Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION
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PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NOS. 6775 & 6839

Members:

ACOSTA, *Chairperson*
BAUTISTA, *and*
CASANOVA, *JJ.*

Promulgated:
2008, 9:15AM

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DECISION

CASANOVA, J.:

This is a consolidation of two (2) Petitions for Review filed by petitioner, **Pilipinas Shell Petroleum Corporation** ("PSPC"), both praying for the refund or issuance of a tax credit certificate in the amounts of P28,064,925.15[1] and P72,267,718.54[2] (or a total of P100,332,643.69), allegedly representing excise taxes paid by petitioner, on its sales and deliveries of petroleum products to various international carriers for their use or consumption outside the Philippines, covering the periods from October to December 2001 and January to June 2002, respectively.

THE FACTS

Petitioner, PSPC, is a corporation organized and existing under the laws

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[1] *For CTA Case No. 6775, Petition for Review was filed on September 19, 2003.*
[2] *For CTA Case No. 6839, Petition for Review was filed on December 23, 2003.*

of the Philippines with principal place of business at Shell House, 156 Valero Street, Salcedo Village, 1227 Makati City. It is engaged, among others, in the business of processing, treating and refining petroleum for the purpose of producing marketable products and by-products and the subsequent sale thereof.[3]

On the other hand, respondent is the duly appointed Commissioner of Internal Revenue, holding office at the BIR National Office Building located at Agham Road, Diliman, Quezon City.[4]

During the periods covering October to December 2001 and January to June 2002, petitioner allegedly sold and delivered petroleum products to various international carriers, of Philippine or foreign registry, for their use or consumption outside the Philippines and correspondingly paid the amount of P28,064,925.15 and P72,267,718.54 (or a total of P100,332,644.00[5]), respectively, as excise taxes, *viz*:

Month	Volume in Liters: Gas Oil	Volume in Liters: Fuel Oil	Specific Tax: Gas Oil @ P1.63/Liter	Specific Tax: Fuel Oil @ P0.30/Lieter	Total
CTA Case No. 6775					
October 2001	6,431,525	4,379,610	P 10,483,386	P 1,313,883	P 11,797,269
November 2001	3,812,194	1,857,966	6,213,876	557,390	6,771,266
December 2001	5,282,346	2,953,888	8,610,224	886,166	9,496,390
Sub-total	**15,526,065**	**9,191,464**	**25,307,486**	**2,757,439**	**28,064,925**
CTA Case No. 6839					
January 2002	8,134,494	2,833,606	13,259,225	850,082	14,109,307
February 2002	8,651,473	2,523,868	14,101,901	757,160	14,859,061
March 2002	6,858,986	4,887,708	11,180,147	1,466,313	12,646,460
April 2002	6,540,209	3,386,284	10,660,541	1,015,885	11,676,426
May 2002	4,485,689	1,694,059	7,311,673	508,218	7,819,891
June 2002	6,357,957	2,643,680	10,363,470	793,104	11,156,574
Sub-total	**41,028,808**	**17,969,205**	**66,876,957**	**5,390,762**	**72,267,719**
Grand Total	**56,554,873**	**27,160,669**	P. **92,184,443**	P **8,148,201**	P **100,332,644**

[3] *1st and 4th Pars. of Joint Stipulation of Facts and Issues ("JSFI"), Rollo, pp. 92-97, duly approved by this Court in a Resolution dated March 11, 2004, Rollo, p. 98 of CTA Case No. 6775 and JSFI of CTA Case No. 6839, Rollo. pp. 205-212, duly approved by this Court in a Resolution dated May 11, 2004, Rollo, p. 213.*
[4] *2nd Par, JSFI of CTA Case Nos. 6775 and 6839.*
[5] *Rounded off figure.*

On July 18, 2002, petitioner filed a formal claim for refund or tax credit with the Large Taxpayers Audit & Investigation Division II of the Bureau of Internal Revenue ("BIR") seeking the recovery of excise taxes paid by petitioner on its sales and deliveries of petroleum products to international carriers during the period October to December 2001 in the amount of P28,064,925.15.[6]

Subsequently, on October 21, 2002, petitioner filed another formal claim for refund or tax credit with the BIR seeking the recovery of excise taxes covering the period January to March 2002 in the total amount of P41,614,827.99.[7]

Again, on July 3, 2003, petitioner filed another formal claim for refund or tax credit with the BIR this time covering the period April to June 2002 in the total amount of P30,652,890.55.[8]

There being no action on the part of the respondent, petitioner then filed before this Court a Petition for Review on September 19, 2003, docketed as CTA Case No. 6775, covering the claim for refund for the period October to December 2001 in the amount of P28,064,925.15. On December 23, 2003, petitioner again filed a Petition for Review, docketed as CTA Case No. 6839, this time covering the period of January to June 2002 amounting to P72,267,718.54 (P41,614,827.99 + P30,652,890.55).

On December 1, 2003, respondent filed her *Answer* to the Petition for Review in CTA Case No. 6775, raising the following Special and Affirmative Defenses:

5. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected;

6. Taxes paid and collected are presumed to have been made in accordance with law and regulations, hence, not refundable;

7. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund and failure

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[6] *5th Par. JSFI of CTA Case No. 6775.*
[7] *5th Par. JSFI of CTA Case No. 6839.*
[8] *6th Par. JSFI of CTA Case No. 6839.*

to adduce sufficient proof is fatal to the action for tax refund/credit;

8. It is incumbent upon the petitioner to show that it has complied with the provisions of Section 204 in relation to Section 229 of the Tax Code, as amended; and

9. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (Commissioner of Internal Revenue vs. Ledesma, G.R. No. L-13509, January 30, 1970, 31 SCRA 95) and as such, they are looked upon with disfavor (Western Minolco Corporation vs. Commissioner of Internal Revenue, 124 SCRA 121)."

On February 9, 2004, respondent filed her *Answer* to the Petition for Review in CTA Case No. 6839 raising the same Special and Affirmative Defenses as that of CTA Case No. 6775.

On June 14, 2004, CTA Case No. 6775 and CTA Case No. 6839 were consolidated.

During trial, petitioner presented several witnesses and submitted its documentary evidence. Respondent also presented her witness but failed to submit her Formal Offer of Evidence despite due notice. No evidence was submitted by respondent.

On July 6, 2007, petitioner filed its *Memorandum*[9]. On the other hand, respondent did not file her Memorandum despite due notice. Hence, on July 9, 2007, these cases were submitted for decision.[10]

THE ISSUES

The parties jointly stipulated the following issues for resolution of this Court:

*For CTA Case No. **6775***

1. Whether or not the subject claim for refund/ tax credit in the aggregate amount of P28,064,925.15 represents erroneously/wrongfully paid excise tax on petroleum products.

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[9] *CTA Case 6775, Rollo, pp. 349-385.*
[10] *CTA Case 6775, Rollo, p. 386.*

2. Whether or not petitioner's sales of petroleum products to international carriers are exempt from excise taxes.

3. Whether or not petitioner's claim for refund/tax credit allegedly representing erroneously/ wrongfully excise taxes paid on petroleum products for the period October to December 2001 in the same amount of P28,064,925.15 is substantiated by documentary evidence.

4. Whether or not petitioner is entitled to the recovery of excise taxes it paid on petroleum products sold and delivered by petitioner to various international carriers for their use or consumption outside the Philippines.

*For CTA Case No. **6839***

1. Whether or not petitioner complied with the requirements under Section 229 of the National Internal Revenue Code of 1997 for the recovery of internal revenue taxes that have been erroneously, wrongfully, illegally or excessively assessed or collected.

2. Whether or not petitioner is entitled to the recovery of excise taxes it paid on petroleum products sold and delivered by petitioner to various international carriers for their use or consumption outside the Philippines amounting to P72,267,718.64.

THE COURT'S RULING

The consolidated petitions are partly meritorious.

With respect on the issue on the (2) two-year prescriptive period to file a claim for refund, Section 229 of the National Internal Revenue Code of 1997 (NIRC) specifically provides that:

> "**Section 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,

> 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.
>
> **In any case, no such suit or proceeding shall be filed (sic) after the expiration of two (2) years from the date of payment of the tax** or penalty regardless of any supervening cause that may arise after payment: Provided, however, That the Commissioner may, even without written claim therefore, refund or credit any tax, where on the face of the return upon which payments was made, such payment appears clearly to have been erroneously paid."

In relation hereto, Section 130(A)(2) of the same Code requires that payments of excise taxes on locally manufactured petroleum products should be made before withdrawal of the products from their place of production. Hence, the two (2)-year prescriptive period for the recovery of excise taxes erroneously paid by petitioner on the petroleum products sold and delivered to various international carriers for the period October 2001 to June 2002 shall be reckoned from the earliest date of removal of the petroleum products from the place of production.

A close scrutiny of the records reveals that, the earliest removal of petroleum products which were sold and delivered during the period from October to December 2001, occurred on September 23, 2001.[11] Pursuant to Section 130(A)(2) of the 1997 Tax Code, petitioner paid on September 23, 2001 excise taxes due on said petroleum products.[12] Hence, it is from this date that the two (2)-year prescriptive period commences to run. Petitioner, therefore, had until September 23, 2003 within which to file the administrative claim for refund with the BIR and the judicial claim for refund with Court of Tax Appeals for the period from October to December 2001.

For petitioner's claim for refund for the period October and December

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[11] *Exhibits "S-2.1.1" and "Z"*
[12] *Ibid.*

2001 (CTA Case No. 6775), petitioner filed its administrative claim for refund with the BIR on July 18, 2002 and the Petition for Review was filed before this Court on September 19, 2003. Therefore, petitioner complied with the two (2)-year prescriptive period that will end September 23, 2003.

As to the remaining part of the claim for refund, the earliest removal of petroleum products which were sold during the period from January to June 2002 occurred on December 25, 2001.[13] Pursuant to Section 130(A)(2) of the 1997 Tax Code, petitioner paid on December 25, 2001 excise taxes due on said petroleum products.[14] Hence, it is from this date that the two-year prescriptive period commences to run. Petitioner, therefore, had until December 25, 2003 within which to file both the administrative claim for refund with the BIR and the judicial claim for refund with this Court.

For the period January and June 2002 (CTA Case No. 6839), petitioner filed its administrative claim for refund with the BIR on October 21, 2002 (refund for the first quarter of 2002) and on July 3, 2003 (refund for the second quarter of 2002) and the Petition for Review was filed before this Court on December 23, 2003, clearly within the two (2)-year prescriptive period that will end December 25, 2003.

In sum, inasmuch as petitioner filed both the formal claims for refund with the BIR and the instant petitions with this Court for the period from October to December 2001 and January to June 2002 before September 27, 2003 and December 25, 2003, respectively, petitioner's herein claim for refund falls within the two (2)-year period prescribed under Section 229 of the 1997 Tax Code.

The remaining issues being interrelated, this Court deems it proper to discuss them jointly.

Petitioner avers that pursuant to Section 135 of the NIRC of 1997, petroleum products sold to international carriers, whether of Philippine or foreign registry, are exempt from excise taxes, provided that (a) the petroleum products are used or consumed outside the Philippines, and (b) in

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[13] *Exhibits "S-2.1.4" and "Z"*
[14] *Ibid*

the case of foreign international carriers, their country of registry exempt from excise or similar taxes petroleum products sold to Philippines carriers.

For easy reference, We quote the abovementioned Section 135, *viz*;

"**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 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;

(b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use or consumption: Provided, however, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and

(c) Entities which are by law exempt from direct and indirect taxes."

It is petitioner's contention that, insofar as the foreign international carriers are concerned, their country of registry exempts them from the payment of excise or similar taxes on petroleum products sold to Philippine carriers. Thus, it stands to reason that the petroleum products sold and delivered to these international carriers, for their use or consumption outside the Philippines, during the period from October to December 2001 and January to June 2002 are exempt from excise taxes, pursuant to the above-mentioned provision of law.

In relation thereto, Section 130(A)(2) of the NIRC of 1997, provides that:

"**SEC. 130. Filing of Return and Payment of Excise Tax on Domestic Products. –**

(A) Persons Liable to File a Return, Filing of Return on

Removal and Payment of Tax. –

(1) xxx

(2) Time for Filing of Return and Payment of the Tax. - Unless otherwise specifically allowed, the return shall be filed and the excise tax paid by the manufacturer or producer before removal of domestic products from place of production: Provided, That the excise tax on locally manufactured petroleum products and indigenous petroleum levied under Sections 148 and 151 (A)(4), respectively, of this Title shall be paid within ten (10) days from the date of removal of such products for the period from January 1, 1998 to June 30, 1998, within five (5) days from the date of removal of such products for the period from July 1, 1998 to December 31, 1998; and, **before removal from the place of production of such products from January 1, 1999 and thereafter.** Xxx" *(Emphasis supplied)*

Hence, the excise taxes due on the petroleum products sold and delivered to various international carriers during October to December 2001 and January to June 2001 were paid by petitioner upon removal thereof from petitioner's place of production or upon removal of the petroleum products from customs custody, as the case may be. In short, the petroleum products sold and delivered by petitioner to these international carriers were already tax-paid.

It bears stressing that the issues raised in this instant case are similar to those raised in the case of **Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue**[15], which case basically concerns the same parties and circumstances, except for the period of claim. And in the aforementioned case, this Court partially granted petitioner's claim and ruled that among those exempted from excise tax on petroleum products are those sold to international carriers of Philippine or foreign registry for their use or

[15] *CTA Case No. 6554, November 28, 2006.*

consumption outside the Philippines.

In relation thereto, in the case of **Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation**[16], this Court held that:

> "Finally, considering that Petitioner's sale of fuel oil to NPC is exempt from the payment of excise taxes, then Petitioner may rightfully recover the excise taxes it paid to PSPC (Pilipinas Shell Petroleum Corporation). And as correctly pointed out by Petitioner, since it ended up shouldering the specific tax component of the fuel oil, it is but just and reasonable to allow it to recover what it would have otherwise have passed on to NPC had it not been for NPC's exemption from indirect taxes. 'The view which refused to accord exemption from indirect tax because the tax is first paid by the seller disregards and gives more importance to form than to substance. Equity and law always exalt substance over form.' xxx"

The above case deals with Section 135(c) of the NIRC of 1997 while this instant case deals with Sections 135(a) and 135 (b) of the same Code. By analogy, the discussions and findings in the Court *En Banc* applies, considering that in this case, the petroleum products were sold to an entity exempt from the payment of excise taxes and it was petitioner which shouldered the tax since it can no longer pass on the excise tax to the tax-exempt buyer.

As correctly pointed out by petitioner, Section 135 of the NIRC of 1997 is applicable. Pursuant to the said section, among those exempted from excise taxes on petroleum products are those sold to international carriers of Philippine or foreign registry for their use or consumption outside the Philippines.

A close scrutiny of the records would reveal petitioner's partial compliance with Section 135 which was confirmed and find support in the Report[17] dated October 3, 2005, submitted by the Court-commissioned Independent Certified Public Accountant (ICPA), Mr. Benjamin P. Valdez of Punongbayan & Araullo.

[16] *CTA EB No. 91, November 25, 2005 (CTA Case Nos. 6506 & 6559)*
[17] *Exhibit "S"*

The ICPA made the following conclusions:

"2. Per our recomputation of the excise tax paid based on the Summary of Bunker Oil Deliveries to Various International Carriers provided to us, we determined that the amount of excise taxes being claimed for refund or tax credit amounting to P28,064,925.00 and P72,267,719 for CTA Case Nos. 6775 and 6839, respectively, or a total amount of P100,332,644 agree with the amount reported in the Petition[s] (See Exhibit S-1);

3. We ascertained that upon withdrawal of the petroleum products from its refinery as supported by WCs, the Company duly paid and remitted the excise tax of P1.63 and P0.30 per liter of gas oil and fuel oil, respectively, due thereon under Section 148(i) and (l) of the NIRC as evidenced by the ETR filed with the BIR and bank official receipts covering the excise tax payments;

4. We ascertained that the Company paid the total excise taxes in the total amount of P100,332,644 on its withdrawal of petroleum products of 56,554,873 liters of gas oil and 27,160,669 liters of fuel oil for the period October 2001 to June 2002 which were subsequently sold to international carriers, net of the related excise taxes. **This means that the Company did not pass onto these international carriers the cost of excise taxes it paid upon withdrawal of petroleum.**

x x x

B. Examination of Sales and Deliveries of Petroleum Products to Various International Carriers

x x x

5. We ascertained that each country of registry of international carriers covered by the total claim of P95,014,283.00, which was supported by complete documents, grants reciprocal tax exemption to Philippine registered marine carriers based on certifications issued by the DFA. Likewise, **we ascertained that the petroleum products sold to said international carriers of Philippine or foreign registry were used or consumed outside the Philippines based on the letters from MARINA dated June 11, 2004, July 6, 2004 and August 16, 2004 (see Exhibits O, P** and Q).

xxx"[18] *(Emphasis Supplied)*

However, the ICPA also ascertained the following, to wit:

"xxx xxx xxx

2. **We ascertained that the petroleum products were sold and delivered by the company to various international carriers in US dollars and were collected from them mostly in Philippine pesos based on our examination of official receipts issued by the Company.** Although sales were made in US dollars and most of them were collected in Philippine pesos, we verified that no excise tax component were passed on to various international carriers by comparing the invoiced amount (in US dollars) and the amount in US dollars indicated in the official receipts (before applying the exchange rate written on the official receipts) **(see Exhibits S-2.1 to S-2.9).**

3. Of the total amount being claimed for refund or tax credit of P100,332,644, **we determined that** [only] **P95,014,283 was fully supported with complete documents** (see **Exhibit S-2.1**) **and P5,318,361 was unsupported** (see **Exhibit S-2.2**)

4. We determined that the total claim with complete documents amounting to P95,014,283.00 was fully supported with the original or certified true copies of the documents presented together with this report and marked as exhibits (see **Exhibits T to Y**)."[19] *(Emphasis Supplied)*

Verily, this Court agrees with the Report in as much as the findings of petitioner's valid claims are concerned. The petroleum products sold and delivered to various international carriers of Philippine or foreign registry were indeed used or consumed outside the Philippines, as certified to by the corresponding Certifications issued by the MARINA. Moreover, the sales and deliveries to these tax-exempt international carriers were properly supported by the Certificates issued by the Department of Foreign Affairs[20] listing therein the names of the countries which grant tax exemptions to Philippine

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[18] *Page 7, 8 & 9 of ICPA Report.*
[19] *Ibid.*
[20] *Exhibit "M"*

registered marine carriers.

In other words, this Court finds petitioner entitled to the refund or tax credit of the amount of P95,014,283.00 representing excise taxes paid on petroleum products it sold to international carriers of foreign or Philippine registry for consumption outside the Philippines. The amount of P95,014,283.00 representing excise taxes on petroleum products sold to international carriers were, according to the ICPA, supported by Bunkering Permits ("BP"), showing among others the nationality of the vessels[21]; Receipts for Marine Banker Fuel[22] ("RMBF"); Sales Invoices[23]; Billing details[24]; Official Receipts[25]; in relation to the said Certification issued by the Department of Foreign Affairs and considering that the petroleum products which were sold to various tax-exempt international carriers of Philippine or foreign registry were used or consumed outside the Philippines.[26]

However, this Court, after verification, agrees with the ICPA in concluding that petitioner has unsupported claims amounting to P5,318,361.00[27], composed of P4,113,397.40[28] which was the total amount not supported by any of the following documents: RMBFs, BPs, sales invoices, printouts of PSPC's computerized accounting system showing "overview of billing items (F2 display of sale sales invoice)" and "pricing details", Withdrawal Certificates or official receipts issued by PSPC evidencing payments from international carriers *and* P1,204,963.25[29] which was the total of the amount being claimed not supported by the appropriate reciprocity agreement.

We quote the ICPA's report, *viz*:

> "8. We ascertained that each country of registry of international carriers covered by the total claim of

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[21] *Exhibits "U1 to U-308"*
[22] *Exhibits "T-1 to T-416"*
[23] *Exhibits "V-1 to V-346"*
[24] *Exhibits "W-1 to W-347"*
[25] *Exhibits "Y-1 to Y-155"*
[26] *Ibid.*
[27] *Exhibit "S-2.2 to S-2.2.2"*
[28] *Ibid.*
[29] *Ibid.*

> P4,113,398, which was not supported by complete documents, grants reciprocal tax exemption to Philippine registered marine carriers based on the certifications issued by the DFA. **Thus, out of the unsupported claims of P5,318,361, only P1,204,963 was not supported by the appropriate reciprocity agreement**. This means that the countries of origin of the international carriers were not included among the countries that grant reciprocal tax exemption to Philippine registered marine carriers based on the letter from Department of Foreign Affairs. **Nonetheless, we ascertained that all the petroleum products sold to these international carriers of Philippine or foreign registry were used or consumed outside the Philippines based on the letter from MARINA which indicates the list of registered vessels operating in the overseas and domestic trade and with issued special permit**."[30] *(Emphasis Supplied)*

Hence, only the reduced amount of P95,014,283.00[31], being duly supported, can be refunded. As previously mentioned, the total amount of P5,318,361.00 was unsupported or with exceptions, and thus, cannot be allowed to be refunded and is broken down as follows:

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[30] *Ibid.*
[31] *Exhibits "S-2.1 to S-2.1.9"*

	Volume in Liters			EXCISE TAXES PAID			
	Gas Oil	Fuel Oil	Total	Gas Oil	Fuel Oil	Total	Exhibit
CTA Case No. 6775							
With Missing Documents							
October 2001	30,000.00	-	30,000.00	P 48,900.00	P -	P 48,900.00	S-2.2.1
November 2001	-	-	-	-	-	-	S-2.2.1
December 2001	24,000.00	-	24,000.00	39,120.00	-	39,120.00	S-2.2.1
	54,000.00	-	54,000.00	88,020.00	-	88,020.00	
Without Reciprocity							S-2.2.2
October 2001	84,175.00	330,000.00	414,175.00	137,205.25	99,000.00	236,205.25	S-2.2.2
November 2001	-	-	-	-	-	-	S-2.2.2
December 2001	24,050.00	107,195.00	131,245.00	39,201.50	32,158.50	71,360.00	
	108,225.00	437,195.00	545,420.00	176,406.75	131,158.50	307,565.25	
Sub-Total	162,225.00	437,195.00	599,420.00	264,426.75	131,158.50	395,585.25	
CTA Case No. 6839							
With Missing Documents							
January 2002	126,000.00	200,752.00	326,752.00	205,380.00	60,225.60	265,605.60	S-2.2.1
February 2002	-	88,000.00	88,000.00	-	26,400.00	26,400.00	S-2.2.1
March 2002	300,620.00	2,284,566.00	2,585,186.00	490,010.60	685,369.80	1,175,380.40	S-2.2.1
April 2002	144,300.00	853,920.00	998,220.00	235,209.00	256,176.00	491,385.00	S-2.2.1
May 2002	102,000.00	-	102,000.00	166,260.00	-	166,260.00	S-2.2.1
June 2002	971,580.00	1,055,570.00	2,027,150.00	1,583,675.40	316,671.00	1,900,346.40	S-2.2.1
	1,644,500.00	4,482,808.00	6,127,308.00	2,680,535.00	1,344,842.40	4,025,377.40	
Without Reciprocity							
January 2002	24,000.00	163,000.00	187,000.00	39,120.00	48,900.00	88,020.00	S-2.2.2
February 2002	96,000.00	769,998.00	865,998.00	156,480.00	230,999.40	387,479.40	S-2.2.2
March 2002	90,195.00	428,790.00	518,985.00	147,017.85	128,637.00	275,654.85	S-2.2.2
April 2002	-	-	-	-	-	-	S-2.2.2
May 2002	-	-	-	-	-	-	S-2.2.2
June 2002	60,125.00	160,800.00	220,925.00	98,003.75	48,240.00	146,243.75	S-2.2.2
	270,320.00	1,522,588.00	1,792,908.00	440,621.60	456,776.40	897,398.00	
Sub-Total	1,914,820.00	6,005,396.00	7,920,216.00	3,121,156.60	1,801,618.80	4,922,775.40	
CONSOLIDATED							
WITH MISSING DOCUMENTS	1,698,500.00	4,482,808.00	6,181,308.00	2,768,555.00	1,344,842.40	4,113,397.40	S-2.2.1
WITHOUT RECIPROCITY	378,545.00	1,959,783.00	2,338,328.00	617,028.35	587,934.90	1,292,983.25	S-2.2.2
Grand Total	2,077,045.00	6,442,591.00	8,519,636.00	3,385,583.35	1,932,777.30	5,406,380.65	

WHEREFORE, premises considered, this instant Petition for Review is hereby **PARTIALLY GRANTED** in the reduced amount of P95,014,283.00, computed as follows:

	Volume in Liters			EXCISE TAXES PAID			
	Gas Oil	Fuel Oil	Total	Gas Oil	Fuel Oil	Total	Exhibit
CTA Case No. 6775							
October 2001	6,317,350.00	4,049,610.00	10,366,960.00	P 10,297,280.50	P 1,214,883.00	P 11,512,163.50	S-2.1.1
November 2001	3,812,194.00	1,857,966.00	5,670,160.00	6,213,876.22	557,389.80	6,771,266.02	S-2.1.2
December 2001	5,234,296.00	2,846,693.00	8,080,989.00	8,531,902.48	854,007.90	9,385,910.38	S-2.1.3
Sub-total	**15,363,840.00**	**8,754,269.00**	**24,118,109.00**	**25,043,059.20**	**2,626,280.70**	**27,669,339.90**	
CTA Case No. 6839							
January 2002	7,984,494.00	2,469,854.00	10,454,347.50	13,014,725.22	740,956.05	13,755,681.27	S-2.1.4
February 2002	8,555,473.00	1,665,870.00	10,221,343.00	13,945,420.99	499,761.00	14,445,181.99	S-2.1.5
March 2002	6,468,171.00	2,174,352.00	8,642,523.00	10,543,118.73	652,305.60	11,195,424.33	S-2.1.6
April 2002	6,395,909.00	2,532,364.00	8,928,273.00	10,425,331.67	759,709.20	11,185,040.87	S-2.1.7
May 2002	4,383,689.00	1,694,059.00	6,077,748.00	7,145,413.07	508,217.70	7,653,630.77	S-2.1.8
June 2002	5,326,252.00	1,427,310.00	6,753,562.00	8,681,790.76	428,193.00	9,109,983.76	S-2.1.9
Sub-total	**39,113,988.00**	**11,963,809.00**	**51,077,796.50**	**63,755,800.44**	**3,589,142.55**	**67,344,942.99**	
Grand Total	**54,477,828.00**	**20,718,078.00**	**75,195,905.50**	P **88,798,859.64**	P **6,215,423.25**	P **95,014,282.89**	

Accordingly, respondent is hereby **ORDERED to REFUND** or to **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **NINETY FIVE MILLION FOURTEEN THOUSAND TWO HUNDRED EIGHTY THREE PESOS (P95,014,283.00**) representing excise taxes paid by petitioner on petroleum products sold to international carriers from October 2001 to June 2002.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division