REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

***THIRD DIVISION***

**AVON PRODUCTS MANUFACTURING, INC.,**
*Petitioner,*

**- versus -**

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent,*

**C.T.A. Case No. 7635**

**Members:**

**Bautista,** *Chairperson*
**Palanca-Enriquez,**
**Cotangco-Manalastas,** *JJ.*

**Promulgated:**

JAN 20 2011
10:20 a.m.

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# DECISION

**COTANGCO-MANALASTAS, J.:**

Before the Court is a Petition for Review[1] filed by petitioner on May 16, 2007, praying for the refund of P54,681,080.28 representing erroneously paid excise taxes on products with essential oil content of 3% or less by weight.

## The Facts

Based on the records, the facts are as follows:

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office address at the Calamba Premiere Industrial Park, Barangay Patino, Calamba, Laguna.[2] Respondent

[1] *Rollo*, C.T.A. Case No. 7635, pp. 1-15.
[2] *Rollo*, p. 1.

is the duly appointed Commissioner of Internal Revenue with office address at BIR Building, Diliman, Quezon City.[3]

Petitioner is engaged in the manufacture of cosmetic and personal care products, including perfumes, toilet waters, splash colognes and body sprays.[4]

For the period May 17, 2005 to February 20, 2007, petitioner paid the 20% excise taxes imposed on perfumes and toilet waters under Section 150 of the National Internal Revenue Code (NIRC), on its removals of perfumes, toilet waters, splash colognes and body sprays.[5] For the same period, petitioner electronically filed 63 Excise Tax Returns for Automobiles and Non-Essential Goods (BIR Form No. 2200-AN) showing an aggregated amount of P164,402,039.85 as excise taxes due.[6]

Petitioner alleges that the amount of P164,402,039.85 includes P54,681,080.28 representing the 20% excise tax erroneously paid by petitioner on removals of splash colognes and body sprays containing essential oils of 3% or less by weight.[7] Consequently, on May 10, 2007, petitioner filed a written claim for refund of erroneously paid excise taxes.[8] As grounds for its claim for refund, petitioner alleges that the principal ingredient of its products is denatured alcohol which is exempt from excise tax under Section 134 of the NIRC[9], and that its products do not contain essential oils more than 3% by weight and as such should not be subjected to excise tax under Section 150 of the NIRC.[10]

[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] *Rollo*, pp. 199-201.
[7] *Rollo*, pp. 3-4.
[8] *Rollo*, p. 5.
[9] *Rollo*, p. 4.
[10] *Rollo*, p. 5.

Respondent has not granted the claim for refund. The two-year prescriptive period is about to expire, hence, the instant petition for review was filed in order to protect the rights of the petitioner.[11]

## Issues

As contained in the parties' Joint Stipulation of Facts and Issues[12], the following issues are raised for the consideration of this Court:

(a) Whether or not the definition of the term "toilet waters" under Revenue Regulations No. 8-84 (RR 8-84) can be validly amended by BIR Ruling No. 43-2000 dated September 15, 2000 which was published in Revenue Memorandum Circular No. 17-02 (RMC 17-02).

(b) Whether or not petitioner's splash colognes and body sprays containing essential oils of 3% or less by weight are subject to the 20% excise tax on toilet waters.

(c) Whether or not petitioner is entitled to a refund of erroneously paid excise tax in the amount of Fifty-Four Million Six Hundred Eighty-One Thousand Eighty and 28/100 Pesos (P54,681,080.28).

The foregoing issues may be distilled into whether petitioner's products fall under "perfumes and toilet waters" which are subject to the 20% excise tax on non-essential goods.

## The Court's Ruling

The petition has merit.

***Scented preparations containing essential oils of 3% or less by weight are not subject to the 20% excise tax under Section 150(b) of the NIRC***

[11] *Rollo*, p. 202.
[12] *Rollo*, pp. 198-203.

The 20% excise tax on non-essential goods is imposed under Section 150 of the NIRC, which provides:

> "**Sec. 150. Non-essential Goods.** – There shall be levied, assessed and collected a tax equivalent to twenty-percent (20%) based on the wholesale price or the value of importation used by the Bureau of Customs in determining tariff and customs duties, net of excise tax and value-added tax, of the following goods:
> x x x
> (b) Perfumes and toilet waters;
> x x x"

The definition of "toilet waters" is provided in the Cosmetic Products Regulations[13], to wit:

> "Section 2. *Articles taxable as cosmetic products.* – The articles defined as follows shall be taxable as cosmetic products:
> x x x
> (e) Toilet waters are scented alcoholic or non-alcoholic preparations primarily used as body fragrance containing essential oils i.e. more than 3% by weight. Examples: Lavander water, Eau de Cologne, Eau de Toilette."

In the year 2000, the BIR issued a ruling subjecting all colognes to the 20% excise tax on toilet waters. The BIR explained as follows:

> "In reply, please be informed that the term 'cologne' which is an alcohol-based preparation is defined as follows:
>
> 'Cologne (toilet water) is a scented alcohol-based liquid used as perfume, after-shave, lotion, or deodorant.' (Hawley's Condensed Chemical Dictionary, 11th ed.)
>
> Alcohol-based is that which contains ethyl alcohol or distilled spirits as chief ingredient. In view of the foregoing, Green Cross Baby Cologne is classified as toilet waters covered by Section 150(B) of the Tax Code of 1997 which provides –
>
> x x x
>
> Accordingly, all other colognes are, likewise, classified as toilet waters subject to excise tax under the same section, including Johnson's Baby Cologne which was classified as 'other preparations' by BIR Ruling No. 59-81 dated March 30, 1981 and confirmed by BIR Ruling No. 535-88 dated November 19, 1988.

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[13] Revenue Regulations No. 8-84, June 5, 1984.

> This Office therefore agrees with the recommendation of Ms. Cleotilde M. Jose, Chief, BIR Laboratory Section, Tax Fraud Division, imposing excise tax on Green Cross Cologne, Johnson's Baby Cologne and all other colognes pursuant to Section 150(b) of the Tax Code of 1997 and hereby declares BIR Ruling No. 59-81 dated March 30, 1981 and BIR Ruling No. 535-88 dated November 19, 1988 null and void."[14]

The foregoing ruling was later published through Revenue Memorandum Circular (RMC) No. 17-02 dated May 24, 2002.

Petitioner alleges that this BIR RMC modified the definition of "toilet waters" without any legal authority when it issued the RMC, and thus, petitioner's splash colognes and body spray products with essential oil of not more than 3% by weight should not be subjected to the 20% excise tax, in compliance with the provision of the Cosmetic Products Regulations.

We agree with the petitioner.

As petitioner has alleged, despite the simplification of the sales tax structure and the subsequent shift from the sales tax to the VAT and excise tax, the definition of toilet waters in the Cosmetic Products Regulations was not modified by either statute or regulations. The VAT and excise tax provisions of the Tax Code have since been amended several times but the definition of "toilet waters" remained unchanged.[15]

Generally speaking, where there is doubt as to the proper interpretation of a statute, the uniform construction placed upon it by the executive or administrative officer charged with its enforcement will be adopted, if necessary to resolve the

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[14] BIR Ruling No. 043-2000 dated September 15, 2000.
[15] *Rollo*, p. 871.

doubt.[16] Contemporary or contemporaneous construction is the construction placed upon the statute by an executive or administrative officer called upon to execute or administer such statute. The duty of enforcing the law, which devolves upon the executive branch of government, necessarily calls for the interpretation of its ambiguous provisions. Accordingly, executive and administrative officers are generally the very first officials to interpret the law, preparatory to its enforcement. These interpretations are in the form of rules and regulations, circulars, directives, opinions and rulings.[17] It is thus entitled to great weight and respect by the courts in the interpretation of ambiguous provisions of law, and unless it is shown to be clearly erroneous, contemporaneous construction will control the interpretation of the statute by the courts.[18]

In the instant case, it should be noted that there is no ambiguity in the provision of the Cosmetic Products Regulations when it defines "*toilet waters*" as:

> "(e) *Toilet waters* are scented alcoholic or non-alcoholic preparations primarily used as body fragrance containing essential oils i.e. more than 3% by weight. Examples: Lavander water, Eau de Cologne, Eau du Toilette.

The abbreviation "*i.e.*" or "*id est*" literally means "*that is*"[19]. Legal writers usually write "i.e." to inform the reader that what follows is an explanation of what had just been stated.[20] This should not be confused with the abbreviation "*e.g.*" or "*exempli gratia*" which literally means "for example". Thus, the clause "*more than*

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[16] *Agpalo, Ruben E.*, Statutory Construction. 6th Edition, 2009, p. 191 citing *Muñoz & Co. v. Hord*, 12 Phil. 624 (1909); *Manila Electric Railroad & Light Co. v. Board of Public Utility Commissioners*, 30 Phil. 387 (1915).
[17] *Ibid.*, p. 190 citing *Phil Sugar Central Agency v. Collector of Customs*, 51 Phil.131 (1927); *In re Allen*, 2 Phil. 630 (1903); *Government v. Municipality of Binangonan*, 34 Phil. 518 (1916).
[18] *Ibid.*, p. 192 citing *Vera v. Cueva*, G.R. No. 33693, May 31, 1979; *Asturias Sugar Central, Inc. v. Commissioner of Customs*, G.R. No. 19337, September 30, 1967); *Tan v. Municipality of Pagbilao*, G.R. No. 14264, April 30, 1963; see also *Tamayo v. Manila Hotel Co.*, 101 Phil. 810 (1957).
[19] *Black's Law Dictionary*, 8th edition.
[20] *Ulep, Mauricio C.*, Latin Words and Phrases for Lawyers and Students.

*3% by weight*" is not a mere example of the essential oil content but is actually a more specific description of the alcoholic or non-alcoholic preparation containing essential oils. The scented alcoholic or non-alcoholic preparations must have essential oil content of "*more than 3% by weight*" in order to be considered as toilet waters under the regulations.

The BIR issued BIR Ruling No. 043-2000 expanding the coverage of toilet waters to broaden the definition to include "all other colognes". This ruling was subsequently published in RMC 17-02. While the new definition of the BIR under the ruling and the RMC is not directly contrary to the definition under the Regulations, it does appear that it fails to consider the specific requirement for "more than 3% essential oil content by weight" contained in the Regulations.

As the more recent issuance, the RMC may be seen as the current interpretation of the BIR with respect to the definition of toilet waters. However, this construction may rightly be examined by the Court as against the earlier Regulations, as follows:

> "The court in a case pointed out the distinction between an interpretation by an executive officer charged with the enforcement of a law and that handed down by an executive official in an adversary proceeding:
>
> > "There is indeed a basis for making such a distinction because the position of a public officer, charged with the enforcement of a law, is different from the one who must decide a dispute. If there is fair doubt, his duty is to present the case for the side which he represents, upon which lies the responsibility for decision. If he surrenders a plausible construction, it will, at least it may, be surrendered forever, and yet it may be right. Such rulings need not have the detachment of a judicial, or semi-judicial decision, and may properly carry bias. It would seem that they should not be authoritative."[21]

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[21] *Supra* Note 16, citing *Fishgold v. Sullivan*, 154 F 2d 785 (1946).

Furthermore, the BIR ruling and RMC cannot be seen as amending the definition of toilet waters under the regulations. As aptly cited by the petitioner, it has been ruled by the Supreme Court that a Revenue Memorandum Circular is merely an administrative interpretation of the law which cannot be given effect if it is contrary to a Revenue Regulation, to wit:

> "Second. Petitioner contends that what Section 78 required was an information return, not an income tax return. It cites Revenue Memorandum Circular No. 14-85, of then Acting Commissioner of Internal Revenue Ruben B. Ancheta, referring to an "information return" in interpreting Executive Order No. 1026, which amended Section 78.
>
> The contention has no merit. The circular in question must be considered merely as an administrative interpretation of the law which in no case is binding on the courts. The opinion in question cannot be given any effect inasmuch as it is contrary to Section 244 of Revenue Regulation No. 2, as amended, which was issued by the Minister of Finance pursuant to the authority granted to him by Section 78 of the Tax Code. x x x"[22]

Clearly, the definition of "toilet waters" under the Regulation must still be followed including the requirement for essential oil content of more than 3% by weight. As such, petitioner's products which have less than 3% essential oil content by weight should not be subject to the 20% excise tax under Section 150(b) of the NIRC.

***Petitioner has paid the 20% excise tax***

Petitioner claims that it is entitled to a refund of erroneously paid excise taxes in the total amount of P54,681,080.28, broken down, as follows:

| Date of Filing/Payment of Return | Excise Tax Paid on Products with Essential Oil Content of 3% or less |
|---|---|
| May 17, 2005 | 697,589.71 |
| May 25, 2005 | 625,034.62 |

[22] *Bank of the Philippine Islands v. Commissioner of Internal Revenue*, G.R. No. 144653, August 28, 2001.

| | |
|---|---|
| June 01, 2005 | 326,568.92 |
| June 07, 2005 | 56,738.54 |
| June 16, 2005 | 119,409.75 |
| June 23, 2005 | 114,150.23 |
| July 05, 2005 | 1,043,339.83 |
| July 11, 2005 | 904,723.84 |
| July 15, 2005 | 458,973.99 |
| July 22, 2005 | 769,470.61 |
| July 29, 2005 | 274,756.11 |
| August 05, 2005 | 810,170.73 |
| August 10, 2005 | 368,613.23 |
| August 24, 2005 | 809,659.16 |
| September 14, 2005 | 1,084,555.64 |
| September 19, 2005 | 142,093.57 |
| September 21, 2005 | 289,900.15 |
| September 29, 2005 | 573,230.79 |
| October 07, 2005 | 785,227.26 |
| October 13, 2005 | 150,713.82 |
| October 18, 2005 | 778,232.29 |
| November 09, 2005 | 756,979.58 |
| November 16, 2005 | 574;484.83 |
| November 22, 2005 | 201,696.59 |
| December 01, 2005 | 662,596.04 |
| December 07, 2005 | 1,206,517.05 |
| December 12, 2005 | 192,626.86 |
| December 20, 2005 | 222,104.19 |
| January 11, 2006 | 850,384.11 |
| January 17, 2006 | 386,268.91 |
| January 23, 2006 | 538,074.31 |
| January 30, 2006 | 695,438.96 |
| February 03, 2006 | 96,702.94 |
| February 10, 2006 | 306,596.95 |
| March 03, 2006 | 1,541,790.48 |
| March 16, 2006 | 1,660,625.45 |
| March 29, 2006 | 2,732,618.34 |
| April 11, 2006 | 1,144,797.32 |
| May 04, 2006 | 1,293,297.96 |
| May 18, 2006 | 568,322.99 |
| May 31, 2006 | 1,483,193.32 |
| June 05, 2006 | 972,577.70 |
| June 13, 2006 | 914,059.32 |
| June 28, 2006 | 1,607,131.88 |
| July 18, 2006 | 1,468,576.43 |
| July 31, 2006 | 1,505,387.15 |
| August 22, 2006 | 2,366,918.55 |

| | |
|---|---|
| September 12, 2006 | 1,480,303.05 |
| October 05, 2006 | 905,538.89 |
| October 16, 2006 | 1,032,157.39 |
| October 26, 2006 | 1,327,522.65 |
| November 14, 2006 | 1,184,475.38 |
| November 27, 2006 | 2,366,295.15 |
| December 08, 2006 | 1,016,468.65 |
| December 21, 2006 | 1,327,805.62 |
| January 11, 2007 | 927,361.71 |
| January 20, 2007 | 1,333,291.43 |
| February 02, 2007 | 1,418,087.31 |
| February 14, 2007 | 2,390,996.20 |
| February 20, 2007 | 837,855.85 |
| **Total** | **54,681,080.28** |

The independent CPA (ICPA) has verified that the amount of P54,681,080.28 claimed by petitioner were indeed paid as excise taxes to the BIR as shown in the excise tax returns and printouts of online filing reference and tax payment confirmation of each of the returns for the period May 15, 2005 to February 20, 2007. The excise tax payments are properly supported by the original duplicate sales invoices. For duplicate invoices that contained unclear information, the ICPA was able to trace the same to petitioner's Sales Book.[23]

***Petitioner's products have less than 3% essential oil content***

Petitioner presented the testimonies of its various employees involved in its production process. Petitioner also provided various batch control sheets to show and identify the various products which have essential oil content of 3% or less.

[23] Exhibit "B", p. 2-5.

The ICPA has examined the voluminous documents submitted by the petitioner and classified the products based on whether the same are supported by original documents or not.[24]

The Court will rely on the findings of the ICPA with respect to the classification of the supporting documents presented for the products being claimed as having essential oil content of 3% or less. However, this Court will determine whether all the supporting documents submitted by petitioner have sufficiently shown that the products have essential oil content of 3% or less.

The main supporting document submitted by petitioner is the Batch Control Sheet or BCS. It is used in the production process as follows:

> "Q60. You mentioned earlier that one of the documents you referred to in identifying the products with not more than 3% of essential oil is the Batch Control Sheet. Please describe the contents of the Batch Control Sheet and how it is generated and maintained?
>
> A60. The Batch Control Sheet or BCS is a document developed by the Processing Department when the Product Structure Definition is complete. It shows the formula breakdown in the BOM-FI and adds the step-by-step process on how to make the raw ingredients into the finished ingredients. The Quality Assurance Group reviews and approves the BCS form prepared by the Processing Department before it is acceptable for use. Once approved, the BCS form becomes part of the Processing Database. The BCS form is the document filled up by the Processor when he makes the product. When the product is made, the Quality Analyst tests the product and attaches his/her signature on the BCS form to attest that the batch complies with product specifications. The completed BCS is kept in a document control system maintained by the Quality Assurance Group."[25]

From the foregoing, the product batches supported by the original BCS duly signed by the QA Analyst without any other discrepancies noted are deemed to be sufficiently proven as having essential oil content of 3% or less.

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[24] Exhibit "B-14", Annexes V – XIX.
[25] Exhibit "E", p. 11. Also at *Rollo*, p. 522.

The product batches without original BCS duly signed by the QA analyst are also deemed as sufficiently proven to contain 3% or less of essential oil, subject to certain conditions, as explained below:

> "Q70. If the original accomplished BCS forms could no longer be found, can you say that the printed BCS forms like Exhibits D-61-1 to D-64-1 were used in processing the batches?
>
> A70. I am sure that the printed BCS forms were used in the processing because we can only print the corresponding BCS by calling out the FI Code in the Processing Database. There is only 1 approved BCS form for each FI Code. So at the start of processing no other BCS form could have been printed.
>
> Q71. If the Batch Control Sheets which evidence the processing of Celebre Light Cologne, Heaven Scent Cologne Spring Time, Yessamin Splash Cologne, Imari Classic Splash Cologne are lost, how can you prove that these finished ingredients were indeed processed and the Batch Control Sheet form was accomplished and the essential oil content prescribed in the Batch Control Sheet form was followed?
>
> A71. We have records that these finished ingredients were processed during that period and it complied with the product specifications.
>
> Q72. What did these records consist of?
>
> A72. Our records consist of the Finished Ingredient Evaluation Report, also called the Test Cards that are filled up by the QA Analyst as he/she approves the FI batches. The test cards are the QA records of the result of testing. Aside from the Test Cards, we also maintain a Retest Logbook which records the test results for FI's (*sic*) that we retest before packaging."[26]

The petitioner's witnesses did not discuss how the PHA logbook is maintained or who has custody of the same. Thus, there is no indication if the batches have truly complied with the product specification. Furthermore, some batches though supported by original BCS do not have complete details regarding date of processing or JIT numbers. Some batches also have discrepancies on the RI Code used which is essential in determining the percentage of essential oil content of the product.

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[26] *Supra*, at p. 15. Also at *Rollo*, p. 526.

Based on the foregoing, this Court finds the following batches as not having been sufficiently proven to have essential oil content of 3% or less:

| **Exhibit B-14** | |
|---|---|
| **Annex** | **Description** |
| VIII | Finished ingredients with no alcohol content but with essential oil content of 3% or less which are supported by printed BCS and PHA logbook |
| X | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS without signature of QA analyst but traced to PHA logbook |
| XI | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by the QA analyst but with difference in RI Code of essential oil in BOM-FI and BCS |
| XII | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by printed BCS and test card but with difference in RI Code of essential oil in BOM-FI |
| XIII | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by the QA analyst with incomplete detail of date processed but traced to PHA logbook |
| XIV | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by the QA analyst with incomplete minor details such as date processed and JIT number |
| XV | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by the QA analyst but RI Code of denatured alcohol is not legible in BOM-FI due to printing error but traced to Company's MACPAC system |
| XVII | Finished ingredients supported by printed BCS only |
| XVIII | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS without signature of QA analyst |

Thus, We find the following amounts as having been sufficiently proven to contain 3% or less of essential oils by weight:

| **Exhibit B-14** | | |
|---|---|---|
| **Annex** | **Description** | **Excise Tax** |
| V | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by the QA analyst | P36,455,594.60 |
| VI | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by printed BCS and test card or PHA logbook | 17,656,173.09 |
| VII | Finished ingredients with no alcohol content | 24,800.20 |

| | | |
|---|---|---|
| | but with essential oil content of 3% or less which are supported by original BCS signed by the QA analyst | |
| IX | Finished ingredients with no alcohol content and essential oil content which are supported by printed BCS and test card or PHA logbook | 1,850,158.82 |
| XVI | Finished ingredients with principal ingredient of denatured alcohol and essential oil content of 3% or less which are supported by original BCS signed by QA analyst but details as to batch size of BCS is not in agreement with Summary of Batch Control Sheets | 228,945.17 |
| | **TOTAL** | **P56,215,671.88** |

The ICPA computed the excise taxes attributable to each of the documents examined. However, the batches which this Court considers to have been sufficiently proved as having essential oil content of 3% or less reveals a total estimated excise tax of P56,215,671.88. This amount is greater than the excise tax paid as shown in the excise tax returns, which is only P54,681,080.28. There is, thus, a need for comparison of the product batches with proven essential oil content of 3% or less with the breakdown of excise taxes provided in Exhibit 5 to determine what portion of the estimated tax on each product batch have actually been paid by petitioner.

A side-by-side comparison of the estimated excise tax per the ICPA's findings and the actual excise tax paid as verified by the ICPA reveals that there are discrepancies in the amount of tax paid versus those that were shown as containing 3% or less essential oil. Column 2 of the table below presents the total estimated excise tax per Finished Stock based on the findings of the ICPA according to Annexes V, VI, VII, IX and XIV; less the findings of the ICPA under Annexes XX, XXI and XXIII of Exhibit B-14. Column 3 shows the excise taxes paid per Finished Stock as broken down by Exhibit 5. Column 4 shows the amount of excise tax that may be refunded, based on whether the excise tax paid has been proven to have 3% or less essential oil content.

| Product Line | Total Estimated Taxes Paid on Products with essential oil content of 3% or less (Annexes V, VI, VII, IX and XVI less Annexes XX, XXI and XXIII) | Per Return | Amount for refund [Excise tax paid(Column C) or Proved to have 3% or less essential oil content (Column B) whichever is lower] |
|---|---|---|---|
| AC Holiday Dazzling Lips | - | 38,689.21 | not proved as containing 3% or less |
| AC Holiday Glam Kiss | - | 24,375.89 | not proved as containing 3% or less |
| Ariane Bell Decanter | 196,439.80 | 135,942.72 | 135,942.72 |
| Ariane EDC Heart Dec | - | 6,912.76 | not proved as containing 3% or less |
| Baby Gentle Petit Col | 432,702.27 | 160,365.62 | 160,365.62 |
| BG Shwer Cologne | 365,993.89 | 360,592.48 | 360,592.48 |
| B.Leather Marine Col | 1,191,412.08 | 1,214,951.82 | 1,191,412.08 |
| Celebre Bspray | 334,816.70 | 452,690.57 | 334,816.70 |
| Celebre Val Dec | 20,021.39 | 3,129.49 | 3,129.49 |
| Cool Blue Aqua SC | 974,463.81 | 934,904.84 | 934,904.84 |
| Cool Blue Energy SC | 839,840.72 | 802,639.70 | 802,639.70 |
| Cool Blue Enigma SC | 480,995.50 | 468,130.36 | 468,130.36 |
| Cool Blue Ice SC | 824,889.96 | 809,287.06 | 809,287.06 |
| Ctrend L&F Tint P-Blush | 1,744,091.73 | 1,143,579.52 | 1,143,579.52 |
| Disney Winnie Col | 258,879.80 | 309,221.56 | 258,879.80 |
| Dney Mickey Col | 279,935.87 | 274,108.06 | 274,108.06 |
| Dney Minnie Col | 271,523.68 | 270,985.81 | 270,985.81 |
| Dney Prnces Col | 493,791.94 | 383,544.76 | 383,544.76 |
| Far Away Bspray | 2,950,543.85 | 2,801,067.87 | 2,801,067.87 |
| Fresh N Lite Swt Crush SC | 4,258,104.17 | 4,251,317.99 | 4,251,317.99 |
| H Scent Blue SC Red | - | 1,836,688.10 | not proved as containing 3% or less |
| H Scent Colonia SC Red | 1,141,273.70 | 1,262,313.27 | 1,141,273.70 |
| H Scent FBlossom SP Col | 2,043,040.36 | 2,021,851.49 | 2,021,851.49 |
| H Scent Flor Sprkl SC | 766,852.83 | 964,312.74 | 766,852.83 |
| H Scent Fresca Spl Col | 1,509,312.09 | 1,147,996.48 | 1,147,996.48 |
| H Scent Fresh Blooms | 838,232.29 | 835,730.41 | 835,730.41 |
| H Scent Fruityloops | 1,340,781.38 | 1,369,325.64 | 1,340,781.38 |
| H Scent Icy Blsms SC | - | 1,083,530.80 | not proved as containing 3% or less |
| H Scent Kquat&Meln SC | 371,160.36 | 379,317.67 | 371,160.36 |
| H Scent Lilac SC | 1,620,127.18 | 1,618,886.95 | 1,618,886.95 |
| H Scent Mango Tea SC | 58,896.20 | 59,810.89 | 58,896.20 |
| H Scent Morning Bliss SC | 599,123.95 | 584,336.55 | 584,336.55 |
| H Scent Ppetals SC | 1,554,985.51 | 1,669,668.62 | 1,554,985.51 |
| H Scent SP Col Ablue | 2,413,824.23 | 361,204.94 | 361,204.94 |
| H Scent SP Col Cool Breeze | 506,239.60 | 520,446.70 | 506,239.60 |
| H Scent Spring Time SCol | 182,010.58 | 191,309.77 | 182,010.58 |
| H Scent Summer Sky SC | 1,239,066.10 | 1,100,338.61 | 1,100,338.61 |
| H Scent Yellow Col | 6,807,555.69 | 6,718,202.67 | 6,718,202.67 |
| Hip Citrus Fun SC | 500,626.22 | 502,105.31 | 500,626.22 |
| Hip Smoothgroove SC | 19,452.08 | 146,666.19 | 19,452.08 |
| Hip Splash Chillin' Out | 99,122.27 | 88,206.97 | 88,206.97 |
| Hip Splash Cool Blast | 22,539.04 | 22,686.68 | 22,539.04 |
| Hip Splash Col Sunfresh | 341,278.31 | 334,080.42 | 334,080.42 |
| Hip Splash Fresh & Funky | 161,305.42 | 158,145.26 | 158,145.26 |

| | | | |
|---|---|---|---|
| Hip Spl Col Sprkling Chic | 45,331.92 | 171,360.43 | 45,331.92 |
| HS Floral Pardise SC | 898,105.09 | 1,014,905.34 | 898,105.09 |
| HS Floral Shower SC | 879,015.59 | 934,161.86 | 879,015.59 |
| I Blue 4 Her Bspray | 635,159.47 | 964,047.42 | 635,159.47 |
| I Blue 4 Him Bspray | 1,288,253.39 | 1,675,639.25 | 1,288,253.39 |
| Imari C.Val Dec | 118,266.46 | 41,517.18 | 41,517.18 |
| Imari Velvet Gift Col | 251,188.39 | 274,857.89 | 251,188.39 |
| LBD Veil Tulip Decanter | 24,800.20 | 51,819.42 | 24,800.20 |
| Nat Bright Sky B.Splash | 128,955.58 | 137,398.49 | 128,955.58 |
| Natls Cber&Mln BSpl | 59,607.30 | 58,692.85 | 58,692.85 |
| Natls Scol Plumeria | 205.34 | 104,946.50 | 205.34 |
| Natls Sweet Pea | - | (184.18) | not proved as containing 3% or less |
| Nina Huggable SC IOF | 1,590,453.09 | 1,796,423.61 | 1,590,453.09 |
| Nina Kissable SC | 2,338,854.65 | 2,362,639.45 | 2,338,854.65 |
| Nina Lovable SC IOF | 1,239,836.02 | 1,312,423.41 | 1,239,836.02 |
| Prosport For Him EDT | - | 135,523.12 | not proved as containing 3% or less |
| Prosport Him Col Red | 309,051.66 | 204,766.45 | 204,766.45 |
| Psport 4 Him Bspray | 569,041.38 | 506,485.88 | 506,485.88 |
| Psport 4 Her Bspray | 245,992.31 | 264,287.42 | 245,992.31 |
| Pur Blanca EDT IOF | - | 78,770.89 | not proved as containing 3% or less |
| S.Frag Shonesty Col | - | 71,536.90 | not proved as containing 3% or less |
| S.Honesty Col | - | 125,382.41 | not proved as containing 3% or less |
| S.Honesty 1Lov Pspray | (1,229,962.13) | 40,236.06 | not proved as containing 3% or less |
| SH One Love IOF Plybag | 900,472.79 | 2,843.46 | 2,843.46 |
| Soft Musk Gift Col | 741,353.47 | 735,629.40 | 735,629.40 |
| Sunny Sky Cologne | 339,741.51 | 374,011.37 | 339,741.51 |
| Yassou Apple Berry | 548,239.60 | 561,179.93 | 548,239.60 |
| Yassou Ocean Petals | 386,041.45 | 426,113.66 | 386,041.45 |
| Yassou Spl Col Mystery | 175,132.74 | 178,695.80 | 175,132.74 |
| Yessamin Gift Col | 276,500.78 | 233,434.18 | 233,434.18 |
| **Total** | | | **48,817,178.85** |

WHEREFORE, finding merit in the instant Petition for Review, the same is hereby PARTIALLY GRANTED. Accordingly, respondent is ordered to refund or issue a tax credit certificate to petitioner in the amount of P48,817,178.85, representing erroneously paid excise taxes on products with essential oil content of 3% or less for the period May 17, 2005 to February 20, 2007.

**SO ORDERED.**

AMELIA R. COTANGCO- MANALASTAS
Associate Justice

**WE CONCUR:**

**LOVELL R. BAUTISTA**
Associate Justice

**OLGA PALANCA-ENRIQUEZ**
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.

**LOVELL R. BAUTISTA**
Associate Justice
Chairperson

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

**ERNESTO D. ACOSTA**
Presiding Justice