REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION, *Petitioner,*	**CTA Case No. 10966**
	Members:
- versus -	**MANAHAN,** *Chairperson,* **REYES-FAJARDO,** and **ANGELES** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: AUG 12 2025 3:15 pm

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DECISION

REYES-FAJARDO, *J.*:

This Petition for Review[1] dated August 30, 2022, filed by Pilipinas Shell Petroleum Corporation, seeks the refund or credit, the total amount of ₱83,495,520.00, representing the excise taxes it paid on Jet A-1 fuel, imported on September and October 2020, which was subsequently sold and delivered to tax-exempt international air carriers from October to December 2020.

FACTS

Petitioner Pilipinas Shell Petroleum Corporation is a corporation organized and existing under the laws of the Philippines, with office address at the 41st Floor, The Finance Center, 26th Street corner 9th Avenue, Bonifacio Global City, 1635 Taguig City.[2]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR), vested under the appropriate laws with the authority to carry out the functions, duties, and responsibilities of

1 Docket, pp. 6-28.
2 Exhibit "P-37." *Id.* at pp. 599-614.

said office, including, *inter alia,* the power to decide disputed assessments, grant tax refunds and issue tax credit certificates, pursuant to the provision of the National Internal Revenue Code (NIRC) and other tax laws, rules, and regulations.[3]

On April 7, 2021, petitioner filed its Application for Tax Credits/Refunds (BIR Form No. 1914),[4] and letter dated March 9, 2021,[5] with the BIR - Excise Large Taxpayers Audit Division II (BIR-ELTADII), applying for refund or credit of excise taxes for the periods November 13, 2020 to December 13, 2020, in the amount of ₱40,374,392.00, on the alleged sale of petroleum products to international air carriers of Philippine or foreign registry for consumption outside the Philippines.

On April 16, 2021, petitioner filed another Application for Tax Credits/Refunds (BIR Form No. 1914),[6] and letter dated February 10, 2021,[7] with BIR-ELTADII, applying for refund or credit of excise taxes for the periods October 2, 2020 to November 13, 2020, in the amount of ₱43,121,128.00 on the alleged sale of petroleum products to international air carriers of Philippine or foreign registry for consumption outside the Philippines.

On August 31, 2022, petitioner filed a Petition for Review,[8] docketed as CTA Case No. 10966, to which respondent lodged his Answer[9] on November 18, 2022.

On July 26, 2023, pre-trial conference was held. There, the issue to be addressed in CTA Case No. 10966 was formulated. Further, the respective schedule for the marking of the parties' document exhibits, was set. In addition, the schedule for the presentation of petitioner's evidence was, as well, set, whereas respondent manifested that there has yet to be a report on petitioner's administrative claim for refund or credit. Moreover, the parties were granted until August 25, 2023, to submit their Joint Stipulation of Facts and Issues, *inter alia*.[10]

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3 Par. 1, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI). *Id.* at p. 264.
4 Exhibit "P-36-1." *Id.* at p. 598.
5 Exhibit "P-36." *Id.* at pp. 595-597.
6 Exhibit "P-35-1." *Id.* at p. 594.
7 Exhibit "P-35." *Id.* at pp. 591-593.
8 *Supra* note 1.
9 Docket, pp. 112-120.
10 See Order dated July 26, 2023. *Id.* at pp. 261-263.

On August 29, 2023, the parties filed their Joint Stipulation of Facts and Issues (JSFI).[11] On the same date, petitioner filed a Motion to Avail of the Provisions of Section 5, Rule 12 of the Revised Rules of the Court of Tax Appeals.[12]

Under Minute Resolution[13] dated September 5, 2023, the parties' JSFI was admitted and approved, among others. On the basis thereof, a Pre-Trial Order[14] dated October 10, 2023 was issued.

Trial proceeded.

Petitioner called multiple witnesses, the specifics of which are as follows:

Witnesses	Position/Designation	Date Presented
Anna Beatriz Vergel de Dios[15]	Petitioner's Import Additives Scheduler	October 11, 2023[16]
Hazel Pangadian Tabamo (Commissioning as Independent Certified Public Accountant)		October 11, 2023[17]
Patrick R. Manalo[18]	Petitioner's Airport Operations Manager	October 11, 2023[19] and November 15, 2023[20]
Berenice Angelique L. Flores[21]	Petitioner's Tax Advisor	November 15, 2023[22]
Jonathan Juanillo[23]	Petitioner's former Terminal Operations Manager at Tabangao Depot and current Social Performance Adviser for Downstream	November 15, 2023[24]
Atty. Farida Nimfa G. Dimailig[25]	Petitioner's Country Tax Manager	November 23, 2023[26]

11 *Id.* at 264-276.
12 *Id.* at pp. 277-280.
13 *Id.* at p. 290.
14 *Id.* at pp. 380-388.
15 Exhibit "P-43." *Id.* at pp. 90-105.
16 See Order dated October 11, 2023. *Id.* at pp. 392-394.
17 *Ibid.*
18 Exhibit "P-44." Docket, pp. 300-313.
19 *Supra* note 16.
20 For cross-examination by respondent's counsel. See Order dated November 15, 2023, *infra* note 22.
21 Exhibit "P-46." Docket, pp. 141-154.
22 See Order dated November 15, 2023. *Id.* at pp. 396-397.
23 Exhibit "P-45." *Id.* at pp. 69-75.
24 *Supra* note 22.

Ma. Luz Salting-Verdejo[27]	Head Librarian, Carlos P. Romulo Library of the Department of Foreign Affairs	November 23, 2023[28]
Hazel Pangadian Tabamo[29]	Independent Certified Public Accountant	January 16, 2024[30]

On February 15, 2024, petitioner filed its Formal Offer of Evidence,[31] which was met by respondent's Comment (Re: Formal Offer of Evidence)[32] filed on February 16, 2024.

By Resolution[33] dated May 8, 2024, the evidence offered by petitioner was admitted. The latter rested its case.

On June 24, 2024, respondent filed a Manifestation, expressing that he would not present witnesses in this case.[34]

On August 12, 2024, CTA Case No. 10966 was submitted for decision, considering: (1) respondent's Memorandum[35] filed on August 2, 2024; and (2) Memorandum for Petitioner[36] filed on August 12, 2024.

ISSUE[37]

Is petitioner entitled to the refund or credit of the amount of Eighty-Three Million Four Hundred Ninety-Five Thousand Five Hundred Twenty Pesos (₱83,495,520.00), representing the alleged excise taxes paid by the latter on imported Jet A-1 Fuel, which were sold and delivered to various international carriers and to tax-exempt entities, for use or consumption abroad covering the period October to December 2020?

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25 Exhibits "P-47" and "P-49." *Id.* at pp. 46-54 and 183-186, respectively.
26 See Order dated November 23, 2023. *Id.* at pp. 399-400.
27 Exhibit "P-48." *Id.* at pp. 193-198.
28 *Supra* note 26.
29 Exhibit "P-101." Docket, pp. 454-461.
30 See Order dated January 16, 2024. *Id.* at pp. 468-469.
31 *Id.* at pp. 470-507.
32 *Id.* at pp. 786-788.
33 *Id.* at pp. 795-796.
34 *Id.* at pp. 797-799.
35 *Id.* at pp. 802-810.
36 *Id.* at pp. 812-844.
37 See Par. 2, Stipulation of Issue, JSFI. *Id.* at pp. 264-265.

ARGUMENTS

Petitioner insists that it had complied with all the conditions for the allowance of refund or credit under Sections 204(C) and 229 of the NIRC, as amended. For one, both its administrative claims and judicial claim for refund or credit were filed within two (2) years from payment of excise taxes (ET) subject thereof. For another, the ET sought to be refunded or credited were illegally or erroneously collected internal revenue taxes because it is exempted from payment thereof, following Section 135(a) of the same Code.

Taking an opposite view, respondent ripostes that petitioner's claim for refund or credit of ET should be rejected because: (1) its sale of Jet A-1 fuel to tax-exempt entities is *not* covered by the exemption under Section 135(a) of the NIRC, as amended; and (2) it is not one of the tax-exempt transactions set forth in Section 130(D) of the same Code.

RULING

We partly grant the Petition.

First. Did We acquire jurisdiction over CTA Case No. 10966?

Yes.

Section 7(a)(2) of Republic Act (RA) No. 1125,[38] as amended by RA No. 9282 reads:

> Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> ...
>
> 2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges, penalties in relations thereto**, or other matters arising under the

38 An Act Creating the Court of Tax Appeals.

> National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;
>
> ...[39]

Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals[40] clarified that the CTA in Division has jurisdiction over the inaction of respondent involving refunds of internal revenue taxes, among others. Among the classes thereof is one premised upon illegal, erroneous, or excessive collection of internal revenue taxes, as recognized in Sections 204(C) and 229 of the NIRC, as amended. *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*[41] illuminated on the requirements for Us to acquire jurisdiction over said type of refund case, as follows:

> Section 204 [of the NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
>
> Section 229 [of the NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
>
> Reading the two provisions together, both administrative and judicial claims must be filed within the two-year period. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund file either prematurely or out of time."

Petitioner paid the ET sought to be refunded or credited on September 2, 2020[42] and October 16, 2020.[43] Following *Carrier,* petitioner had two (2) years therefrom, or until September 2, 2022 and October 16, 2022 to lodge its administrative claims and judicial claims

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39 Boldfacing ours.
40 A.M. 05-11-07-CTA.
41 G.R. No. 226592, July 27, 2021.
42 Exhibit "P-5." Docket, p. 513.
43 Exhibit "P-13." Docket, p. 523.

for refund or credit in that order. *Ergo,* the timely filing of its administrative claims for refund or credit on April 7, 2021[44] and April 16, 2021,[45] along with its seasonable institution of its Petition for Review[46] on August 31, 2022, clothed Us with jurisdiction over CTA Case No. 10966.

Second. Is petitioner entitled to the refund or credit of ET paid on its imported Jet A-1 fuel, which were subsequently sold and delivered to various international carriers and to tax-exempt entities, for use or consumption abroad covering the period October to December 2020?

Yes, albeit in part.

To properly understand the foundation of Our conclusion, it is necessary to elaborate on petitioner's process and document flow of its importation of Jet A-1 fuel in September and October 2020, the payment of taxes thereon, along with the withdrawal thereof from its importation facility.

Witness Vergel de Dios[47] explained that petitioner discontinued its refinery operations on August 2020. From then on, importation is the primary source of its petroleum products, including Jet A-1 fuel. Petitioner's refinery in Tabangao, Batangas was further converted to an importation facility (Tabangao Import Facility).[48] The process and document flow on the importation of Jet A-1 fuel has three (3) stages, namely: (1) requisition of goods and importation; (2) arrival and discharge of imported goods; and (3) payment of taxes and import duties.[49]

Witness Vergel de Dios as well said that petitioner's claim for refund or credit in this case pertains to ET paid relative to Jet A-1 fuel imported on September and October 2020.[50] We expound on these two (2) importations *in seriatim.*

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44 *Supra* notes 4 and 5.
45 *Supra* notes 6 and 7.
46 *Supra* note 8.
47 Exhibit "P-43." Docket, pp. 90-105.
48 Answer to Question No. 10, Exhibit "P-43." *Id.* at p. 93
49 Answer to Question No. 12, Exhibit "P-43." *Ibid.*
50 Answer to Question No. 42, Exhibit "P-43." *Id.* at p. 100.

First Importation:

Petitioner imported 11,353,500 liters of Jet A-1 fuel, which arrived on September 6, 2020, *via* MT Aulac Bella,[51] at Tabangao, Batangas City. This was declared under Bureau of Customs Single Administrative Document (BOC-SAD), with Customs Reference C 1017542. It likewise paid ET thereon, amounting to ₱45,414,000.00.[52] These findings are evidenced by the following documents:

1. Bill of Lading No. 88215 dated August 28, 2020 showing the quantity of 11,353,500 liters (@ OBSRD);[53]
2. Load Port Survey Report (LPSR) - Summary Report No. INTSGP016274 dated August 28, 2020;[54]
3. Customs Invoice Bulk Product No. ITQQ0E0001 dated August 28, 2020;[55]
4. BOC SAD with Customs Reference C 1017542 dated September 1, 2020 showing the quantity at 11,353,500 liters;[56]
5. Statement of Settlement of Duties and Taxes (SSDT) dated September 2, 2020;[57]
6. Authority to Release Imported Goods (ATRIG) dated September 2, 2020;[58]
7. Certificate of Quantity Received (CQR) with date received on September 6, 2020, showing the quantity at air of 11,266,033 liters;[59] and
8. Tax Invoice No. 91246214/P dated September 7, 2020.[60]

Second Importation:

Petitioner imported 10,471,296 liters of Jet A-1 fuel, which arrived on October 23, 2020, *via* MT Marlin Apatite,[61] at Tabangao, Batangas City. This was declared under BOC-SAD, with Customs

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51 Exhibit "P-4." Docket, p. 512.
52 *Supra* note 50.
53 Exhibit "P-1." Docket, p. 508.
54 Exhibit "P-2." *Id.* at pp. 509-510.
55 Exhibit "P-3." *Id.* at p. 511.
56 Exhibit "P-4." *Id.* at p. 512.
57 Exhibit "P-5." *Id.* at p. 513.
58 Exhibit "P-6." *Id.* at p. 514.
59 Exhibit "P-7." *Id.* at p. 515.
60 Exhibit "P-8." *Id.* at pp. 516-518.
61 Exhibit "P-12." Docket, p. 522.

Reference C 1019721.[62] It likewise paid ET thereon, amounting to ₱41,885,184.00.[63] These findings are evidenced by the following documents:

1. Bill of Lading No. 2010-3-00035-E-BL-1 dated October 12, 2020 showing the quantity of 10,469,941 liters (@ Obs. Temp.);[64]
2. LPSR – Summary Report No. I SPSG20002462 dated October 14, 2020;[65]
3. Customs Invoice – Bulk Product No. ITREJQ0001 dated October 13, 2020;[66]
4. BOC SAD with Customs Reference C 1019721 dated October 14, 2020 showing the quantity at 10,469,941 liters;[67]
5. SSDT dated October 15, 2020;[68]
6. Updated SSDT dated October 15, 2020;[69]
7. ATRIG dated October 19, 2020;[70]
8. CQR with date received on October 23, 2020 showing the quantity at air of 10,471,296 liters;[71]
9. Tax Invoice No. 90823266/P dated November 4, 2020;[72] and
10. BOC Official Receipt (OR) No. 01888877355 dated December 2, 2020.[73]

To be sure, BOC-SAD with Customs Reference C 1019721,[74] as well as the *original* SSDT dated October 15, 2020,[75] collectively reveal that petitioner paid ET amounting to ₱41,879,764.00 for 10,469,941 liters of imported Jet A-1 fuel. Yet, petitioner's *updated* SSDT dated October 15, 2020[76] reflected the amount of ₱41,885,188.00[77] as payment for ET for 10,471,296 liters of imported Jet A-1 fuel. The difference between the *original* and *updated* SSDT amounting to ₱5,424.00 (₱41,885,188.00 less ₱41,879,764.00) was included in the

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62 *Ibid.*
63 Answer to Question No. 42, "Exhibit "P-43." Docket, p. 100.
64 Exhibit "P-9." *Id.* at p. 519.
65 Exhibit "P-10." *Id.* at p. 520.
66 Exhibit "P-11." *Id.* at p. 521.
67 Exhibit "P-12." *Id.* at p. 522.
68 Exhibit "P-13." *Id.* at p. 523.
69 Exhibit "P-13-1." *Id.* at p. 524.
70 Exhibit "P-14." *Id.* at p. 525.
71 Exhibit "P-15." *Id.* at p. 526.
72 Exhibit "P-16." *Id.* at pp. 527-530.
73 Exhibit "P-18." *Id.* at p. 532.
74 Exhibit "P-12." *Id.* at p. 522.
75 Exhibit "P-13." *Id.* at p. 523.
76 Exhibit "P-13-1." *Id.* at p. 524.
77 Noted an overpayment of ₱4.00; ₱41,885,18<u>8</u>.00 per updated SSDT dated October 15, 2020 (Exhibit "P-13-1," Docket, p. 524), against ₱41,885,18<u>4</u>.00 per Judicial Affidavit of Ms. Anna Beatriz Vergel de Dios (Answer to Question No. 42, Exhibit "P-43," Docket, p. 100).

payment made to BOC under OR No. 01888877355 dated December 2, 2020.[78]

Adding it up, petitioner proved that it paid ET worth ₱87,299,184.00 on two (2) importations of Jet A-1 fuel, tabled as follows:

Transaction	Quantity (in liters)	ET Paid by Petitioner
First Importation (September 6, 2020)	11,353,500	₱ 45,414,000.00
Second Importation (October 23, 2020)	10,471,296	41,885,184.00
Total	**21,824,796**	**₱87,299,184.00**

Of the ET amounting to ₱87,299,184.00 paid by petitioner on the first and second importations, the latter seeks ₱83,495,520.00 thereof as refund or credit.[79] According to petitioner, ₱83,495,520.00 pertains to ET on its imported Jet A-1 fuel which were sold to international air carriers for their use or consumption outside the Philippines; hence, exempt from ET imposition under Section 135(a) of the NIRC, as amended. Petitioner expounded on the particulars thereof through the following presentation:[80]

Customer	Country of Registry	Total Volume in Liters
Air China Ltd	China	75,192
Air Niugini Ltd	Papua New Guinea	509,586
AirAsia Berhad	Malaysia	23,494
Asiana Airlines Inc	Republic of Korea	371,512
China Airlines Ltd	China	873,038
China Eastern Airlines Co., Ltd	China	623,955
Deutsche Lufthansa Ag	Germany	304,412
Federal Express Corp	United States of America	2,302,913
Hong Kong Airlines Limited	Hong Kong	770
Jetstar Asia Airways Pte Ltd	Singapore	910
Malaysia Airlines Berhad	Malaysia	204,819
Philippine Airlines Inc	Philippines	15,179,726
Philippine AirAsia Inc	Philippines	272,819
Xiamen Airline Co Ltd	China	130,734
Total Aviation Sales (in Liters)		**20,873,880**
Excise Tax Rate		₱4.00/liter
TOTAL EXCISE TAX		**₱83,495,520.00**

78 Exhibit "P-18." *Id.* at p. 532.
79 See prayer, Petition for Review in CTA Case No. 10966. *Supra* note 8.
80 Par. 7, Statement of the Facts, Petition for Review. Docket, pp. 7-9.

We partly agree with petitioner.

Section 229[81] of the NIRC, as amended, allows the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is by some other similar respect illegal.[82] Erroneous or wrongful payment includes excessive payment because they all refer to payment of taxes not legally due.[83] Petitioner tethered its erroneous or illegal payment of ET, on the tax exemption under Section 135(a) of the NIRC, as amended, which reads:

> **SEC. 135.** ***Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.*** - Petroleum products sold to the following are exempt from excise tax:
>
> (a) International carriers of Philippine or foreign registry directly importing petroleum products, on their use or consumption outside the Philippines: Provided, That the petroleum products sold to these international carriers shall be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner;

For ET exemption under Section 135(a) of the NIRC, as amended, to lie, the following requisites must concur: *first,* the imported Jet A-1 fuel sold to international air carriers was stored in a bonded storage tank, and had been disposed of in accordance with the rules and regulations; *second,* foreign registry of the international

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81 SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.*- no suit or proceeding shall be maintained in any court for the recovery of any **national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected,** until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

... (Boldfacing ours)

82 See *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation,* G.R. No. 188497, April 25, 2012.

83 See *Commissioner of Internal Revenue v. San Roque Power Corporation,* G.R. No. 187485, February 12, 2013.

air carriers, or in case of Philippine-registered air carriers, the latter's authority to operate international flights; and *third*, the imported Jet A-1 fuel was used or consumed outside the Philippines.

Petitioner duly proved the *first* and *third* requisites, while two (2) of its clients failed to satisfy the *second* requisite. Bear in mind:

First. Witness Manalo outlined[84] the processes, and petitioner presented supporting documentation, before the imported Jet A-1 fuel reaches petitioner's storage tanks in Joint Oil Company Aviation Storage Plant (JOCASP) at the Ninoy Aquino Airport (NAIA) in Manila and the Clark Aviation Services Inc. (CASI) facility at the Clark International Airport in Pampanga, for eventual sale and delivery to the customers of petitioner, as well as the payments received on such sales.

Specifically, before imported Jet A-1 fuel is withdrawn or removed from the Tabangao Import Facility to the Tabangao Depot, and from the Tabangao Depot to JOCASP and CASI, a Withdrawal Certificate (WC)[85] is prepared and signed by the Revenue Officer on Premises (ROOP) and petitioner's representative. The WC shows the kind of petroleum product withdrawn, the source thereof, its destination, date of withdrawal and volume withdrawn. If excise tax had already been paid on the petroleum product covered by the WC withdrawn from the Tabangao Import Facility to the Tabangao Depot, the WC shall contain a notation "tax-paid."[86]

Relatedly, both the Tabangao Import Facility and the Tabangao Depot have Official Register Books[87] (ORBs) that respectively record the withdrawals of Jet A-1 fuel from the Tabangao Import Facility to the Tabangao Depot and from the Tabangao Depot to JOCASP and CASI.[88]

Said Jet A-1 fuel are delivered by lorries or tank trucks to JOCASP and CASI.[89] Once in JOCASP and CASI, the Jet A-1 fuel is

84 Exhibit "P-44." *Id.* at pp. 300-312.
85 Exhibits "P-85" and "P-88," USB.
86 Answer to Question No. 12, Exhibit "P-44." Docket, p. 303.
87 Exhibits "P-84" and "P-87." USB.
88 Answer to Question No. 11, Exhibit "P-44." Docket, p. 303.
89 *Ibid.*

then sold and delivered to international air carriers refueling in the airports.[90]

Therefore, petitioner's testimonial and documentary evidence demonstrate that the imported Jet A-1 fuel sold to international air carriers were stored in a bonded storage tank, and had been disposed of in accordance with the rules and regulations.

Second. Petitioner presented Civil Aeronautics Board Certification dated August 25, 2022 (CAB Certification),[91] showing that the international air carriers of foreign registry listed therein, to which the Jet A-1 fuel subject of this case were sold, have been issued Foreign Air Carrier's Permit (FACP). Said FACP authorized them to operate international flights only, for a specific period, including, but not limited to year 2020.

The same CAB Certification further contained the following details regarding the Philippine-registered air carriers:

> 1) Philippine Airlines, Inc. has been granted a Franchise Permit through Presidential Decree No. 1590 to operate and maintain air transportation services in the Philippines and between the Philippines and other countries, and that the said Franchise Permit authorizes the said airline to operate international flights from June 11, 1978 to present, including the year 2020;
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> 2) Cebu Air, Inc. has been granted a Franchise Permit through Republic Act No. 7151 and a Certificate of Public Convenience and Necessity (CPCN) via CAB Board Resolution No. 20 (BM03a-05-05-2017) to operate and maintain air transportation services in the Philippines and between the Philippines and other countries, and that the said permits authorize[d] the said airline to operate international flights in the year 2020; and
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> 3) Philippines AirAsia Inc., has been granted a Franchise Permit (through its predecessor Asian Spirit Inc.) titled Republic Act No. 9183 (RA 9183) and a Certificate of Public Convenience and Necessity (CPCN) via CAB Resolution No. 34 (BM04A-07-13-2017) to operate and

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[90] Answer to Question No. 10, Exhibit "P-44." Docket, p. 302.

[91] Exhibit "P-41." *Id.* at p. 785.

maintain air transportation services in the Philippines and between the Philippines and other countries, and that the said permits authorizes the said airline to operate international flights in the year 2020.

So too did petitioner present Civil Aviation Authority of the Philippines Certification dated August 31, 2022 (CAAP Certification),[92] confirming the country of registration of the aircraft operators listed therein.

Tallying the data in the CAB[93] and CAAP[94] Certifications, the following are petitioner's customers, their respective countries of registration, along with those possessing FACPs to operate international flights:

International Airlines	Aircraft Registration No.	Country of Registration	Permit Date Issued	Permit Expiry
1. Air China Ltd.	B6075, B6076, B6090, B6092	China	Mar. 6, 2020	Mar. 6, 2025
2. Air Niugini Ltd.	P2PXC, P2PXD, P2PXV, P2PXW	Papua New Guinea	May 6,2018	May 6,2023
3. AirAsia Berhad	9MAJG, 9MRAA, 9MVAA, 9MVAB	Malaysia	May 5, 2017	May 5, 2020
4. Asiana Airlines Inc.	HL7700, HL7732, HL7755, HL7756, HL7775, HL8254, HL8284	Republic of Korea	Sep. 29, 2019	Sep. 29, 2024
5. China Airlines Ltd.	B18303, B18317, B18352, B18357, B18359, B18660, B18706, B18723, B18725, B18302, B18306, B18307, B18308, B18309, B18310, B18311, B18315, B18316, B18351, B18355, B18356, B18358, B18360, B18361, B18612, B18615, B18651, B18652, B18653, B18655, B18656, B18657, B18658, B18663, B18665, B18666, B18667, B18701, B18707, B18708, B18709, B18710, B18711, B18712, B18715, B18717, B18719, B18720, B18722, B18761	China	Jan. 8, 2017	Jan. 8, 2022
6. China Eastern Airlines Co., Ltd.	B1041, B1640, B5902, B5938, B5941, B5973, B6085, B6543, B7347, B7367, B8968, B9906, B9947	China	Nov. 20, 2018	Nov. 20, 2023
7. Deutsche Lufthansa AG	DAIFC, DAIKB	Germany	None	None

92 Exhibit "P-39-2." *Id.* at p. 638.
93 *Supra* note 91.
94 *Supra* note 92.

8. Federal Express Corp.	N101FE, N102FE, N103FE, N104FD, N104FE, N106FE, N107FE, N108FE, N121FE, N572FE, N573FE, N583FE, N584FE, N588FE, N593FE, N594FE, N595FE, N605FE, N612FE, N613FE, N617FE, N628FE, N642FE, N828FD, N844FD, N851FD, N853FD, N855FD, N858FD, N859FD, N861FD, N865FD, N868FD, N869FD, N876FD, N877FD, N877FE, N878FD, N880FD, N882FD, N883FD, N884FD, N886FD, N887FD, N891FD, N892FD, N893FD, N894FD, N896FD, N897FD, N914FD, N919FD, N946FD, N948FD	USA	Jun. 4, 2020	Jun. 4, 2025
9. Hong Kong Airlines Limited	BLPL	China	Mar. 15, 2018	Mar. 15, 2023
10. Jetstar Asia Airways PTE Ltd.	9VJSM	Singapore	Mar. 30, 2020	Mar. 30, 2025
11. Malaysia Airlines Berhad	9MMLO, 9MMTB, 9MMTE, 9MMTF, 9MMTJ, 9MMTM, 9MMTO, 9MMUA, 9MMUB, 9MMUD, 9MMXU, 9MMXV, 9MMXW	Malaysia	Aug. 30, 2017	Aug. 30, 2022
12. Xiamen Airline Co., Ltd.	B1356, B1566, B1567, B5535, B7836, B7838, B7846	China	Feb. 29, 2020	Jan. 3, 2025
13. Philippine Airlines Inc.	RP-C3501, RP-C3503, RP-C3506, RP-C3507, RP-C3508, RP-C7772, RP-C7773, RP-C7774, RP-C7775, RP-C7777, RP-C7778, RP-C7781, RP-C7782, RP-C8764, RP-C8765, RP-C8766, RP-C8781, RP-C8786, RP-C8789, RP-C8963, RP-C9902, RP-C9914, RP-C9918, RP-C9926, RP-C9928, RP-C9933, RP-C9935, RP-C9936, RP-C9937, RP-C9938	Philippines		
14. Philippines AirAsia Inc.	RP-C8948, RP-C8966, RP-C8977, RP-C8978	Philippines		

Of petitioner's fourteen (14) clients detailed in the immediately preceding table, clients (3) and (7) failed to satisfy the *second* requisite. To be precise, AirAsia Berhad is no longer authorized to operate international flights on the period of claim because its FACP expired on May 5, 2020. Likewise, Deutsche Lufthansa AG is not included in the CAB Certification with valid FACP. It means that these two (2) entities may *not* be considered as international air carriers within the purview of Section 135(a) of the NIRC, as amended. For this reason, petitioner's sale of 304,412 liters and 23,494 liters of Jet A-1 fuel to Deutsche Lufthansa AG and AirAsia Berhad, respectively, with corresponding excise tax payment of ₱1,217,648.00

and ₱93,976.00, or in the total amount of ₱1,311,624.00, shall be disallowed from petitioner's claim. Such disallowance is broken down, as follows:

Exhibit Reference	ASR No.	Delivery Date	Volume (in liters)	Excise Tax @₱4.00
Excise taxes on sale of Jet A-1 fuel to Deutsche Lufthansa AG with expired FACP				
"P-58," p. 440	0011149	Nov. 8, 2020	34,000	₱136,000.00
"P-58," p. 441	0011150	Nov. 8, 2020	19,000	76,000.00
"P-58," p. 443	0011152	Nov. 8, 2020	20,978	83,912.00
"P-58," p. 485	0011198	Nov. 13, 2020	34,000	136,000.00
"P-58," p. 490	0011203	Nov. 13, 2020	19,000	76,000.00
"P-58," p. 491	0011204	Nov. 13, 2020	18,040	72,160.00
"P-58," p. 591	00000287	Nov. 20, 2020	19,000	76,000.00
"P-58," p. 592	00000288	Nov. 20, 2020	32,099	128,396.00
"P-58," p. 602	00000302	Nov. 21, 2020	34,000	136,000.00
"P-58," p. 650	00000384	Nov. 29, 2020	13,202	52,808.00
"P-58," p. 653	00000387	Nov. 29, 2020	27,063	108,252.00
"P-58," p. 811	00000383	Nov. 29, 2020	34,030	136,120.00
		Sub-total	*304,412*	*₱1,217,648.00*
Excise taxes on sale of Jet A-1 fuel to AirAsia Berhad without FACP				
"P-58," p. 233	0010927	Oct. 5, 2020	2,134	₱8,536.00
"P-58," p. 286	0010984	Oct. 12, 2020	4,892	19,568.00
"P-58," p. 558	0019035	Oct. 18, 2020	2,568	10,272.00
"P-58," p. 569	0019046	Oct. 19, 2020	2,656	10,624.00
"P-58," p. 355	0011056	Oct. 30, 2020	1,618	6,472.00
"P-58," p. 493	0011206	Nov. 13, 2020	3,718	14,872.00
"P-58," p. 711	00000458	Dec. 6, 2020	5,908	23,632.00
		Sub-total	*23,494*	*₱93,976.00*
Total			**327,906**	**₱1,311,624.00**

Third. The Aviation Service Returns (ASRs)[95] submitted by petitioner indicated the details of the Jet A-1 fuel deliveries it made to international air carriers, including the origin and destination of the international air carriers, and volume in liters of Jet A-1 fuel delivered to international air carriers. Further, these ASRs exhibit the route of the international air carrier named therein (whether of foreign or Philippine registry) is only between the Philippines and other country. Thus, imported Jet A-1 fuel sold by petitioner to international air carriers, was used or consumed outside the Philippines.

95 Exhibit "P-58." USB.

All told, out of the ₱83,495,520.00 worth of ET being claimed as refund or credit by petitioner, the latter successfully proved that it erroneously or illegally paid ET totaling ₱82,183,896.00, corresponding to 20,545,974 liters of Jet A-1 fuel it directly imported, and subsequently sold to international air carriers. *Ergo,* said ₱82,183,896.00 should be allowed as refund or credit in its favor, pursuant to Sections 204(C) and 229 of the NIRC, as amended. Ponder on the following table:

Particulars	**Volume in Liters**	**Amount of Excise Taxes Paid at ₱4.00**
Volume/Amount of Excise Tax Claim per Petition for Review	20,873,880	₱ 83,495,520.00
Less: Sales made to international air carriers without valid/expired FACP	327,906	1,311,624.00
Volume and corresponding Amount of Refundable Excise Taxes	**20,545,974**	**₱82,183,896.00**

WHEREFORE, the Petition for Review dated August 30, 2022, in CTA Case No. 10966 is **PARTIALLY GRANTED**. The Commissioner of Internal Revenue is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of Pilipinas Shell Petroleum Corporation, in the reduced amount of **₱82,183,896.00**, representing excise taxes it paid on Jet A-1 fuel, imported on September and October 2020, and subsequently sold to international air carriers from October to December 2020.

SO ORDERED.

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

WE CONCUR:

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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