REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10352

Members:

BACORRO-VILLENA, *Acting Chairperson, and*
CUI-DAVID, *JJ*.

Promulgated:

JAN 04 2024

4:25 p.m.

x- -x

DECISION

CUI-DAVID, J.:

Before the Court is a *Petition for Review*[1] filed by petitioner Pilipinas Shell Petroleum Corporation on September 17, 2020, praying for the Court to render judgment ordering respondent Commissioner of Internal Revenue to refund or issue a tax credit certificate in the amount of ₱85,040,348.00, representing petitioner's alleged excise taxes paid from September to October 2018 for Jet A-1 fuel imported during the period from May to September 2018, and sold to international air carriers during the period from September to November 2018.

THE PARTIES

Petitioner is a corporation organized and existing under the laws of the Philippines with office address at 41st Floor, The Finance Center, 26th Street corner 9th Avenue, Bonifacio Global City, Brgy. Fort Bonifacio, Taguig City, Metro Manila, 1635.[2] It is engaged, among others, in the business of manufacturing, processing, treating, and refining petroleum for

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[1] Docket – Vol. I, pp. 6 to 41.
[2] Exhibit "P-1", Docket – Vol. III, pp. 904 to 912.

the purpose of producing marketable products and by-products and the subsequent sale thereof.[3]

Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue (CIR) who holds office at the Bureau of Internal Revenue (BIR) National Office Building located at BIR Road, Diliman, Quezon City, where he may be served with summons and other legal processes.[4]

THE FACTS AND THE PROCEEDINGS

Petitioner avers[5] that sometime in May 2018, it imported Jet A-1 fuel through its refinery in Tabangao, Batangas (*First Importation*), as follows:

Arrival Date	Vessel	CRF No.	Volume in Liters
May 29, 2018	MT Sunny Dream	18CBW10	7,540,772

Allegedly, the *First Importation* was made when petitioner's product storage tanks in Tabangao, Batangas, were operated as a Customs Bonded Warehouse (CBW). Hence, no excise tax was paid during importation and storage in the CBW.[6]

When the Tabangao product storage tanks were converted from CBW to non-CBW in September 2018, a portion of the Jet A-1 fuel from the *First Importation* remained in the said product storage tanks, as follows:[7]

Vessel	CRF No.	Remaining Volume in Liters
MT Sunny Dream	18CBW10	3,963,880

With the conversion of the product storage tanks from CBW to non-CBW, petitioner allegedly lodged the corresponding importation details for the remaining quantity through the Bureau of Customs' (BOC) E2M System and paid the corresponding taxes therefor at ₱4.00/liter, thereby converting the remaining volume into tax-paid Jet A-1 fuel, as follows:[8]

[3] Par. 4, Petition for Review, Docket – Vol. I, p. 7.
[4] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. II, p. 542.
[5] Par. 6, Petition for Review, Docket – Vol. I, p. 7.
[6] *Id.*, Par. 6.1.
[7] *Id.*, Par. 6.2.
[8] *Id.*, Par. 6.3.

SAD No.	Vessel	Payment Date	Volume in Liters	Excise Tax Paid
C11011/CRF 18CBW10LOC4	MT Sunny Dream	September 27, 2018	3,963,880	₱15,855,520.00

Petitioner further avers that the remaining excise tax-paid 3,963,880 liters of Jet A-1 fuel from the *First Importation* were subsequently transferred to its storage tanks in the Joint Oil Company Aviation Storage Plant (JOCASP) at the Ninoy Aquino International Airport (NAIA) for subsequent sale and delivery to international air carriers for use or consumption outside the Philippines.[9]

Also, in July 2018, petitioner imported Jet A-1 fuel through its refinery in Tabangao, Batangas (*Second Importation*), as follows:[10]

Arrival Date	Vessel	CRF No.	Volume in Liters
July 10, 2018	MT Beluga Pacific	18CBW11	6,533,610

Similarly, the *Second Importation* was made at the time when petitioner's product storage tanks in Tabangao, Batangas were operated as CBW. Hence, no excise tax was paid during importation and storage in the CBW.[11]

Like the *First Importation*, a portion of the Jet A-1 fuel from the *Second Importation* remained in the Tabangao product storage tanks when said storage tanks were converted from CBW to non-CBW, as follows:[12]

Vessel	CRF No.	Remaining Volume in Liters
MT Beluga Pacific	18CBW11	2,820,682

Petitioner also lodged the corresponding importation details for the remaining quantity through the BOC E2M System and paid the corresponding taxes therefor at ₱4.00/Liter, thereby converting the remaining volume into tax-paid Jet A-1 fuel, as follows:[13]

SAD No.	Vessel	Payment Date	Volume in Liters	Excise Tax Paid
C11013/CRF 18CBW11LOC1	MT Beluga Pacific	September 25, 2018	2,820,682	₱11,282,728.00

[9] *Id.*, Par. 6.4.
[10] *Id.*, Par. 7.
[11] *Id.*, Par. 7.1.
[12] *Id.*, Par. 7.2.
[13] *Id.*, Par. 7.3.

In September 2018, petitioner again imported Jet A-1 fuel with a destination at the Port of Subic (*Third Importation*), as follows:[14]

Arrival Date	Vessel	CRF No.	Volume in Liters
September 25, 2018	MT Grand Ace 12	18SUB05LOC	19,117,173

Petitioner avers that prior to the withdrawal of the imported Jet A-1 fuel from the BOC, it lodged the corresponding importation details through the BOC E2M System and paid the corresponding taxes therefor at ₱4.00/Liter, as follows:[15]

SAD No.	Vessel	Payment Date	Volume in Liters	Excise Tax Paid
C8518/CRF 18SUB05LOC	MT Grand Ace 12	October 3, 2018	19,117,173	₱76,468,692.00

Allegedly, out of the 19,117,173 liters of Jet A-1 fuel from the *Third Importation*, 14,520,000 liters were subsequently transferred to its storage tanks in JOCASP for subsequent sale and delivery to international air carriers for use and consumption outside the Philippines.[16]

Petitioner further avers[17] that for the period covering September to November 2018, petitioner sold the aforementioned excise tax-paid Jet A-1 fuel from the *First*, *Second*, and *Third* importations to various international airlines for use or consumption outside the Philippines, as follows:

	Volume in Liters		
Customers	**From 1st & 2nd Importations**	**From 3rd Importation**	**TOTAL**
Air China Ltd.	131,215	423,778	554,993
Air Niugini	85,940	254,043	339,983
Asiana Airlines Inc.	96,339	611,850	708,189
Cebu Air Inc.	1,329,807	2,178,615	3,508,422
China Airlines Ltd.	138,552	472,946	611,498
China Eastern Airlines Ltd.	76,216	218,087	294,303
China Southern Airlines Co. Ltd.	127,576	391,371	518,947
Federal Express Corp.	332,454	398,512	730,966
Jetstar Asia Airways Pte. Ltd.	78,222	94,120	172,342
Jin Air Co. Ltd.	273,448	261,613	535,061
Korean Airlines Co. Ltd.	332,307	1,264,315	1,596,622
Philippines Airlines Inc.	2,959,029	7,101,561	10,060,590
Qantas Airways Ltd.	318,645	849,189	1,167,834

[14] *Id.*, Par. 8.
[15] *Id.*, Par. 8.2.
[16] *Id.*, Par. 8.3.
[17] *Id.* Par. 9.

Scoot Tigerair Pte. Ltd.	50,183	-	50,183
Silkair Singapore Private Limited	269,158	-	269,158
Xiamen Airline Co. Ltd.	140,996	-	140,996
Total Aviation Sales (In Liters)	**6,740,087**	**14,520,000**	**21,260,087**
Excise Tax Rate	₱4.00/Liter	₱4.00/Liter	₱4.00/Liter
Total Excise Tax Paid	**₱26,960,348.00**	**₱58,080,000.00**	**₱85,040,348.00**

Allegedly, the amounts billed by petitioner to the international airlines for the sale and delivery of Jet A-1 fuel for use and consumption outside the Philippines were denominated in foreign currency and net of excise taxes.[18]

On March 12, 2020, petitioner filed its letters application for refund or tax credit dated March 10, 2020, and *Applications for Tax Credits/Refunds* (BIR Form No. 1914) with the Excise Large Taxpayers Audit Division (ELTAD) II of the BIR,[19] to recover the excise taxes paid during the period from September to October 2018 on Jet A-1 fuel imported for the period from May to September 2018, and sold to international air carriers for the period from September to November 2018, in the aggregate amount of ₱85,040,348.00, computed as follows:

Description	**Volume in Liters**	**Excise Tax Rate**	**Amount**
Sales to international carriers of Philippine or foreign registry under Section 135 of the Tax Code	6,740,087	₱4.00 per liter	₱ 26,960,348.00
	14,520,000		58,080,000.00
Total	21,260,087		₱ 85,040,348.00

Due to respondent's alleged inaction, petitioner elevated its claim before the Court *via* the instant *Petition for Review* filed on September 17, 2020.

In his *Answer*[20] filed on December 11, 2020, respondent submits that petitioner's claim for refund lacks merit. According to respondent, Section 135 of the National Internal Revenue Code (NIRC) of 1997, as amended, does not automatically exempt from excise tax petroleum products sold to international carriers and exempt entities and agencies. Petitioner must first establish that it has complied with the provision of the law granting tax exemption, for which petitioner failed.

[18] *Id.*, Par. 10.
[19] Exhibits "P-54" to "P-57", Docket – Vol III, pp. 1216 to 1223.
[20] Docket – Vol. I, pp. 457 to 464.

Further, petitioner's reliance on Section 135 of the NIRC of 1997, as amended, to support its claim for refund or issuance of tax credit certificate is misplaced. The invoked provision states that petroleum products sold to international carriers of the Philippine or foreign registry for their use or consumption outside the Philippines are exempt from excise taxes. Nothing in the said law states that petitioner is entitled to a refund or the issuance of a tax credit certificate for the excise taxes it paid on its imported Jet A-1 fuel.

Lastly, respondent invokes the principle that taxes paid and collected are presumed to have been made in accordance with laws and regulations, and failure on the part of the claimant to present clear and convincing evidence showing that taxes were erroneously or illegally collected is fatal to its claim for refund.

After the *Pre-Trial Conference*[21] on February 12, 2021, a Pre-Trial Order[22] was issued on May 31, 2021, based on the parties' *Joint Stipulation of Facts and Issues*[23] filed on May 20, 2021.

To prove its case, petitioner presented the following witnesses, namely: (1) Ms. Carla Angelica T. Peralta, petitioner's *Import and Export Scheduler for Trading and Supply* from February 2016 to November 2019; (2) Mr. Rommel F. Guevarra, petitioner's *Terminal Operations Supervisor* at the Tabangao Depot; (3) Mr. Matias D. Aquiatan, Jr., petitioner's *Operations Manager*; (4) Atty. Farida Nimfa G. Dimailig, petitioner's *Country Tax Manager*; (5) Ms. Berenice Angelique L. Flores, petitioner's *Tax Advisor*; (6) Ms. Maria Luz S. Verdejo, *Head Librarian* at the *Carlos P. Romulo Library of the Department of Foreign Affairs – Foreign Service Institute*; and (7) Atty. Walter L. Abela, Jr., the Court-commissioned *Independent Certified Public Accountant* (ICPA).

Ms. Carla Angelica T. Peralta (Ms. Peralta) testified by way of a *Judicial Affidavit*[24] that she was previously employed as an *Import and Export Scheduler for Trading and Supply* by petitioner from February 2016 to November 2019.

[21] Minutes of the hearing held on, and Order dated, February 22, 2021, Docket – Vol. II, pp. 512 to 513.
[22] Docket – Vol. II, pp. 560 to 568.
[23] Docket – Vol. II, pp. 542 to 558.
[24] Exhibit "P-59", Docket – Vol. I, pp. 85 to 103; Minutes of the hearing held on, and Order dated, June 14, 2021, Docket – Vol. II, pp. 570 to 571.

Ms. Peralta declared that she is familiar with the instant case because she handled and coordinated the subject importations of Jet A-1 fuel from May to September 2018, when she was still petitioner's Import and Export Scheduler for Trading and Supply. According to her, petitioner, having its refinery, generally produced Jet A-1 fuel from crude refining. If petitioner needs additional supply, it tries to buy from local sources first before it imports.

According to Ms. Peralta, petitioner maintains company-owned product storage tanks in Tabangao and leased storage facilities in Subic Terminal for its imported Jet A-1 fuel. For importations arriving in Batangas port, the imported Jet A-1 fuel will be discharged and stored in petitioner's Tabangao storage tanks, while for importations arriving in Subic port, the imported Jet A-1 fuel will be discharged and stored in petitioner's leased Subic Terminal.

Ms. Peralta further declared that when petitioner operated its Tabangao product storage tanks as a CBW from the date of approval of the BOC in July 2015 until its closure in September 2018, petitioner was not allowed to produce Jet A-1 fuel locally, so all Jet A-1 fuel stored in its Tabangao product storage tanks was sourced or imported from abroad. She added that these storage tanks contained only purely imported and tax-free Jet A-1 fuel during the CBW period. When the CBW was terminated sometime in September 2018, all remaining imported and tax-free Jet A-1 fuel were accounted for and reported to the BOC. These converted Jet A- fuels were declared with the BOC, and the corresponding excise and value-added taxes were paid. After converting from bonded to non-bonded tanks, all Jet A-1 fuel withdrawn from the Tabangao product storage tanks became tax-paid.

Ms. Peralta likewise testified about the process flow of the importation of Jet A-1 fuel. According to her, petitioner follows a specific process and document flow concerning the importation of Jet A-1 fuel, which may be simplified into the following stages: (1) requisition of goods and importation; (2) arrival and discharge of imported goods; and (3) payment of taxes and import duties. She added that no payment of taxes and import duties is required for importations made and stored during the CBW period.

Ms. Peralta continued that three (3) importations of Jet A-1 fuel were received from May to September 2018. The first two (2) importations arrived at the Batangas port, while the third importation arrived at the Subic port. The *First Importation* was for 7,608,024 liters (by air) of Jet A-1 fuel, which came on May 29, 2018 at the Tabangao Refinery private port, which is within the jurisdiction of the Port of Batangas, based on the Certificate of Quantity Received. This importation was made when petitioner's product storage tanks were operated as CBW. As such, no excise tax was paid during importation and storage in the CBW.

When the Tabangao product tanks were converted from CBW to non-CBW on September 13, 2018, 3,963,880 liters of Jet A-1 fuel remained from the *First Importation,* which remained stored in the Tabangao product storage tanks. Thus, to convert the same from tax-free into tax-paid inventory prompted by the conversion of the storage tanks from CBW to non-CBW, petitioner lodged the corresponding importation details for the remaining quantity of 3,963,880 liters through the E2M System and paid the corresponding taxes therefor.

The *Second Importation,* on the other hand, was for 6,639,034 liters (by air) of Jet A-1 fuel, which arrived on July 10, 2018 at the Tabangao Refinery private port, based on the Certificate of Quantity Received. This importation was also made when petitioner's product storage tanks were operated as CBW. At the time of the conversion of the Tabangao product storage tanks from CBW to non-CBW on September 13, 2018, there were still 2,820,682 liters of Jet A-1 fuel remaining from the *Second Importation,* which remained stored in the Tabangao product storage tanks. Like the *First Importation,* petitioner also lodged the corresponding importation details for the remaining 2,820,682 liters through the E2M System and paid the corresponding taxes.

The *Third Importation* was for 19,117,173 liters (by air) of Jet A-1 fuel, which arrived in September 2018 at the Subic port, within the jurisdiction of the Port of Subic, based on the Quantity Report dated September 25, 2018. The *Third Importation* of 19,117,173 liters of Jet A-1 fuel and the excise taxes paid thereon are covered by the following documents: (a) Ocean Bill of Lading No. HL2018JET051-2; (b) Proforma Invoice dated September 25, 2018; (c) SGS Stock Take Inventory Report dated September 25, 2018; (d) Commercial Invoice dated October 29, 2018; (e) Single Administrative Document dated

October 2, 2018; (f) Authority to Release Imported Goods (ATRIG) dated October 1, 2018; (g) Computation Sheet o revised charges; (h) Statement of Settlement of Duties and Taxes (SSDT); (i) Updated SSDT with attached computation for additional taxes; and (j) BOC Official Receipt dated November 2, 2018.

Finally, Ms. Peralta testified on the withdrawals of imported Jet A-1 fuel. According to her, the imported Jet A-1 fuel stored at product tanks is withdrawn from the Tabangao Refinery through the Tabangao Terminal or the Subic Terminal and delivered directly to the JOCASP or the Clark Aviation Services Inc. (CASI) facility. The Jet A-1 fuel stored at the JOCASP or CASI facility is eventually sold and delivered to international air carriers.

Also, by way of a Judicial Affidavit,[25] **Mr. Rommel F. Guevarra (Mr. Guevarra)** testified that he has been the *Terminal Operations Supervisor* at the Tabangao Depot of petitioner since January 2019. As *Terminal Operations Supervisor*, he is responsible for (a) overseeing and accounting for the receipts and withdrawals of all fuels, including Jet A-1 fuel, from the Tabangao Refinery through the Tabangao Depot; (b) supervising and monitoring asset maintenance and truck movements at the Tabangao Depot; (c) determining the focal point for other financial matters of the Tabangao Depot; and (d) determining the focal point for Tabangao Depot's issues relating to information technology.

Mr. Guevarra declared that upon the withdrawal of the Jet A-1 fuel from petitioner's Tabangao Refinery through the Tabangao Depot, the imported Jet A-1 fuel is delivered to JOCASP located at NAIA. According to him, by the time the Jet A-1 fuel is withdrawn from the Tabangao Refinery through the Tabangao Depot, the Jet A-1 fuel will already be excise tax paid. When asked how the withdrawals of imported Jet A-1 fuel from the Tabangao Refinery through the Tabangao Depot are monitored, he explained that both the Tabangao Refinery and the Tabangao Depot have Official Register Books (ORB) that respectively record the withdrawals of Jet A-1 fuel from the Tabangao Refinery to the Tabangao Depot and from the Tabangao Depot to the JOCASP at the NAIA or the CASI facility in Clark. The ORB indicates the "withdrawals" of Jet A-1 fuel

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[25] Exhibit "P-60", Docket – Vol. I, pp. 163 to 168; Minutes of the hearing held on, and Order dated, June 14, 2021, Docket – Vol. II, pp. 570 to 571.

and the running balance thereof for a specific period for the Tabangao Refinery and the Tabangao Depot, as the case may be. The ORB is signed by a Revenue Officer on Premises and an authorized representative of petitioner. Finally, as the imported Jet A-1 fuel is removed from the Tabangao Refinery through the Tabangao Depot, a Withdrawal Certificate (WC) and Bulk Delivery Note (BDN) accompanies the Jet A-1 fuel, which indicates the quantity and destination of the deliveries to JOCASP.

Mr. Matias D. Aquiatan, Jr. (Mr. Aquiatan), also by way of a Judicial Affidavit,[26] testified that as petitioner's *Operations Manager*, he is responsible for monitoring all receipts of petroleum products, including imported Jet A-1 fuel and their subsequent deliveries to international and domestic customers through JOCASP located at NAIA and CASI in Clark, Pampanga. He also oversees the stock movements in JOCASP and CASI, which involves receipts and withdrawals of imported Jet A-1 fuel from both facilities.

Mr. Aquiatan declared that petitioner maintains two (2) product storage tanks for imported Jet A-1 fuel: *one*, in its Tabangao Refinery in Batangas for Jet A-1 fuel importations arriving at Batangas port, and the other, in its Subic Terminal for Jet A-1 fuel importations arriving at Subic port. He added that imported Jet A-1 fuel withdrawn from the Tabangao Refinery is delivered to either JOCASP or CASI storage facility, while imported Jet A-1 fuel withdrawn from the Subic Terminal is delivered to JOCASP.

According to him, upon withdrawal from the Tabangao Refinery through the Tabangao Depot in Batangas or from the Subic Terminal, the imported Jet A-1 fuel is delivered directly to JOCASP *via* lorries or tank trucks for sale and delivery to international air carriers. The Jet A-1 fuel withdrawn from the Tabangao Refinery through the Tabangao Depot and delivered to JOCASP is accompanied by a BDN and WC. On the other hand, the Jet A-1 fuel withdrawn from the Subic Terminal and delivered to JOCASP is accompanied by a BDN and a Gate Pass. After Jet A-1 fuel is received in JOCASP, it is sold to petitioner's air carrier customers. A daily Product Movement Report (DPMR) is generated daily, indicating the receipt of Jet A-1 fuel, the

[26] Exhibit "P-61", Docket – Vol. I, pp. 172 to 184; Minutes of the hearing held on, and Order dated, June 14, 2021, Docket – Vol. II, pp. 570 to 571.

volume of Jet A-1 fuel received, and its eventual withdrawal for delivery to customers.

Mr. Aquiatan also declared that from JOCASP, the Jet A-1 fuel is delivered to international air carriers *via* a specialized vehicle that pumps the Jet A-1 fuel directly into the tank of the air carrier. The specialized vehicle has a meter that determines the volume of Jet A-1 fuel pumped into the air carrier. He added that upon delivery of the Jet A-1 fuel to the air carrier, petitioner presents to the authorized representative of the international air carrier a document called Aviation Service Return (ASR), where the customer acknowledges receipt of the delivery and the corresponding volume of Jet A-1 fuel. The ASR is either printed through petitioner's Data Capture System (DCS) or manually prepared when the system is down. With DCS, the details of the delivery are immediately captured by petitioner's computer system, enabling it to generate a report daily.

The DCS may generate a Supplier Sales Report to summarize the daily deliveries to a particular airline customer. It indicates the ASR number and the date, the customer, the aircraft registration number, the volume of Jet A-1 fuel delivered to that customer, the aircraft's destination, and the invoice number and date.

Finally, Mr. Aquiatan declared that the exemption from payment of excise taxes depends on whether the customer is an international air carrier, whether the country of registry of such international air carrier has an existing air transport agreement with the Philippines, and whether the customer will use the Jet A-1 fuel for an international flight. According to Mr. Aquiatan, this is determined at that stage of sales negotiation when petitioner enters into a supply agreement with the customer. At that stage, the customer is tagged in petitioner's system as exempt or taxable. Upon actual delivery of the Jet A-1 fuel to the air carrier, petitioner can confirm that the customer is indeed an international air carrier.

On the other hand, **Ms. Farida Nimfa G. Dimailig (Ms. Dimailig)** testified[27] that she caused the filing of petitioner's claim for a refund and took an active part in preparing the documents that would prove petitioner's entitlement to the refund.

[27] Exhibit "P-62", Docket – Vol. I, pp. 258 to 265; Minutes of the hearing held on, and Order dated, June 14, 2021, Docket – Vol. II, pp. 570 to 571.

Ms. Dimailig stated that the basis of petitioner's present claim is Section 135 of the NIRC of 1997, as amended, in relation to Sections 204 and 229 of the same Code. However, for purposes of determining which sale of Jet A-1 fuel by petitioner to the international carrier is exempt from excise tax, the witness claimed that petitioner relied on the provision of Section 135 of the NIRC of 1997, as amended, which provides the conditions for such exemption as follows: (1) the international air carrier is registered in a country which grants a reciprocal tax exemption to a Philippine-registered air carrier, and (2) the Jet A-1 fuel sold is used or consumed outside the Philippines. In the case of Philippine Airlines, its exemption from excise tax is based on its legislative franchise, *i.e.*, Presidential Decree No. 1590, specifically Section 13. The same is true with Cebu Air, Inc. (Cebu Pacific), *i.e.*, Republic Act No. 7151, specifically Section 11 thereof.

The witness further testified that upon its request, petitioner was furnished by the Department of Foreign Affairs (DFA) with a list of countries granting reciprocal tax exemptions to Philippine-Registered/Designated Air Carriers based on the air transport agreements executed by the Philippines with those countries.

After determining the countries of registration of the international airline customer, petitioner will then confirm the tax exemption by securing certified true copies of the Air Transport Agreements executed by the Philippines with the relevant countries. By examining the respective Air Transport Agreements, petitioner ascertains whether the countries of registry of the international carriers to which Jet A-1 fuel was sold during the relevant period of the claim grant reciprocal tax exemption to Philippine-registered international air carriers.

Finally, upon a determination that the Jet A-1 fuel sold to international airline customers is exempt from excise tax, the price used in the sales invoice for the Jet A-1 fuel sold and delivered to the tax-exempt international customer is net of excise taxes.

Ms. Berenice Angelique L. Flores (Ms. Flores), for her part, testified[28] that she is familiar with the instant case by virtue of her employment and position as *Tax Advisor* of petitioner. As petitioner's *Tax Advisor*, she reviews documents in connection with petitioner's refund claims and verifies petitioner's entitlement thereto. As such, she is in possession of the documents relating to the administrative refund claim of the instant case.

Since this refund claim pertains to excise taxes paid on Jet A-1 fuel sold to international carriers, which are exempt from excise tax, Ms. Flores declared that she reviewed documents relevant to petitioner's importation of Jet A-1 fuel, payment of taxes and duties on the importation; withdrawal and release of Jet A-1 fuel from the Tabangao Refinery through the Tabangao Depot of from Subic Terminal; and subsequent transfer of the Jet A-1 fuel for eventual sale to international air carriers.

According to Ms. Flores, petitioner filed claims for refund/tax credits of the excise taxes paid on the imported Jet A-1 fuel sold to international air carriers with the BIR through BIR ELTAD II. Petitioner filed two (2) separate letters with BIR ELTAD II, which constitute the administrative claims for refund/tax credit of excise taxes paid during the period from September to October on Jet A-1 fuel imported during the period from May to September 2018 and sold and delivered to international air carriers for the period September to November 2018, to wit: (1) Letter dated March 10, 2020, and filed on March 12, 2020, for the refund/tax credit of excise tax paid for 6,740,087 liters of imported Jet A-1 fuel for ₱26,960,348.00, which was sold to international air carriers for the period from September to October 2018; and (2) Letter dated March 10, 2020 and filed on March 12, 2020 for the refund of excise tax paid for 14,520,000 liters of imported Jet A-1 fuel for ₱58,080,000.00, which was sold to international air carriers for the period from October to November 2018. She added that the letters were filed with the ELTAD II of the BIR and the respective Applications for Tax Credits/Refunds (BIR Form 1914).

Witness **Maria Luz S. Verdejo (Ms. Verdejo)** is the *Head Librarian* at the *Carlos P. Romulo Library of the Department of Foreign Affairs — Foreign Service Institute* (*Romulo Library*) and

[28] Exhibit "P-63", Docket – Vol. I, pp. 409 to 422; Minutes of the hearing held on, and Order dated, July 26, 2021, Docket – Vol. II, pp. 597 to 598.

the custodian of the agreements entered by the Philippine Government.

She testified[29] that petitioner wrote a letter requesting a certified true copy of the Republic of the Philippines – United States of America (RP-USA) Agreement and the various Republic of the Philippines – Papua New Guinea (RP-PNG) Agreements.

Ms. Verdejo informed petitioner through a Certification dated September 9, 2020, that the *Romulo Library* cannot provide a certified true copy of the RP-USA Agreement because the original is not in its possession. She also issued a Certification dated March 17, 2021, stating that the *Romulo Library* does not possess the original copies of the Interim RP-PNG Agreement and the RP-USA Agreement and attached the photocopies thereof. Finally, she issued a Certification dated November 11, 2021, stating that the *Romulo Library* does not possess the original copies of the 2011 RP-PNG Agreement and the 2018 RP-PNG Agreement and attached the photocopies.

Ms. Verdejo, however, declared that while the RP-USA Agreement and various RP-PNG Agreements were not among the original documents turned over to the *Romulo Library* when it was designated as the repository of original agreements, the *Romulo Library* has in its possession a book of *Philippine Treaty Series, a Collection of the Texts of Treaties and other International Agreements to which the Philippines is a Party* edited and annotated by Haydee B. Yorac, Volume VII, 1974-1978 containing the complete text of the *Interim RP-PNG Agreement* on pages 217-218 thereof. The *Romulo Library* also has in its possession a book of the *Philippine Treaty Series, A Collection of the Texts of Treaties and Other International Agreements to which the Philippines is a Party* edited and annotated by Haydee B. Yorac, Volume IX, 1982-1983, containing the complete text of the *RP-USA Agreement* on pages 239-265 thereof. Moreover, the *Romulo Library* has photocopies of (a) a certified true copy of the 2011 *RP-PNG Agreement* issued by the DFA Office of Legal Affairs and (b) the *2018 RP-PNG Agreement.*

According to Ms. Verdejo, while the originals can no longer be found, these Agreements are still in effect based on the records in the *Romulo Library* as the DFA refers to these

[29] Exhibit "P-108", Docket – Vol. II, pp. 708 to 715; Order dated February 7, 2022, Docket – Vol. II, p. 818.

Agreements from time to time and acknowledges the existence of the same since its effectivity up to the present time.

Petitioner's last witness **ICPA Walter L. Abela, Jr. (ICPA Abela)** testified[30] that after performing the procedures outlined in their Report dated December 21, 2021 and Supplemental Report dated January 31, 2022, they found that the full amount of the total claim of ₱85,040,348.00, representing excise taxes paid on Jet A-1 fuel sold and delivered to international carriers of Philippine or foreign registry for their use or consumption outside the Philippines for the period from September 17, 2018 to November 22, 2018, was properly supported by relevant documents.

There being no more witness to present, and upon the instance of petitioner's counsel, petitioner was granted thirty (30) days from May 16, 2022, or until June 2022, to file a Formal Offer of Evidence (FOE). Respondent was also given thirty (30) days from receipt of petitioner's FOE to file his comment.[31]

On June 15, 2022, petitioner filed its *Formal Offer of Evidence with Manifestation [On Offer of Provisionally Marked Exhibits P-50-1, P-65-1, and P-65-2 as Originals under Rule 130 of the Revised Rules of Court]*,[32] to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence)* on June 27, 2022.[33] Likewise, on June 27, 2022, respondent filed a *Manifestation*,[34] stating that he would no longer present any witness.

In the Resolutions dated August 2, 2022,[35] and October 17, 2022, [36]the Court admitted petitioner's offered exhibits.

On November 25, 2022, and in compliance with the Court directive, respondent filed his *Memorandum*,[37] while petitioner filed its own[38] on December 12, 2022.

[30] Exhibits "P-109" and "P-110", Docket – Vol. II, pp. 697 to 704, and 843 to 851, respectively; Minutes of the hearing held on, and Order dated, May 16, 2022, Docket – Vol. II, pp. 852 to 854.
[31] Order dated May 16, 2022, Docket – Vol. II, pp. 853 to 854.
[32] Docket – Vol. III, pp. 860 to 903.
[33] Docket – Vol. III, pp. 1272 to 1274.
[34] Docket – Vol. III, pp. 1268 to 1270.
[35] Docket – Vol. III, pp. 1277 to 1280
[36] Docket – Vol. III, pp. 1293 to 1295.
[37] Docket – Vol. III, pp. 1296 to 1304.
[38] Docket – Vol. III, pp. 1316 to 1352.

On January 11, 2023, the instant case was submitted for decision.[39]

Hence, this Decision.

THE ISSUES

The issues[40] submitted by the parties for this Court's resolution are as follows:

> A. WHETHER OR NOT PETITIONER HAS COMPLIED WITH THE REQUIREMENTS UNDER SECTION 229 OF THE 1997 NATIONAL INTERNAL REVENUE CODE, AS AMENDED, FOR THE RECOVERY OF INTERNAL REVENUE TAXES THAT HAVE ALLEGEDLY BEEN ERRONEOUSLY, WRONGFULLY, ILLEGALLY, OR EXCESSIVELY ASSESSED OR COLLECTED.
>
> B. WHETHER OR NOT PETITIONER IS ENTITLED TO THE RECOVERY OF EXCISE TAXES IN THE AMOUNT OF ₱85,040,348.00 PAID DURING THE PERIOD FROM SEPTEMBER TO OCTOBER 2018."

Petitioner's Arguments:

Petitioner argues that it timely filed its claim for refund or credit for excise taxes erroneously, wrongfully, illegally, or excessively collected from excises taxes paid from the period of September to October 2018, pursuant to Sections 204 and 229 of the NIRC of 1997, as amended; and that it is entitled to the recovery of excise taxes in the amount of ₱85,040,348.00 paid for the period from September to October 2018 for Jet A-1 fuel imported for the period from May to September 2018, and sold during the period from September to November 2018 to international air carriers for use or consumption outside the Philippines, as (a) it previously paid excise taxes on the Jet A-1 fuel sold to international air carriers, (b) it sold the imported and excise tax-paid Jet A-1 fuel covered by the *First*, *Second*, and *Third* importations to international air carriers, which are billed and collected free of excise tax, (c) its sale of Jet A-1 fuel to international air carriers is exempt from excise tax, and (d) it is clearly entitled to a refund or the issuance of tax credit certificate for excise taxes paid on Jet A-1 fuel sold to international air carriers.

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[39] Resolution dated January 11, 2023, Docket – Vol. III, p. 1356.
[40] Par.2, Proposed Stipulation of Issues, JSFI, Docket – Vol. II, pp. 542 to 543.

Respondent's Arguments:

Respondent, on the other hand, counter-argues that Section 135 of the NIRC does not automatically exempt from excise tax petroleum products sold to international carriers and exempt entities and agencies; that there is no provision in the NIRC which provides that petitioner is entitled to a refund or the issuance of tax credit certificate for excise taxes paid on imported Jet A-1 fuel sold to international air carriers; and that petitioner is clearly asking for a refund or issuance of a tax credit certificate which the law itself does not clearly provide.

THE COURT'S RULING

Sections 204(C) and 229 of the NIRC of 1997, as amended, pertinently provide that:

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate, and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, at his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Boldfacing supplied)*
>
> "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, 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 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 a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Boldfacing supplied)*

Under the afore-quoted provisions, to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be satisfied and established:

1. that the tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively or in any manner wrongfully collected; and

2. that the claim for refund or credit has been filed within two years from the date of payment of tax, or penalty, regardless of any supervening cause that may arise after payment.

As in other refund cases, the Court must first determine the timeliness of the filing of petitioner's administrative and judicial claims for refund.

Sections 204 and 229 of the NIRC pertain to the refund or credit of erroneously or illegally collected taxes. Section 204 applies to administrative claims, while Section 229 to judicial claims. In both instances, the claim must be filed within two (2) years from the date of payment of the tax or penalty. Note that Section 229 further requires that an administrative claim for refund or credit must first be lodged with the CIR before the taxpayer may seek judicial intervention for the claim.[41] The two (2)-year prescriptive period is mandatory regardless of any supervening cause that may arise after payment.[42]

In fine, the filing of the claim for refund or credit with respondent is a prerequisite to the filing of the *Petition for Review* with this Court. However, both actions must be filed within two (2) years from the payment of the tax being refunded or credited.

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[41] *CBK Power Company Limited vs. Commissioner of Internal Revenue*, G.R. Nos. 193383-84, January 14, 2015 and *Commissioner of Internal Revenue vs. CBK Power Company Limited*, G.R. Nos. 193407-08.
[42] *Commissioner of Internal Revenue vs. Manila Electric Company* (MERALCO), G.R. No. 181459, June 9, 2014.

Petitioner's administrative and judicial claims for refund were filed within the 2-year prescriptive period.

Record reveals that petitioner made the first payment of excise tax on the importation of Jet A-1 fuel subject of the instant case on September 27, 2018.[43] Counting two (2) years, petitioner had until September 27, 2020, to file its administrative and judicial claims for a refund.

Accordingly, petitioner's administrative and judicial claims for refund or credit were seasonably filed on March 12, 2020,[44] and September 17, 2020,[45] respectively.

The excise taxes paid on imported Jet A-1 fuel sold to international air carriers were erroneously or illegally collected.

Petitioner claims that its imported Jet A-1 fuel sold to international air carriers is exempt from excise tax under Section 135 of the NIRC of 1997, 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 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

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[43] Exhibit "P-14", Docket – Vol. III, p. 960.
[44] Exhibits "P-54" to "P-57", Docket – Vol III, pp. 1216 to 1223.
[45] Docket – Vol. I, pp. 6 to 41.

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

On the other hand, respondent submits that Section 135 of the NIRC of 1997, as amended, exempts from the payment of excise taxes international carriers and other exempt entities or agencies, but not petitioner. According to respondent, the Supreme Court ruling in *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation,*[46] which petitioner invoked to support its claim for refund or issuance of tax credit certificate for the excise taxes paid on the imported Jet A-1 fuel, does not fall squarely with the present claim for refund or credit since the controversy in the above-cited case involved locally-manufactured Jet A-1 fuel and not imported Jet A-1 fuel.

The Court finds for petitioner.

A plain reading of Section 135 of the NIRC of 1997, as amended, reveals that the words *"petroleum products"* were never qualified. The law does not distinguish whether the petroleum products sold were locally manufactured or imported to be exempted from excise tax. Where the law does not distinguish, courts should not distinguish.[47] Thus, the exemption given under Section 135 of the NIRC of 1997 may be resorted to regardless of whether the subject Jet A-1 fuel was locally manufactured or imported, so long as the conditions therein are complied with by the claimant.

Relevantly, the disquisition of the Supreme Court on Section 135 of the NIRC of 1997, as amended, which is petitioner's legal basis for its claim for refund, is enlightening, to wit:

> "Excise tax on petroleum products is essentially a property tax, the direct liability for which pertains to the statutory taxpayer (***i.e.*, manufacturer, producer, or importer**). **Any excise tax paid by the statutory taxpayer on petroleum products sold to any of the entities or agencies named in Section 135 of the *National Internal Revenue Code* (NIRC) exempt from excise tax is deemed illegal or erroneous and should be credited or refunded to the payor under Section 204 of the NIRC. This is because the exemption granted under Section 135 of the NIRC must be construed in favor of the property itself, that is, the petroleum products.**"[48] *(Boldfacing supplied)*

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[46] 783 SCRA 490 (2016).
[47] *Manila International Airport Authority vs. Court of Appeals, et al.*, G.R. No. 155650, July 20, 2006.
[48] *Chevron Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 210836, September 01, 2015.

As the statutory taxpayer that paid the excise taxes on petroleum products sold to international carriers, petitioner is entitled to claim a refund of the subject excise taxes paid based on Section 135 of the NIRC, as amended, as the payment thereof is deemed illegal or erroneous.

Likewise, in *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*,[49] which involved the same parties, the Supreme Court categorically declared that petitioner, as the statutory taxpayer that paid the excise taxes on petroleum products sold to international carriers, is entitled to a refund or credit of the excise taxes paid under Section 135, to wit:

> "xxx We therefore hold that **respondent, as the statutory taxpayer who is directly liable to pay the excise tax on its petroleum products, is entitled to a refund or credit of the excise taxes it paid for petroleum products sold to international carriers, the latter having been granted exemption from the payment of said excise tax under Sec. 135 (a) of the NIRC**." *(Boldfacing supplied)*

Thus, contrary to respondent's protestation, the tax exemption under Section 135 of the NIRC of 1997, as amended, applies regardless of whether the Jet A-1 fuel was manufactured, produced, or imported by the statutory taxpayer (*i.e.*, manufacturer or producer or owner or importer) but the status of the petroleum products as exempt from excise taxes would be confirmed only upon their sale to any of the entities enumerated under Section 135 of the NIRC of 1997.

Records show that petitioner, through its refinery in Tabangao, Batangas, generally produces Jet A-1 fuels from the crude refining process, which are for sale to international and domestic air carriers. If petitioner needs additional supply, it tries to buy from local sources first before it imports.[50]

Petitioner resorts to occasional importation of finished Jet A-1 fuel if, for instance, the refinery shuts down or if the demand for Jet A-1 fuel exceeds the projected supply of locally manufactured Jet A-1 fuel.[51]

However, when petitioner operated its Tabangao product storage tanks as a CBW from the date of approval by the BOC

[49] G.R. No. 188497 (Resolution), February 19, 2014.
[50] Exhibit "P-59" (Q&A No. 10), Docket - Vol. I, pp. 87 to 88.
[51] Exhibit "P-59" (Q&A No. 11), Docket - Vol. I, p. 88.

in July 2015[52] until its closure in September 2018,[53] petitioner was not allowed to locally produce Jet A-1 fuel, so all Jet A-1 fuel stored in its Tabangao product storage tanks was sourced or imported from abroad.[54]

Thus, these storage tanks contain only purely imported and tax-free Jet A-1 fuel during the CBW period. When the CBW was terminated sometime in September 2018, all remaining imported and tax-free Jet A-1 fuel was accounted for and reported to the BOC. These converted Jet A-1 fuels were declared with the BOC, and the corresponding excise and value-added taxes were paid. All Jet A-1 fuel withdrawn from the Tabangao product storage tanks after conversion from bonded tanks to non-bonded tanks thus became tax-paid fuel.[55]

Petitioner received three importations of Jet A-1 fuel from May to September 2018.

First Importation:

The *First Importation* for 7,608,024 liters of Jet A-1 fuel, which arrived on May 29, 2018 at the Tabangao Refinery, is under the jurisdiction of the Port of Batangas based on the Certificate of Quantity Received.[56] This was declared under CRF 18CBW10LOC4 and shipped in the vessel MT Sunny Dream. This importation was made when the product storage tanks were operated as CBW. As such, no excise tax was paid during importation and storage in the CBW.[57]

The following documents covered the importation of 7,608,024 liters of Jet A-1 fuel:

a. Single Administrative Document dated May 29, 2018, with reference number 2018CBW023B;[58]
b. Certificate of Quantity Received dated June 3, 2018;[59]
c. Survey Report No. OGC-18-0908 dated July 10, 2018;[60]
d. Letter Request for Special Permit to Discharge (SPD) dated May 28, 2018;[61]

[52] Exhibit "P-2", Docket – Vol. III, pp. 913 to 915.
[53] Exhibit "P-2-1", Docket – Vol. III, pp. 916 to 917.
[54] Exhibit "P-59" (Q&A No. 11), Docket – Vol. I, p. 88.
[55] Exhibit "P-59" (Q&A No. 14), Docket – Vol. I, pp. 88 to 89.
[56] Exhibit "P-4", Docket – Vol. III, p. 920.
[57] Exhibit "P-59" (Q&A Nos. 50 to 51), Docket – Vol. I, pp. 96 to 98.
[58] Exhibit "P-3", Docket – Vol. III, pp. 918 to 919.
[59] Exhibit "P-4", Docket – Vol. III, p. 920.
[60] Exhibit "P-5", Docket – Vol. III, pp. 921 to 936.
[61] Exhibit "P-6", Docket – Vol. III, p. 937.

e. Bills of Lading No. OP-01 dated May 22, 2018,[62] with attached Certificate of Origin,[63] Certificate of Quality,[64] Aviation Fuel Tank Release Certificate,[65] Vessel Ullage Report,[66] Cargo Manifest;[67]
f. Customs Invoice – Bulk Product dated May 24, 2018, with no. ITAKZY0002;[68]
g. Letter dated May 29, 2018;[69]
h. Tax Invoice dated June 4, 2018, with number 90706465/P.[70]

At the time of the conversion of the Tabangao product tanks from CBW to non-CBW on September 13, 2018, there were still 3,963,800 liters of Jet A-1 fuel remaining from the *First Importation*, which remained stored in the Tabangao product storage tanks. Thus, to convert the same from tax-free into tax-paid inventory prompted by the conversion of the storage tank from CBW to Non-CBW, petitioner lodged the corresponding importation details for the remaining quantity of 3,963,880 liters through the E2M System and paid the corresponding taxes therefor in the amount of ₱15,855,520.00.[71]

The remaining excise tax-paid 3,963,880 liters of Jet A-1 fuel, supported by the following documents, were subsequently transferred to petitioner's storage tanks in the JOCASP at NAIA for subsequent sale and delivery to international air carriers for use and consumption outside the Philippines:[72]

a. Single Administrative Document dated September 24, 2018;[73]
b. Computation sheet of revised charges;[74]
c. Request for Correction of Data in Single Administrative Document and Order of Payment;[75]
d. ATRIG dated September 24, 2018;[76]
e. SSDT dated September 27, 2018;[77]
f. Commercial Invoice dated February 8, 2019.[78]

[62] Exhibit "P-7", Docket – Vol. III, p. 938.
[63] Exhibit "P-7-1", Docket – Vol. III, p. 939.
[64] Exhibit "P-7-2", Docket – Vol. III, pp. 940 to 944.
[65] Exhibit "P-7-3", Docket – Vol. III, p. 945.
[66] Exhibit "P-7-4", Docket – Vol. III, pp. 946 to 947.
[67] Exhibit "P-7-5", Docket – Vol. III, p. 948.
[68] Exhibit "P-8", Docket – Vol. III, p. 949.
[69] Exhibit "P-9", Docket – Vol. III, p. 950.
[70] Exhibit "P-10", Docket – Vo. III, pp. 951 to 953.
[71] Exhibit "P-14", Docket – Vol. III, p. 960.
[72] Par. 11, *Memorandum for Petitioner*, Docket – Vol. III, p. 1325.
[73] Exhibit "P-11", Docket – Vol. III, p. 954.
[74] Exhibit "P-11-1", Docket – Vol. III, pp. 955 to 956.
[75] Exhibits "P-12" to "P-12-1", Docket – Vol. III, pp. 957 to 958.
[76] Exhibit "P-13", Docket – Vol. III, p. 959.
[77] Exhibit "P-14", Docket – Vol. III, p. 960.
[78] Exhibit "P-15", Docket – Vol. III, p. 961.

Second Importation:

The *Second Importation* for 6,639,034 liters of Jet A-1 fuel, which arrived on July 10, 2018 at the Tabangao Refinery, is under the jurisdiction of the Port of Batangas based on the Certificate of Quantity Received.[79] This was declared under CRF 18CBW11LOC1 and shipped in the vessel MT Beluga Pacific. This importation was made when the product storage tanks were operated as CBW. As such, no excise tax was paid.[80]

The following documents covered the importation of 6,639,034 liters of Jet A-1 fuel:

a. Certificate of Quantity Received;[81]
b. Commercial Invoice with number 18CBW11LOC1.[82]

At the time of the conversion of the Tabangao product tanks from CBW to non-CBW on September 13, 2018, there were still 2,820,682 liters of Jet A-1 fuel remaining from the *Second Importation*, which remained stored in the Tabangao product storage tanks. Thus, to convert the same from tax-free into tax-paid inventory prompted by the conversion of the storage tank from CBW to non-CBW, petitioner lodged the corresponding importation details for the remaining quantity of 2,820,682 liters through the E2M System and paid the corresponding taxes therefor.

The remaining excise tax paid 2,820,682 liters of Jet A-1 fuel, supported by the following documents, were subsequently transferred to petitioner's storage tanks in JOCASP at NAIA for subsequent sale and delivery to international air carriers for use or consumption outside the Philippines:[83]

a. Single Administrative Document dated September 24, 2018;[84]
b. ATRIG dated September 24, 2018;[85]
c. Computation sheet of revised charges, with attached Request for Correction of Data in Single Administrative Document and Order of Payment;[86]
d. SSDT dated September 27, 2018;[87]
e. BOC Official Receipt dated May 23, 2019.[88]

[79] Exhibit "P-16", Docket – Vol. III, p. 962.
[80] Exhibit "P-59" (Q&A Nos. 52 to 53), Docket – Vol. I, pp. 98 to 99.
[81] *Id.*
[82] Exhibit "P-17", Docket – Vol. III, p. 963.
[83] Par. 16, *Memorandum for Petitioner*, Docket – Vol. III, p. 1327.
[84] Exhibit "P-18", Docket – Vol. III, p. 964.
[85] Exhibit "P-21", Docket – Vol. III, p. 969.
[86] Exhibits "P-19" to "P-19-2", Docket Vol. III, pp. 965 to 967.
[87] Exhibit "P-68.5", USB.
[88] Exhibit "P-22", Docket – Vol. III, pp. 970 to 971.

Third Importation:

The *Third Importation* for 19,117,173 liters of Jet A-1 fuel, which arrived in September 2018 at Subic Port, is within the jurisdiction of the Port of Subic based on the Quantity Report dated September 25, 2018. This was declared under CRF 18SUB05LOC and shipped in the MT Grand Ace 12 vessel. The *Third Importation* was stored at the leased storage facility in Subic.[89]

Before withdrawing the imported Jet A-1 fuel from the BOC, petitioner lodged the corresponding importation details through the BOC E2M System and paid the corresponding taxes at ₱4.00/liter.

The *Third Importation* of 19,117,173 liters of Jet A-1 fuel and the amount of excise taxes paid thereon were covered by the following documents:

a. Ocean Bill of Lading No. HL 2018JET051-2;[90]
b. Proforma Invoice dated September 25, 2018;[91]
c. SGS Stock Take Inventory Report dated September 25, 2018;[92]
d. Commercial Invoice dated October 29, 2018, with number 18SUB05LOC;[93]
e. Single Administrative Document dated October 2, 2018;[94]
f. ATRIG dated October 1, 2018;[95]
g. Computation sheet of revised charges;[96]
h. SSDT dated October 3, 2018;[97]
i. Updated SSDT dated November 22, 2018, with attached computation for additional taxes;[98]
j. BOC Official Receipt dated November 22, 2018.[99]

An examination of IEIRD CRN 8518[100] as well as SSDT dated October 3, 2018,[101] reveals that petitioner paid excise tax amounting to only ₱75,533,808.00 for 18,883,452 liters of Jet A-1 fuel for the 3rd importation. However, an updated SSDT dated November 22, 2018, with the attached computation of additional taxes, was submitted by petitioner, reflecting the amount of ₱76,468,692.00 as the payment for excise tax for

[89] Exhibit "P-59" (Q&A Nos. 54 to 55), Docket – Vol. I, pp. 99 to 100.
[90] Exhibit "P-23", Docket – Vol. III, pp. 972 to 977.
[91] Exhibit "P-24", Docket – Vol. III, p. 978.
[92] Exhibit "P-25", Docket – Vol. III, pp. 979 to 981.
[93] Exhibit "P-26", Docket – Vol. III, p. 982.
[94] Exhibit "P-27", Docket – Vol. III, p. 983.
[95] Exhibit "P-28", Docket – Vol. III, p. 984.
[96] Exhibit "P-29", Docket – Vol. III, (back of p. 983).
[97] Exhibit "P-30", Docket – Vol. III, p. 985.
[98] Exhibits "P-31" to "P-31-1", Docket – Vol. III, pp. 986 to 987.
[99] Exhibit "P-32", Docket – Vol. III, p. 988.
[100] Exhibit "P-69", USB.
[101] Exhibit "P-30", Docket – Vol. III, p. 985.

19,117,173 liters of imported Jet A-1.[102] The difference of ₱934,884.00 (₱76,468,692.00 less ₱75,533,808.00) was included in the payment made to BOC under OR No. 01878577834[103] amounting to ₱4,869,578.00, broken down as follows:

Value-added tax	₱3,934,695.00
Excise tax	934,884.00
Total Duties/Taxes	**₱4,869,579.00**[104]

Out of the 19,117,173 liters of Jet A-1 fuel from the 3rd importation, 14,520,000 liters were subsequently transferred to petitioner's storage tanks in JOCASP in NAIA or CASI for subsequent sale and delivery to international air carriers for use or consumption outside the Philippines.[105]

Petitioner sufficiently proved that it had erroneously paid excise taxes on imported Jet A-1 fuel sold to international air carriers but only in the amount of ₱77,056,884.00.

For the period from September to November 2018, petitioner allegedly sold excise tax paid Jet A-1 fuel from the *First, Second,* and *Third* importations to various international airlines for their use or consumption *outside* the Philippines, as follows:[106]

Customers	Volume in Liters		TOTAL
	1st & 2nd Importations	3rd Importation	
Air China Ltd.	131,215	423,778	554,993
Air Niugini	85,940	254,043	339,983
Asiana Airlines Inc.	96,339	611,850	708,189
Cebu Air Inc.	1,329,807	2,178,615	3,508,422
China Airlines Ltd.	138,552	472,946	611,498
China Eastern Airlines Ltd.	76,216	218,087	294,303
China Southern Airlines Co. Ltd.	127,576	391,371	518,947
Federal Express Corp.	332,454	398,512	730,966
Jetstar Asia Airways Pte. Ltd.	78,222	94,120	172,342
Jin Air Co. Ltd.	273,448	261,613	535,061
Korean Airlines Co. Ltd.	332,307	1,264,315	1,596,622
Philippines Airlines Inc.	2,959,029	7,101,561	10,060,590

[102] Exhibits "P-31" to "P-31-1", Docket – Vol. III, pp. 986 to 987.
[103] Exhibit "P-32, Docket – Vol. III, p. 988.
[104] Exhibit "P-31-1, Docket – Vol. III, p. 987.
[105] Par. 22, *Memorandum for Petitioner*, Docket – Vol. III, p. 1329; Exhibit "P-59" (Q&A No. 56), Docket – Vol. I, p. 100.
[106] Par. 9, *Petition for Review*, Docket – Vol. I, p. 11.

Qantas Airways Ltd.	318,645	849,189	1,167,834
Scoot Tigerair Pte. Ltd.	50,183	-	50,183
Silkair Singapore Private Limited	269,158	-	269,158
Xiamen Airline Co. Ltd.	140,996	-	140,996
Total Aviation Sales (In Liters)	**6,740,087**	**14,520,000**	**21,260,087**
Excise Tax Rate	₱4.00/Liter	₱4.00/Liter	₱4.00/Liter
Total Excise Tax Paid	**₱26,960,348.00**	**₱58,080,000.00**	**₱85,040,348.00**

Alleging that the international air carriers to which it sold imported Jet A-1 fuel are exempt from excise taxes under Section 135(a) of NIRC of 1997, petitioner seeks the recovery of excise taxes paid thereon in the amount of ₱85,040,348.00, as computed above.

For the sale of petroleum products to an international air carrier to be exempted from excise tax under Section 135(a) of the NIRC of 1997, as amended, petitioner must present the following:

1. Proof of foreign registry of the international air carriers, or in the case of Philippine-registered air carriers, the latter's proof of authority to operate international flights;

2. Proof that the imported Jet A-1 fuel were used or consumed outside the Philippines; and

3. Proof that 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.

Petitioner complied with the *first* requirement. Petitioner presented the Certifications[107] issued by the Civil Aviation Authority of the Philippines (CAAP) on September 14, 2020, which confirm the country of registry of each of the international air carriers enumerated therein, subject of the instant claim. With regard to petitioner's international air-carrier customers which are of Philippine registry, namely, Philippine Airlines, Inc. and Cebu Air, Inc., petitioner presented the Certification[108] from the Civil Aeronautics Board (CAB) dated September 7, 2020 which certifies that:

a. *Philippine Airlines, Inc. has been granted a franchise permit through Presidential Decree No. 1590 from June 11, 1978 to present, and*

[107] Exhibits "P-48-2" and "P-48-3", Docket – Vol. III, pp. 1083 to 1092.
[108] Exhibit "P-51", Docket – Vol. III, p. 1209.

b. *Cebu Air, Inc. has been granted a franchise permit through Republic Act No. 7151 (R.A. 7151), which was approved on August 30, 1991, from the date of effectivity of R.A. 7151 to present.*

The said airlines are authorized to operate and maintain air transport services in the Philippines and between the Philippines and other countries, and that R.A. 7151 and P.D. 1590 authorized Cebu Air, Inc. and Philippine Airlines, Inc. to operate international flights from the date of effectivity of R.A. 7151 and P.D. 1590 to present, including the year 2018.

As to the *second* requirement, the CAB Certification dated September 7, 2020[109] shows that the international air carriers of foreign registry listed therein have been issued with Foreign Air Carrier's Permit (FACP), which authorized them to operate international flights only for a period, covering, but not limited to, the year 2018. Further, the Aviation Service Returns (ASRs)[110] submitted by petitioner indicated the details of the Jet A-1 fuel deliveries made by petitioner to international air carriers, including the origin and destination of the international carriers. It can be seen from each of the ASRs that the route of the international air carrier named therein (whether of foreign or Philippine registry) is only between the Philippines and other countries, proving that the sold imported Jet A-1 fuel was used or consumed outside the Philippines. Hence, the *second* requirement was satisfactorily met.

We proceed to the *third* requirement, *i.e.*, 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.

In their respective Judicial Affidavits, Ms. Carla Angelica T. Peralta, petitioner's former *Import and Export Scheduler for Trading and Supply*,[111] Mr. Rommel F. Guevarra, petitioner's *Terminal Operations Supervisor* at Tabangao Depot,[112] and Mr. Matias D. Aquiatan, Jr., petitioner's *Operations Manager*,[113] explained the process and documentation of the receipts and withdrawals of imported Jet A-1 fuel at petitioner's storage tanks in Tabangao Refinery through the Tabangao Depot or Subic Terminal and its subsequent delivery to JOCASP and CASI for eventual sale to international carriers.

[109] *Id.*
[110] Exhibits "P-98.1" to "P-98.1086", USB.
[111] Exhibit "P-59", Docket – Vol. I, pp. 85 to 103.
[112] Exhibit "P-60", Docket – Vol. I, pp. 163 to 168.
[113] Exhibit "P-61", Docket – Vol. I, pp. 172 to 184.

It was explained that petitioner maintains two (2) product storage tanks for imported Jet A-1 fuel: *one,* in its Tabangao Refinery in Batangas for Jet A-1 fuel importations arriving at Batangas port, and *two,* in its Subic Terminal, for Jet A-1 fuel importations arriving at Subic port.

After the imported Jet A-1 fuel is unloaded and stored in product tanks at petitioner's Tabangao Refinery or Subic Terminal, the imported Jet A-1 fuel stored at product tanks is withdrawn from the Tabangao Refinery through the Tabangao Terminal or from Subic Terminal and delivered directly to JOCASP or the CASI facility.

Imported Jet A-1 fuels withdrawn from the Tabangao Refinery are delivered to JOCASP or CASI storage facility, while imported Jet A-1 fuel withdrawn from the Subic Terminal are delivered to JOCASP.

However, the subject importations in this case were withdrawn from both the Tabangao Refinery and Subic Terminal and transferred only to the JOCASP facility in NAIA.

Upon withdrawal from the Tabangao Refinery through the Tabangao Depot in Batangas or the Subic Terminal, the imported Jet A-1 fuel is delivered directly to JOCASP *via* lorries or tank trucks for sale and delivery to international air carriers.

The Jet A-1 fuel stored at the JOCASP covered by the subject importations is eventually sold and delivered to international air carriers.

The arrivals of importation and the withdrawals of Jet A-1 fuel in the Tabangao Refinery are recorded and summarized in the ORB, which is jointly signed by an authorized representative of petitioner and the Revenue Officer on Premises (ROOP).

The ORB indicates the "receipts" and "removals" of Jet A-1 fuel for a certain period and the running balance of stored Jet A-1 fuel for that period. It also shows the production of local Jet A-1 fuel for the period.

As for the imported Jet A-1 fuel removed from the Tabangao Refinery through the Tabangao Depot, a WC and BDN accompany the Jet A-1 fuel, which indicates the quantity and destination of the deliveries to JOCASP.

In addition, a Liquidation Report is prepared at the Tabangao Refinery, which summarizes the WCs to record withdrawals of imported Jet A-1 fuel.

By the time the Jet A-1 fuel is withdrawn from the Tabangao Refinery through the Tabangao Depot, the Jet A-1 fuel will already be excise tax paid.

If the Jet A-1 fuel to be withdrawn from the refinery is imported, then the WC with a notation, "Tax Paid," means that the excise tax on the imported Jet A-1 fuel was already paid to the BOC. Since this WC covers the withdrawal or removal of imported Jet A-1 fuel, the same WC indicates that the fuel covered is "Tax Paid."

On the other hand, the arrivals of importation in the Subic Terminal are monitored by petitioner based on the quantity received as reported in the SGS Stock Inventory Report, and the withdrawals therefrom are accompanied by a BDN and a Gate Pass.

After Jet A-1 fuel is received in JOCASP, it is sold to petitioner's air carrier customers.

A Daily Product Movement Report (DPMR) is generated daily, indicating the receipt of Jet A-1 fuel, the volume of Jet A-1 fuel received, and its eventual withdrawal for delivery to customers.

When imported Jet A-1 fuel is withdrawn from JOCASP for delivery to petitioner's air carrier customers, the withdrawal is recorded in the DPMR earlier referred to. The volume and the destination of the Jet A-1 fuel withdrawn from the facility are also indicated therein.

From JOCASP, the Jet A-1 fuel is delivered to international air carriers via a specialized vehicle that pumps the Jet A-1 fuel directly into the tank of the air carrier. The specialized vehicle is equipped with a meter that determines the volume of Jet A-1 fuel pumped into the air carrier.

Upon delivery of Jet A-1 fuel to the air carrier, petitioner presents to the authorized representative of the international air carrier a document called Aviation Service Return (ASR), where the customer acknowledges receipt of the delivery and the corresponding volume of Jet A-1 fuel.

The amounts billed by petitioner to the international airlines for the sale and delivery of Jet A-1 fuel for use and consumption outside the Philippines were denominated in foreign currency and were net of excise taxes. Petitioner, in turn, received payment for the sale of Jet A-1 fuel in foreign currency, net of excise taxes.

In support of the aforementioned Judicial Affidavits, petitioner submitted, among others, various documents such as ORBs,[114] WCs,[115] DPMRs,[116] ASRs,[117] Sales Invoices issued by petitioner to international airlines,[118] BDNs,[119] SGS Stock Inventory Report,[120] Subic Bay Metropolitan Authority Gate Pass,[121] printouts of petitioner's computerized accounting system showing "Overview of Billing Items" and "Pricing Details" (ZF2 Display Printouts),[122] and bank remittance evidencing payments from international/domestic carriers with an attached summary[123] which were all examined by the Court-commissioned Independent CPA.

In his supplemental report,[124] the ICPA stated that petitioner's total claim of ₱85,040,348.00 representing excise taxes paid on Jet A-1 fuel sold and delivered to international carriers of Philippine or foreign registry for their use or consumption outside the Philippines for the period September 17, 2018 to November 22, 2018, was properly supported by relevant documents.

However, upon careful examination of petitioner's supporting documents, the Court finds that the BDNs[125] supporting the following 600,000 liters Jet A-1 fuel deliveries are unreadable. Thus, the Court could not ascertain the correctness of relevant details such as volume, destination, delivery number, shipment number, product description, and date. Accordingly, petitioner's claimed excise tax payment related thereto in the amount of ₱2,400,000.00 should be disallowed, detailed as follows:

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114 Exhibits "P-71" to "P-73", USB.
115 Exhibits "P-99.1" to "P-99.380, USB.
116 Exhibits "P-95.1" to "P-95.4", USB.
117 Exhibits "P-98.1" to "P-98.1086", USB.
118 Exhibits "P-100.1" to "P-100.147", USB.
119 Exhibits "P-101.1" to "P-101.532", USB.
120 Exhibit "P-91", USB.
121 Exhibit "P-102.1" to "P-102.363", USB.
122 Exhibits "P-96.1.1" to "P-96.147.1", USB.
123 Exhibits "P-97.1" to "P-97.30", USB.
124 Exhibit "P-107".
125 As indicated in the Reconciliation of Delivery Notes and Aviation Service Returns for the period September 17, 2018 to November 22, 2018; Exhibits "P-105.1" to "P-105.4", attached to Exhibit "P-66".

Exhibit No.	Shipment No.	Delivered To	Volume in Liters
"P-101.53"	1520259132	Qantas Airways Ltd Qantas Airways Ltd	31,220 8,780
"P-101.58"	1520259140	Philippine Airlines Inc.	40,000
"P-101.177"	1520260168	Philippine Airlines Inc.	40,000
"P-101.242"	1520260364	Cebu Air Inc. Cebu Air Inc. China Eastern Airlines Air China Ltd.	2,832 13,949 10,943 12,276
"P-101.243"	1520260365	Air China Ltd. China Airlines Ltd. China Airlines Ltd. China Airlines Ltd. China Southern Airlines Korean Airlines Co. Ltd.	4,885 2,438 7,725 6,201 6,286 12,465
"P-101.319"	1520260995	Philippine Airlines Philippine Airlines	34,815 5,185
"P-101.342"	1520261121	Cebu Air inc. Air Niugini Ltd.	8,615 15,810
		Cebu Air inc. Federal Express	6,179 9,396
"P-101.369"	1520261318	Philippine Airlines China Eastern Airlines Philippine Airlines	18,099 7,567 14,334
"P-101.388"	1520261511	Philippine Airlines Philippine Airlines	9,029 30,971
"P-101.442"	1520261894	Cebu Air Inc. Cebu Air Inc.	802 15,293
		Cebu Air Inc. Philippine Airlines	14,250 9,655
"P-101.454"	1520261892	Korean Airlines Co. Air Niugini Cebu Air Inc. China Airlines Ltd.	8,468 19,873 7,166 4,493
"P-101.473"	1520262007	Korean Airlines Co. China Southern Airlines Korean Airlines Co.	15,893 6,229 17,878
"P-101.474"	1520262118	Korean Airlines Co. Asiana Airlines Inc. Asiana Airlines Inc.	14,823 16,501 8,676
"P-101.475"	1520262117	Asiana Airlines Inc. Philippine Airlines Philippine Airlines	4,901 31,141 3,958
"P-101.498"	1520264991	Federal Express Corp. Cebu Air Inc.	4,134 13,123
		Cebu Air Inc. Cebu Air Inc.	11,734 11,009
	Total Liters Rate Per Liter		600,000 ₱ 4.00
	Disallowed Excise Tax		**₱2,400,000.00**

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Moreover, the Court noted that the instant claim included deliveries to petitioner's international air carrier customers, sourced from withdrawals dated earlier than September 24, 2018,[126] as shown in the ATRIG for the *First Importation.*

As testified by petitioner's former *Import and Export Scheduler for Trading and Supply*, Ms. Carla Angelica T. Peralta, an ATRIG constitutes permission from the BIR to withdraw the Jet A-1 fuel from the Tabangao Refinery or Subic Terminal after the settlement of the taxes and duties due thereon. For taxable importation or importation made outside the CBW period, the Jet A-1 fuel cannot be withdrawn by petitioner without the ATRIG. If the article to be imported is subject to excise tax, the ATRIG shows the amount of excise taxes to be paid. Since Jet A-1 fuel is an excisable article, the ATRIG for imported Jet A-1 fuel indicates the amount of excise taxes to be paid thereon.[127]

Considering that the date of the ATRIG for the *First Importation* was September 24, 2018, any withdrawal from the Tabangao Refinery that is earlier than the said date is not covered by the *First Importation* upon which the claimed deliveries to international air carriers, subject of the instant claim, were sourced. Consequently, petitioner's claimed excise taxes in the amount of ₱5,405,564.00 related to the 1,351,391 liters of Jet A-1 fuel covered by WCs dated earlier than September 24, 2018 should be disallowed, detailed as follows:[128]

Date	Withdrawal Certificate	Volume In Liters	Exhibit	Delivery Note					Balance In Liters
				Date	Delivery Number	Location	Volume In Liters	Exhibit	
9/14/2018	2018447773	915,866	P-99.1	9/29/2018	5330180	Cebu	40,000	P-101.147	875,866
				9/30/2018	5331644	Cebu	40,000	P-101.148	835,866
				1/10/2018	5331646	Cebu	40,000	P-101.149	795,866
				2/10/2018	5333678	Cebu	40,000	P-101.150	755,866
				2/10/2018	5333679	Cebu	40,000	P-101.151	715,866
				3/10/2018	5335691	Cebu	40,000	P-101.152	675,866
				5/10/2018	5339083	Cebu	40,000	P-101.153	635,866
				6/10/2018	5340189	Cebu	40,000	P-101.154	595,866
				6/10/2018	5340190	Cebu	40,000	P-101.155	555,866
				7/10/2018	5342198	Cebu	40,000	P-101.156	515,866
				8/10/2018	5342815	Cebu	40,000	P-101.157	475,866
				9/10/2018	5344218	Cebu	40,000	P-101.158	435,866
				10/10/2018	5346521	Cebu	40,000	P-101.159	395,866

[126] Exhibit "P-13", Docket – Vol. III, p. 959.
[127] Exhibit "P-59" (Q&A No. 34), Docket – Vol. I, p. 93.
[128] Exhibit "P-104.1", attached to Exhibit "P-66".

				11/10/2018	5347863	Cebu	40,000	P-101.160	355,866
				12/10/2018	5349816	Cebu	40,000	P-101.161	315,866
				10/13/2018	5353157	Cebu	40,000	P-101.162	275,866
				10/14/2018	5353323	Cebu	40,000	P-101.163	235,866
				10/15/2018	5354010	Cebu	40,000	P-101.164	195,866
				10/16/2018	5355481	Cebu	40,000	P-101.165	155,866
				10/17/2018	5356913	Cebu	40,000	P-101.166	115,866
				10/18/2018	5359465	Cebu	40,000	P-101.167	75,866
				10/19/2018	5361330	Cebu	40,000	P-101.168	35,866
				10/20/2018	5362846	Cebu	31,391	P-101.169	4,475
				[redacted]					-
9/14/2018	2018600281	120,000	P-99.2	9/14/2018	1520257546	Clark	40,000	P-101.126	80,000
				[redacted]					40,000
				9/15/2018	1520257544	Clark	40,000	P-101.127	-
9/15/2018	2018600282	80,000	P-99.3	9/16/2018	1520257660	Clark	40,000	P-101.128	40,000
				9/17/2018	1520257705	Clark	40,000	P-101.129	-
9/16/2018	2018600283	40,000	P-99.4	9/20/2018	1520258102	Clark	40,000	P-101.130	-
9/17/2018	2018600284	40,000	P-99.5	9/20/2018	1520258235	Clark	40,000	P-101.131	-
9/18/2018	2018600285	40,000	P-99.6	9/20/2018	1520258236	Clark	40,000	P-101.132	-
9/20/2018	2018600286	80,000	P-99.7	9/21/2018	1520258360	Clark	40,000	P-101.133	40,000
					5317707	Clark	40,000	P-101.134	-
9/21/2018	2018600287	80,000	P-99.8	9/25/2018	1520258628	Clark	40,000	P-101.135	40,000
				9/25/2018	1520258627	Clark	40,000	P-101.136	-

Total (in Liters)	**1,395,866**
Less: Not covered by the claim as highlighted in the above table	**(44,475)**
Net total (in liters)	**1,351,391**
Tax Rate	**4.00**
Disallowed Excise Tax	**₱5,405,564.00**

Given the foregoing, petitioner was able to sufficiently establish that the excise taxes it paid from September to November 2018 for Jet A-1 fuel imported from May to September 2018 and subsequently sold to tax-exempt international air carriers from September to November 2018, were erroneous.

All told, petitioner is entitled to the refund or credit under Sections 204 and 229 of the NIRC of 1997, as amended, but in the reduced amount of ₱77,056,884.00, computed as follows:

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Excise Tax Claim per *Petition for Review*	₱ 85,040,348.00
Less: Disallowances	
With unreadable supporting documents	₱ 2,400,000.00
Withdrawals from Tabangao Refinery covered by WCs dated earlier than September 24, 2018	5,405,564.00
Total Disallowances	₱ 7,805,564.00
Refundable Excise Taxes	**₱77,234,784.00**

WHEREFORE, premises considered, the instant *Petition for Review* filed by Pilipinas Shell Petroleum Corporation on September 17, 2020 is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱77,234,784.00**, representing the erroneously paid excise taxes on its Jet A-1 fuel importation during the period from May to September 2018 and sold to international air carriers during the period from September to November 2018.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
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.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 2nd Division Acting 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.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice