REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

PHILIPPINE AIRLINES, INC., Petitioner,	**CTA CASE NO. 10263**
	Present:
vs.	**RINGPIS-LIBAN**, *Chairperson*, **MODESTO-SAN PEDRO**, and **FERRER-FLORES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 18 2025 4:00 pm

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> **WHEREFORE,** premises considered, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE**, in favor of petitioner, in the amount of **₱27,275,640.48**, representing the latter's erroneously paid excise tax on its importations of wine and liquor products for its international flight consumption.
>
> **SO ORDERED.**

To recall, in the assailed Decision, this Court held that PAL was able to prove that there was erroneous or illegal excise tax which was collected by the government but only to the extent of ₱27,275,640.48 of the excise taxes being claimed for refund. The Court expounded that PAL's exemption from payment of excise taxes on importations of alcohol and tobacco products under Presidential Decree (P.D.) No. 1590 was not repealed by Republic Act (R.A.) No. 9334. The Court found that PAL was able to fulfill the conditions for its importations to be exempt from excise tax. Specifically, PAL established that: *(1)* it paid corporate income tax for calendar years (CYs) 2013 to 2017, covering the period of the subject importation; *(2)* the subject articles are imported for use in PAL's transport operations; and, *(3)* PAL was able to prove that certain imported articles were not locally available in reasonable quantity, quality or price. As such, out of the total claim for refund of ₱43,667,566.35, the Court ordered the partial refund of ₱27,275,640.48, representing petitioner's erroneously paid excise tax on its importations of wine and liquor products for its international flight consumption.

The CIR's Motion for Partial Reconsideration

In his *Motion for Partial Reconsideration*, the CIR heavily relies on the discussion of the Court in different cases[2] involving the similar claims for refund based on PAL's exemption from excise taxes on its imported alcohol products. Particularly, the CIR cites the discussions therein on the third condition for the excise tax exemption which PAL allegedly failed to comply with (i.e., that the imported articles were not locally available in reasonable quantity, quality or price). Accordingly, the CIR argues that it is incumbent upon PAL to prove that it is entitled to the refund sought and that PAL failed to discharge its burden of establishing its entitlement to the same.

On the other hand, PAL counters that the case cited by the CIR is not yet final and still under appeal; thus, it still lacks legal weight to serve as reliable basis for the present *Motion*. Furthermore, PAL also points out that the Dissenting Opinions cannot be cited as precedents and do not constitute

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[2] *Philippines Airlines, Inc. vs. Commissioner of Internal Revenue*, CTA Case No. 10311, May 23, 2023; Dissenting Opinion of Associate Justice Catherine T. Manahan in *Philippines Airlines, Inc. vs. Commissioner of Internal Revenue,* CTA EB No. 2639, June 22, 2023; Dissenting Opinion of Associate Justice Jean Marie A. Bacorro-Villena in *Philippines Airlines, Inc. vs. Commissioner of Internal Revenue,* CTA EB No. 2639, May 28, 2024.

legal doctrine. Instead, PAL emphasizes that, in several decisions of the Supreme Court involving the same parties and the same issues, the High Court has ruled, with finality, that the *Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies* is more than sufficient to rule that the cost of importing commissary and catering supplies is lower than purchasing them locally.

PAL's Motion for Reconsideration

In PAL's *Motion for Reconsideration*, it maintains that the evidence it presented sufficiently established that all imported liquors and wine products are not locally available in reasonable quantity, quality, or price. PAL claims that the *third* condition imposed under P.D. No. 1590 is that imported articles are not locally available in reasonable quantity, quality, **or** price. Thus, for purposes of complying with this condition, it is sufficient to show that the imported articles are not locally available either in reasonable (a) quality, (b) quantity; OR (c) price.

We resolve.

After an evaluation of the respective arguments raised by the parties, this Court finds both parties' *Motions for Reconsideration* bereft of merit.

A cursory reading of the present *Motions* would reveal that the arguments of the parties involve matters which have already been considered and exhaustively discussed by this Court 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. 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, both motions failed to raise matters which are compelling enough to warrant any modification of the assailed Decision.

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[3] G.R. No. 260912 (Resolution), August 30, 2023.
[4] G.R. No. 159938 (Resolution), January 22, 2007.

At any rate, the Court emphasizes that no less than the Supreme Court has already ruled what is deemed sufficient in proving the *third* condition. In said cases involving the same parties,[5] to prove the *third* condition, PAL has consistently offered before the Court of Tax Appeals (CTA) the following pieces of evidence:

1. Testimonies of PAL's Assistant Vice-President in charge of Catering and In-flight Sub-Department and/or Manager for In-Flight Materials Purchasing Division, Catering & In-flight Materials Purchasing Sub-Department;

2. Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies; and,

3. Price List/s for specific period/s.

Upon evaluation of the CTA Division in those cases, in some instances, it deemed the above pieces of evidence, among others, sufficient to establish that the imported alcohol products were not locally available in reasonable quantity, quality, or price. On the other hand, in those cases where the CTA Division deemed the evidence insufficient, the same was reversed by the CTA *En Banc* or even by the Supreme Court. Notably, the Supreme Court ultimately found that the pieces of evidence presented by PAL were sufficient to prove the *third* condition. We summarize these cases as follows:

Ruling of the CTA	Ruling of the Supreme Court	Relevant Periods (Importations vis-à-vis Price Lists)
1. **CTA Case No. 8153,** January 17, 2013. The CTA Division partially granted PAL's refund finding that PAL has sufficiently proven its exemption from the payment of excise taxes pertaining only to its importation of liquors. **CTA EB Nos. 1029, 1031 & 1032,** April 30, 2014. The CTA *En Banc* affirmed the above ruling.	**G.R. No. 215705-07,** February 22, 2017. ***(2017 PAL case)*** The Supreme Court affirmed the ruling of the CTA granting PAL's claim for refund and held that: *"...the matter as to PAL's supposed noncompliance with the conditions set by Section 13 of P.D. 1590 for its imported supplies to be exempt from excise tax, are factual determinations that are best left to the CTA, which found that PAL had, in fact, complied with the above conditions. xxx Thus, without any showing that the findings of the*	***Period of Importation:*** October to December **2007** ***Price Lists:*** Philippine Wine Merchants Price List dated **January 11, 2007**

[5] *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs*, CTA Case No. 8153, January 17, 2013; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs,* CTA Case No. 8198, June 2, 2015; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs,* CTA Case No. 8130, December 1, 2014; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs,* CTA Case No. 8514, January 6, 2015.

Ruling of the CTA	Ruling of the Supreme Court	Relevant Periods (Importations vis-à-vis Price Lists)
	CTA are unsupported by substantial evidence, its findings are binding on this Court."	
2. **CTA Case No. 8198,** June 2, 2015. The CTA Division denied PAL's refund holding that PAL failed to prove the third condition. **CTA EB No. 1363** (Amended Decision), dated February 13, 2018. The CTA *En Banc* reversed the CTA Division's decision denying the refund. The case was then remanded for determination of the refundable amount. The CTA *En Banc* found that the evidence presented by PAL is sufficient for the CTA Division to evaluate that the costs of importing liquors are lower than purchasing them locally. **CTA Case No. 8198,** August 14, 2024. In view of the order of the CTA *En Banc* to remand the case to the CTA Division, as affirmed by the Supreme Court, the CTA Division determined the final amount refundable to PAL.	**G.R. No. 240532** (Resolution), March 27, 2019. ***(2019 PAL case)*** The Supreme Court affirmed the ruling of the CTA granting PAL's claim for refund and held that: *"...factual determinations that are best left to the CTA and cannot be reviewed by this Court under Rule 45. The CTA is a highly specialized body that reviews tax cases and conducts trial de novo. Thus, without any showing that the findings of the CTA are completely unsupported by substantial evidence, as in this case, its findings are binding on this Court".*	***Period of Importation:*** January to July **2008** ***Price Lists:*** Philippine Wine Merchants Price List (for **2008**)
3. **CTA Case No. 8130**, December 1, 2014. The CTA Division denied the refund finding that the information gathered from the two price lists are seriously deficient to justify conclusion that the said imported items are not available in reasonable quantity, quality or price in the local market. **CTA EB No. 1299,** October 3, 2016. The CTA *En Banc* affirmed the CTA Division's ruling denying the claim for refund. The CTA *En Banc* held that the evidence presented by PAL was inadequate to prove that the imported liquors, wines, and cigarettes were not locally available in reasonable quantity, quality or price, and is insufficient to establish its claim for a tax refund.	**G.R. No. 231638** (Resolution), February 17, 2021. ***(2021 PAL case)*** The Supreme Court partially granted PAL's petition and ordered the remand of the case for determination of PAL's entitlement to a refund. The Supreme Court found the evidence presented adequate to prove compliance with the conditions for exemption, to wit: *"Following prevailing jurisprudence, we are convinced that PAL sufficiently proved compliance with the second condition for excise tax exemption under Section 13 (b) (2). The CTA committed a severe departure from settled jurisprudence amounting to abuse or improvident exercise of authority when it ruled that the pieces of evidence PAL presented are 'inadequate' to show compliance with Section 13 (b) (2). While we have generally*	***Period of Importation:*** March to November **2007** ***Price Lists:*** Philippine Wine Merchants Price List for **2007**

Ruling of the CTA	Ruling of the Supreme Court	Relevant Periods (Importations vis-à-vis Price Lists)
	deferred and respected the tax court's factual findings, the Court will not hesitate to reverse its factual findings when there is a showing of gross error or abuse on the part of the CTA".	
4. **CTA Case No. 8514**, January 6, 2015. The CTA Division partially granted PAL's refund ruling that PAL was able to substantiate its compliance with the requisites finding that the witnesses sufficiently corroborated that the imported liquors, wines and cigarettes were not locally available in reasonable quantity, quality or price and that the said goods were In-flight Materials. **CTA EB Nos. 1308, 1309, & 1311** April 30, 2014. The Court *En Banc* affirmed the above ruling. The Court *En Banc* agreed with the CTA Division's conclusion that PAL's evidence sufficiently established that the imported liquors, wines and cigarettes were not locally available in reasonable quantity, quality or price.	**G.R. Nos. 236343-45 & 236372-74** (Resolution), January 17, 2023. ***(2023 PAL case)*** The Supreme Court ruled in favor of PAL and ordered the refund of erroneously paid excise taxes. With regard to the *third* condition, the Supreme Court held that: *"...We also note that the Tables of Comparison and supporting price lists submitted by PAL corroborated Capinpin's testimony that the imported items were not locally available in reasonable quantity, quality or price. Thus, in line with prevailing jurisprudence, We agree with PAL that the CTA erred in ruling that PAL has inadequately shown its compliance with Section 13 (b) (2) of PD 1590 as regards the amount of ₱240,283.71."*	***Period of Importation:*** June **2007** to October **2009** ***Price Lists:*** Philippine Wine Merchants Price Lists for the years **2006, 2007, 2008, and 2009**, Future Trade International Price List dated **April 8, 2009**, Future Trade International Price List as of **February 2009**, Price List of Duty-Free Philippines

As can be gleaned from the foregoing cases, the Supreme Court gave weight to the factual findings of this Court stating that, without any showing that the findings of the CTA are unsupported by substantial evidence, its findings are binding on the Supreme Court. Stated otherwise, the Supreme Court deemed the findings of the CTA in the above cases to be supported by substantial evidence.

It is also worth noting that, in the *2021 PAL case*,[6] the Supreme Court categorically declared that PAL sufficiently proved compliance with the condition that the imported supplies are not locally available in reasonable quantity, quality, or price, as required under Section 13(b)(2) of P.D. No. 1590.[7] In said case, PAL presented Ms. Cheryl V. Capinpin's sworn

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[6] *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 231638, February 17, 2021.

[7] SECTION 13. xxx

(b) A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or nontransport operations; xxx.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description,

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

testimony, **price list from one local supplier** (i.e., Philippine Wine Merchants Price List) and the Table of Comparison, which were found to be sufficient to establish the non-availability of imported liquors and wines in reasonable quantity, quality, or price.

With regard to PAL's claim that it sufficiently established that all imported liquors and wine products are not locally available in reasonable quantity, quality, or price, including those products which do not appear in any of the price lists presented, We maintain that this alone cannot serve as conclusive proof of the products' unavailability in the local market. The absence of certain alcohol products from the price lists procured by PAL does not necessarily prove its unavailability in the local market at a reasonable quantity, quality, or price, absent any categorical statement from local suppliers attesting to such fact.

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

WHEREFORE, premises considered, respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 27 June 2024)* and petitioner's *Motion for Reconsideration (Re: Decision dated 27 June 2024)* are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

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imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:

xxx xxx xxx

(2) All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of aircraft, engines, equipment, machinery, spare parts, accessories, commissary and catering supplies, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; provided, that such **articles or supplies or materials are imported for the use of the grantee in its transport and nontransport operations and other activities incidental thereto** and **are not locally available in reasonable quantity, quality, or price**; *(Emphasis and underscoring supplied)*