether the Court in Division erred when it declared *RMC 65-2020,* dated June 22, 2020, and *RMC 113-2020,* dated October 14, 2020, insofar as they provide an erroneous effectivity date of *RA 11467*, null and void;

iv. Whether the Court in Division erred when it declared void the excise tax rate of Php27.07 per liter imposed during the period from January 23, 2020 to February 9, 2020 pursuant to *RR 17-2012,* in relation to *RMC 90-2012*; and

v. Whether the Court in Division erred when it granted San Miguel's claim for refund in the amount of Php1,068,775,829.04 representing alleged excise taxes erroneously, excessively, illegally and/or wrongfully collected for the period January 23, 2020 to February 9, 2020.

[21] *Id.*, at 90.
[22] *Id.*, at 91-516.
[23] *Rollo.*
[24] *Id.*, at 3-4.

Arguments of the Parties

The CIR alleges the following:[25]

1. The Court in Division lacks jurisdiction to entertain the Petition for Review. The Court in Division erred when it declared *Section 5 of RR 17-2012* as null and void insofar as it implements the "no downgrading" rule embedded in the "no downward reclassification" provision;

2. The Court in Division erred when it declared null and void Annex "A-1" of *RMC 90-2012* void insofar as it prescribes the excise tax rate of Php20.57. The Honorable Court erred in ruling that respondent is entitled to refund; and

3. The Court in Division erred when it declared null and void *RMC 65-2020* and *RMC 113-2020* insofar as they provide an erroneous effectivity date of *RA 11467*. *RA 11467* was made effective upon its complete publication in the website of the Official Gazette. Thus, *RA 11467* became effective beginning January 23, 2020.

In response to the CIR's allegations, San Miguel counter-argues the following:[26]

1. The Court in Division correctly assumed jurisdiction and resolved San Miguel's Petition, which squarely sought a refund of unlawfully collected excise taxes. Petitioner's attempt to frame the nature of the action as a collateral attack on BIR issuances ignores that the declaration of nullity was a necessary and well-established incident of the refund claim, and is a relief consistently recognized by the Honorable Court *En Banc* and the Supreme Court in similar tax refund cases;

2. The Court *En Banc* correctly ruled that the Php27.07 per liter excise tax rate imposed on San Mig Light, together with *RMC 90-2012* and *RR 17-2012,* were *ultra vires* and void. These issuances imposed classifications and tax increases without any statutory basis in *Section 143 of the NIRC;* and

3. The Court in Division properly held that the Php35.00 per liter rate under *RA 11467* took effect only on February 10, 2020 which is the date of complete publication in the Official Gazette. The petitioner's contrary position disregards both the clear text of *Article 2 of the Civil Code* and settled jurisprudence, including *Garcillano v. House of Representatives, et al.*, and *Tañada v. Tuvera,* which this Court *En Banc*

[25] *Id.*, at 5-29.
[26] *Id.*, at 114-136.

has consistently applied to determine the effectivity of tax statutes absent express exemption from the publication requirement.

The Ruling of the Court En Banc

The Petition lack merit.

At the onset, it must be emphasized that the arguments posited by petitioner are a repeat of those he raised before the Court in Division, and as such, have already been sufficiently tackled in the Assailed Decision and Assailed Resolution. Nonetheless, to finally set aside petitioner's contentions, the Court *En Banc* shall once more address the same.

This Court has jurisdiction to entertain the present suit.

With respect to the CIR's contention that the Court of Tax Appeals ("CTA") has no jurisdiction entertaining the present suit (*i.e.*, a challenge on the constitutionality or validity of revenue issuances), this has long been settled. The CTA has the undoubted jurisdiction to pass upon the validity of a tax law or regulation regardless if the same was made an ancillary issue in a tax assessment or tax refund case, or an actual direct challenge of said tax law or regulation. In *Banco De Oro, et al., v. Republic of the Philippines, et al.*,[27] the Supreme Court declared as follows:

> *The Court of Tax Appeals has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all maters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.*
>
> *This Court, however, declares that the Court of Tax Appeals may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance (revenue orders, revenue memorandum circulars, rulings).*
>
> Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought *exclusively* to the Court of Tax Appeals.

[27] G.R. No. 198756, 16 August 2016.

> In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of certiorari against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.
>
> Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals.
>
> Furthermore, with respect to administrative issuances (revenue orders, revenue memorandum circulars, or rulings), these are issued by the Commissioner under its power to make rulings or opinions in connection with the implementation of the provisions of internal revenue laws. Tax rulings, on the other hand, are official positions of the Bureau on inquiries of taxpayers who request clarification on certain provisions of the National Internal Revenue Code, other tax laws, or their implementing regulations. Hence, the determination of the validity of these issuances clearly falls within the exclusive appellate jurisdiction of the Court of Tax Appeals under Section 7(1) of Republic Act No. 1125, as amended, subject to prior review by the Secretary of Finance, as required under Republic Act No. 8424.
> (Italics, Ours)

Consequently, it cannot be denied that this Court has absolute jurisdiction to entertain the present refund case for erroneously paid excise taxes, the success of which is dependent on the invalidity or unconstitutionality of certain revenue issuances.

With respect to the CIR's contention that even if the CTA has jurisdiction to entertain questions on the validity or constitutionality of revenue issuances, it remains that the doctrine of exhaustion of administrative remedies has not been complied with, the same is groundless.

It is true that *RMC 90-2012* and *RR 17-2012* were issued by respondent in view of his power to interpret the provisions of the *NIRC* and other tax laws pursuant to *Section 4 of the NIRC*. This authority has been characterized as a rule-making or quasi-legislative power delegated by Congress to the CIR.[28] However, as stated by the High Court in *Alliance of Non-Life Insurance Workers of the Philippines, et al. vs. Hon. Leandro R. Mendoza, et al.,*[29] the doctrine of exhaustion of administrative remedies does not apply when the questioned act is quasi-legislative in character, to wit:

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[28] Commissioner of Internal Revenue vs. Court of Tax Appeals (Second Division) and Petron Corporation, G.R No. 207843, July 15, 2015.
[29] G.R. No. 206159, August 26, 2020.

> However, it is settled that the doctrine of exhaustion of administrative remedies finds no application when a questioned act was done in the exercise of quasi-legislative powers: In questioning the validity or constitutionality of a rule or regulation issued by an administrative agency, a party need not exhaust administrative remedies before going to court. This principle applies only where the act of the administrative agency concerned was performed pursuant to its quasi-judicial function, and not when the assailed act pertained to its rule-making or quasi legislative power.

Thus, petitioner is not duty bound to file first an Appeal before the Secretary of Finance questioning the constitutionality and validity of *RMC 90-2012* and *RR 17-2012* before it can seek judicial redress before the CTA.

The Court in Division did not err when it declared RMC 90-2012 null and void in so far as it prescribes an excise tax rate of Php20.57; thus, respondent properly established that it erroneously paid excise tax in the total amount of Php8,278,851.12 covered by Claim A.

It is a well-established principle that rules and regulations implementing a law are designed to fill in the details or to make explicit what is general, as these cannot all be incorporated in the provision of the law.[30] Administrative issuances must not override, supplant, or modify the law; they must remain consistent with the law intended to carry out.[31] Particularly, administrative issuances, such as revenue memorandum circulars, cannot amend or modify the law.[32]

Indeed, in tax refund cases filed before this Court, it is incumbent upon the taxpayer-claimant to prove every minute aspect of his claim. It cannot simply rely on the evidence it has already presented in the administrative claim before the BIR for the success of the judicial claim for refund. It must present and offer anew with this Court the evidence already presented before the CIR and such other evidence (although was not submitted to the CIR during the administrative proceedings) which are necessary to prove its entitlement to the tax refund claim.

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[30] La Suerte Cigar and Cigarette Factory v. Court of Appeals. G.R. Nos. 125346, 136328-29, 144942, 148605, 158197 & 165499, November 11, 2014.

[31] In the matter of declaratory relied on the validity of Revenue Memorandum Circular No. 65-2020, Bureau of Internal Revenue (BIR), as herein represented by its Commissioner, Kim S. Jacinto-Henares and Revenue District Officer (RDO) Ricardo B. Espiritu v. First E-Bank Tower Condominium Corp., G.R. No. 215801, January 15, 2020; and First E-Bank Tower Condominium Corp. v. Bureau of Internal Revenue (BIR), as herein represented by its Commissioner Kim S. Jacinto-Henares. G.R. No. 218924, January 15, 2020.

[32] ING Bank N.V., engaged in banking operations in the Philippines as ING Bank N.V. Manila Branch v. Commissioner of Internal Revenue, G.R. No. 167679, April 20, 2016.

In *La Suerte Cigar and Cigarette Factory v. Court of Appeals,*[33] the Supreme Court ruled:

> To be valid, a revenue regulation must be within the scope of statutory authority or standard granted by the legislature. Specifically, the regulation must be germane to the object and purpose of the law; (2) not contradict, but conform to, the standards the law prescribes; and (3) be issued for the sole purpose of carrying into effect the general provisions of our tax laws.

Similarly, in the recent case of *Manila Peninsula Manila Hotel, Inc. v. Commissioner of Internal Revenue,*[34] the Supreme Court cited *Philippine Bank of Communications v. Commissioner of Internal Revenue,*[35] wherein it upheld the nullification of *RMC 7-85* for being inconsistent with *Section 230 of the then NIRC*. The Supreme Court emphasized that the BIR did not simply interpret the law but legislated guidelines contrary to the statute passed by Congress. Thus, the Supreme Court held:

> It bears repeating that Revenue [Memorandum Circulars] are considered administrative rulings (in the sense of more specific and less general interpretations of tax laws) which are issued from time to time by the Commissioner of Internal Revenue. It is widely accepted that the interpretation placed upon a statute by the executive officers, whose duty is to enforce it, is entitled to great respect by the courts. Nevertheless, such interpretation is not conclusive and will be ignored if judicially found to be erroneous. Thus, courts will not countenance administrative issuances that override, instead of remaining consistent and in harmony with, the law they seek to apply and implement.

Moreover, in *Saint Wealth Ltd. v. Bureau of Internal Revenue,*[36] the Supreme Court *En Banc* declared certain parts of *RMC 102-2017* and *RMC 78-2018* invalid and unconstitutional, as they lacked statutory basis and encroached upon the legislative power to enact laws.

Given the foregoing, we quote with approval the discussion of the Court in Division as to why *RMC 90-2012* is void for going beyond the scope of the law, *viz.*:[37]

> Otherwise stated, the 'no downgrading of pre-RA 10351 rates' rule may not necessarily be construed as within the context of the 'no downward reclassification' provision in Section 3 of RA No. 10351. For one, there is nothing in Section 3 of RA No. 10351 which states that rates specified therein may not be applied if it results in downward reduction of rates, *i.e.,*

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[33] G.R. Nos. 125346, 136328-29, 144942, 148605, 158197 & 165499, November 11, 2014.
[34] G.R. No. 229338, April 17, 2024.
[35] G.R. No. 112024, January 28, 1994.
[36] G.R. Nos. 252965 and 254102, December 7, 2021.
[37] See Assailed Decision.

from a higher pre-RA No. 10351 excise tax rate per liter, to a lower RA No. 10351 excise tax rate per liter.

Even assuming that the 'no downgrading of pre-RA 10351 rates' rule is construed to be within the context of the 'no downward reclassification' provision, it would appear that there is an inconsistency within the law itself. On one hand, Congress intended for existing brands to maintain their pre-RA No. 10351 excise tax rates under the 'no downgrading of rates' rule allegedly embedded in the 'no downward reclassification' provision. On the other hand, another provision in the same Section, mandates that all fermented liquors existing in the market at the effectivity date of the law, must be classified as low-tier or high-tier categories based on the net retail prices as outlined therein.

In essence, adhering to respondent's proposition would simply give rise to conflict between two (2) provisions of Section 3 of RA No. 10351 as one stipulates, albeit impliedly, that fermented liquors already subject to higher pre-RA No. 10351 rates must retain those rates, while another expressly mandates a comprehensive classification of all existing fermented liquors based on their net retail prices and the corresponding tax rates as outlined in Section 3 of RA No. 10351.

A statute must be construed as to harmonize all apparent conflicts and give effect to all its provisions whenever possible. However, in case of irreconcilable conflict between two provisions of the same statute, the last in order of position is frequently held to prevail, unless it clearly appears that the intent of the legislature is otherwise.

Given the irreconcilable nature of the two provisions and the fact that the provision mandating the classification of all fermented liquors existing in the market during the effectivity of RA No. 10351 is a later provision, the latter prevails. In effect, the no downgrading rule is rendered ineffectual.

Having established that the 'no downward reclassification' provision insofar as it prohibits the downgrading of previous excise tax rates paid on fermented liquors existing in the market upon the effectivity of RA No. 10351 has been rendered ineffective by the later provision, the applicable initial excise tax rate for 2013 is P15.00/P20.00, not P20.57 per liter.

In San Miguel Brewery, Inc. vs. Commissioner of Internal Revenue, which involves the same parties and issues but pertaining only to a different taxable period (i.e., January 1, 2018 to December 31, 2018), the Court's Second Division issued a Decision declaring that the applicable excise tax rate for 2013 is P15.00/P20.00, depending on the net retail price.

. . .

Accordingly, Section 5 of RR No. 17-2012 insofar as it implements the 'no downgrading' rule, as well as Annex 'A-1' of RMC No. 90-2012 insofar as it prescribes the initial tax rate of P20.57 per liter as basis for indexation, are deemed null and void for being contrary to RA No. 10351.

. . .

> Following the nullification of the initial tax rate of P20.57 per liter as provided in Annex 'A-1' of RMC No. 90-2012, petitioner's beer products are subject to the excise tax rates outlined in Section 3 of RA No. 10351. Therefore, applying the 4% indexation rate starting January 1, 2018, the correct excise tax rate for 2020 applicable to petitioner's beer products is P26.44 per liter.
>
> Recall that there is a difference of P0.63 between the excise tax rate of P27.07 per liter erroneously, illegally, excessively and/or wrongfully imposed upon petitioner by the BIR for the removal of the former's beer products from January 23, 2020 to February 9, 2020, and the correct excise tax rate of P26.44 per liter.
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> The imposition of the additional P0.63 excise tax rate per liter totaled P8,278,851.12.

Accordingly, *RMC 90-2012* is void in so far as it prescribes an excise tax rate of Php20.57. This is because it went beyond the law, *RA 10351,* which it seeks to implement.

In addition to this, *RMC 90-2012* is also void as it was issued without the requisite prior notice and hearing as required by jurisprudence. The Supreme Court in *Philippine Stock Exchange, Inc. v. Secretary of Finance*,[38] provided that:

> In fine, the gauge on determining if a regulation requires prior notice and hearing is its substance or content. Prior notice and hearing are required if the regulation substantially increases the burden of those governed, notwithstanding its nomenclature - despite the regulation being called or designated as interpretative. Thus, if the questioned regulations here in this case are legislative rules or substantially increase the burden of those governed, they should have undergone prior notice and hearing (which, in this case, are undisputedly absent) for their validity. If they are interpretative rules, prior notice and hearing are not essential for their validity.

As duly found in another case tried before the Court *En Banc* involving the same parties, *Commissioner of Internal Revenue v. San Miguel Brewery Inc.*,[39] *RMC No. 90-2012* is void for being issued without prior notice and hearing.

Consequently, it was duly established that the applicable rate for respondent's beer products is only Php26.44 per liter. However, as it was charged by petitioner a rate of Php27.07 per liter, this resulted in an additional Php0.63 per liter excise tax being charged against respondent. As such, respondent is indeed entitled to a refund of erroneously or excessively paid excise tax in the total amount of Php8,278,851.12 covered by Claim A.

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[38] G.R. No. 213860, July 5, 2022.

[39] CTA *EB* No. 2890, CTA Case No. 8955, November 26, 2024.

RA 11467 only took effect on February 10, 2020 when it was published in print in the Official Gazette; thus, the imposition of the increased excise tax rates under RA 11467 on respondent's products before such effectivity date is an erroneous collection of excise tax.

In the case at bar, petitioner insists that the increased excise tax imposed on petitioner's beer products by virtue of *RA 11467* from January 23, 2020 to February 9, 2020 was a valid imposition considering that the said law became effective on January 23, 2020, pursuant to *RMC 113-2020,* which published the full text of the Letter, dated August 18, 2020, from Undersecretary Tionko, clarifying that *RA 11467* was published in the Official Gazette on January 23, 2020 through its website. Thus, per petitioner, San Miguel should pay the increased excise tax rate beginning January 23, 2020.

This is misplaced. *RA 11467* only became effective on February 10, 2020 after it was published in print in the Official Gazette of the Philippines.

Elementary is the rule that retrospective laws are unconstitutional if they disturb or destroy existing or vested rights, as where they disturb or destroy existing or vested rights embodied in judgments or judicial decisions, or create new obligations with respect to past transactions, as by creating a substantive right, or a fundamental cause of action where none existed before and making such retroactive, or by arbitrarily recreating a right or liability already extinguished by operating of law.[40]

Section 15 of RA 11467 provides, as follows:

> Section 15. Effectivity.- This Act shall take effect on January 1, 2020 after its complete publication either in the Official Gazette or in newspaper of general circulation.

The said law should be interpreted to become effective only after its complete publication either in the Official Gazette or in a newspaper of general circulation. To interpret that *RA 11467* instantly becomes effective on January 1, 2020 will result in a retroactive application of the law. Applying *RA 11467* retroactively to transactions predating its publication imposes new obligations to taxpayers in the form of additional tax liabilities. Certainly, this retroactive imposition encroaches upon vested property rights, including the right to enter into transactions that are governed by tax laws in force, and not by tax rates imposed by laws then inexistent, at the time. In fact, the Department of Finance made it clear that the effectivity date of *RA 11467* is

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[40] 16 C.J.S. 99-102.

not on January 1, 2020. In a Memorandum, dated January 29, 2020,[41] from Undersecretary Antonette C. Tionko, Revenue Operations Group of the Department of Finance, for Secretary of Finance Carlos G. Dominguez. The Memorandum states:

> RA No. 11467 is a tax measure that imposes higher tax rates on certain products. As such, the retroactive application of RA No. 11467 to 1 January 2020 cannot be applied since it will be unjust against the affected taxpayer whose liabilities and responsibilities are increased. Taxpayers relied in good faith and paid the correct taxes at the time when the law is yet to be published should not be required to pay additional taxes.

Clearly, *RA 11467* did not take effect on January 1, 2020 but only upon publication.

Publication is a necessary component of procedural due process to give as wide publicity as possible so that all persons having an interest in the proceedings may be notified thereof.[42] The requirement of publication is intended to satisfy the basic requirements of due process. It is imperative for it will be the height of injustice to punish or otherwise burden a citizen for the transgressions of a law or rule of which he had no notice whatsoever.[43]

In *Garcillano vs House of Representatives Committees on Public Information, Public Order and Safety, National Defense and Security, Information and Communication Technology, and Suffrage and Electoral Reforms ("Garcillano case"),*[44] the Supreme Court, applying *Tañada vs. Tuvera,*[45] held that publication is restricted to the Official Gazette and newspapers of general circulation, and other mediums, such as the internet, do not satisfy this requirement, to wit:

> Respondents justify their non-observance of the constitutionally mandated publication by arguing that the rules have never been amended since 1995 and, despite that, they are published in booklet form available to anyone for free, and accessible to the public at the Senate's internet web page.
>
> The Court does not agree. The absence of any amendment to the rules cannot justify the Senate's defiance of the clear and unambiguous language of Section 21, Article VI of the Constitution. The organic law instructs, without more, that the Senate or its committees may conduct inquiries in aid of legislation only in accordance with duly published rules

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[41] The Memorandum was attached to RMC 65-2020, dated June 22, 2020.

[42] National Association of Electricity Consumers for Reforms (NASECORE) vs. Energy Regulatory Commission (ERG}, G.R. No. 163935, August 16, 2006.

[43] Garcillano vs House of Representatives Committees on Public Information, Public Order and Safety, National Defense and Security, Information and Communication Technology, and Suffrage and Electoral Reforms, G.R. No. 170338, December 23, 2008.

[44] *Ibid.*

[45] G.R. No. L-63915, April 24, 1985.

> of procedure, and does not make any distinction whether or not these rules have undergone amendments or revision. The constitutional mandate to publish the said rules prevails over any custom, practice or tradition followed by the Senate.
>
> Justice Carpio's response to the same argument raised by the respondents is illuminating:
>
> The publication of the Rules of Procedure in the website of the Senate, or in pamphlet form available at the Senate, is not sufficient under the Taiiada vs. Tuvera ruling which requires publication either in the Official Gazette or in a newspaper of general circulation. The Rules of Procedure even provide that the rules 'shall take effect seven (7) days after publication in two (2) newspapers of general circulation', precluding any other form of publication. Publication in accordance with the due process requirement because the Rules of Procedure put a person's liberty at risk. A person who violates the Rules of Procedure could be arrested and detained by the Senate.

Following these disquisitions, *RA 11467* only became effective on February 10, 2020 after it was published in print in the Official Gazette of the Philippines.

Taxpayers who acted in good faith and paid the appropriate taxes prevailing before an amendatory law was published should not be compelled to pay additional taxes. Pursuant to the *Garcillano case*, publication can only be made in print through the Official Gazette or in a newspaper of general circulation. Thus, prior to the publication of RA No. 11467 in the printed version of the Official Gazette on February 10, 2020, respondent, who relied in good faith and paid the then prevailing excise tax rates cannot be compelled to pay the additional excise tax levied under the amendatory law.

Thus, for declaring a different effectivity date for *RA 11467, RMC 65-2020*, which initially declared that *RA 11467* took effect on January 27, 2020, and *RMC 113-2020*, which finally clarified that *RA 11467* took effect on January 23, 2020 instead, are null and void.

Accordingly, the increased excise tax rate per *RA 11467* of P35.00 per liter may only be imposed beginning February 10, 2020. The imposition of the increased excise tax rates under *RA 11467* on respondent's products before such effectivity date is erroneous.

Finally, this Court *En Banc* agrees with the findings of the Court in Division regarding the specific amount claimed, as follows:[46]

[46] See Assailed Decision.

> [T]he premature imposition of the increased excise tax rate for the period from January 23, 2020 to February 9, 2020 on petitioner's beer products resulted to an erroneous, excessive, illegal and/or wrongful. The premature imposition of the increased excise tax rate for the period from January 23, 2020 to February 9, 2020 on petitioner's beer products resulted to an erroneous, excessive, illegal and/or wrongful payment of Php1,060,496,977.92 by petitioner, which it may claim as refund.
>
> To prove that petitioner paid the afore-stated basic deficiency excise tax of Php1,060,496,977.92, it presented its Letter dated January 4, 2021 sent to the BIR regarding such payment with attached BIR Payment Form (BIR Form No. 0605), eFPS Filing Reference and Payment Confirmation, and Tax Debit Memos. These documents sufficiently prove petitioner's payment of the Php1,060,496,977.92 it seeks to refund.

Therefore, respondent is indeed entitled to a refund of erroneously or excessively paid excise tax in the total amount of Php1,060,496,977.92 covered by Claim B which represents the imposition of the increased excise tax rates under *RA 11467* on respondent's products prior to said law's effectivity date.

In totality, respondent was able to prove its entitlement to the full amount of its claimed refund of erroneously paid excise tax equivalent to Php 1,068,775,829.04 for the period from January 23, 2020 to February 9, 2020.

ACCORDINGLY, the Petition filed by the CIR is hereby **DENIED** for lack of merit. Accordingly, the Assailed Decision, dated November 18, 2024, and the Assailed Resolution, dated May 6, 2025, promulgated by the Court in Division are hereby **AFFIRMED**.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

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

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