REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

PETRON CORPORATION,
Respondent.

CTA EB NO. 2643
(CTA Case No. 8544)

Present:

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

Promulgated:
JUN 25 2024 4:20pm

x - x

RESOLUTION

FERRER-FLORES, J.:

Before the Court *En Banc* is the *Motion for Reconsideration (Re: Decision promulgated 12 January 2024)* (**Motion for Reconsideration**) filed by petitioner **Commissioner of Internal Revenue (petitioner/CIR)** on February 1, 2024, with *Comment/Opposition (Re: Motion for Reconsideration dated 25 January 2024)* filed by **respondent Petron Corporation (respondent/Petron)** *via* registered mail on March 4, 2024 and received by the Court on March 6, 2024.

In the instant motion, petitioner prays for the Court *En Banc* to reverse and set aside its *Decision* dated January 12, 2024 (**assailed Decision**),[1] which dismissed his *Petition for Review* dated June 29, 2022 for lack of merit, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the *Petition for Review* is **DENIED** for lack of merit. Accordingly, the assailed Amended Decision dated July 19, 2021, and assailed Resolution dated June 9, 2022 in CTA Case No. 8544 are **AFFIRMED**.
>
> **SO ORDERED.**

To recall, in the assailed Decision, this Court affirmed the Court in Division's ruling and held that Petron's alkylate importation is not subject to excise tax considering that alkylate is not similar to naphtha or regular gasoline nor is it a product of distillation.

In his *Motion for Reconsideration*, petitioner heavily relies on the discussion of the Court in a different case[2] involving the similar issue of whether alkylate is subject to excise tax, where it was held that alkylate was a product of distillation, hence, subject to excise tax under Section 148(e) of the NIRC of 1997, as amended.

On the other hand, in its *Comment/Opposition*, respondent interposes that the present motion should be denied for being *pro forma* and for failing to comply with the requirements for a motion for reconsideration. Furthermore, respondent insists that the Court *En Banc* correctly ruled that alkylate is not a product of distillation and is not similar to naphtha or regular gasoline.

After an evaluation of the respective arguments raised by the parties, this Court finds that the petitioner's motion for reconsideration lacks merit.

A cursory reading of the present motion would reveal that the arguments of the petitioner are mere rehash of the matters already considered and exhaustively discussed by the Court *En Banc* in the assailed Decision. Glaringly, petitioner merely quoted the discussion of the Court in a different case which involved matters already addressed in the assailed Decision.

In *Department of Energy vs. Commissioner of Internal Revenue*,[3] the Supreme Court, citing *Shangri-la International Hotel Management, Ltd. vs.*

[1] *Rollo*, pp. 1421 to 1438.
[2] *Petron Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 2425, June 28, 2022.
[3] G.R. No. 260912 (Resolution), August 30, 2023.

Developers Group of Companies, Inc.,[4] held that, while a motion for reconsideration, by its nature, may tend to dwell on issues already resolved in the decision or resolution sought to be reconsidered, a circumstance which should not be an obstacle for a reconsideration, petitioners must still raise matters substantially plausible or compellingly persuasive to warrant a reversal of the Court's previous ruling.

Clearly, there are no new matters which warrant the Court's attention. At any rate, the Court, at the risk of being repetitive, emphasizes that no less than the Supreme Court has definitively declared that **alkylate does not belong to the same category as naphtha and regular gasoline; hence, the same should not be subjected to excise tax**.[5]

The Supreme Court, by tradition and in our system of judicial administration, has the last word on what the law is. It is the final arbiter of any justiciable controversy. There is only one Supreme Court from whose decisions all other courts should take their bearings.[6]

The ruling of the Supreme Court, therefore, that alkylate should not be subjected to excise tax, should prevail.

All told, the Court *En Banc* finds no compelling reason to reverse or modify the assailed Decision.

WHEREFORE, premises considered, petitioner's *Motion for Reconsideration (Re: Decision promulgated 12 January 2024)* is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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4 G.R. No. 159938 (Resolution). January 22, 2007.
5 *Petron Corporation vs. Commissioner of Internal Revenue*, G.R. No. 255961, March 20, 2023.
6 *Commissioner of Internal Revenue vs. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July 15, 2003, citing *Government Service Insurance System vs. Court of Appeals*, G.R. No. 101632, January 13, 1997.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice