REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

BATANGAS CITY, BENJAMIN E. PARGAS in his capacity as CITY TREASURER and TEODULFO A. DEGUITO in his capacity as CITY LEGAL OFFICER OF BATANGAS CITY,
Respondents.

C.T.A. AC NO. 10

Members:

CASTAÑEDA, *Chairperson*
UY, and
PALANCA-ENRIQUEZ, *JJ.*

Promulgated: JUL 3 1 2007

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Amended Decision

CASTAÑEDA, JR., J:

On June 21, 2007, this Court(Second Division) promulgated a decision resolving this petition for review, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the judgment/order of the RTC Branch II of Batangas City is hereby **MODIFIED.** As to the business taxes on the manufacture and distribution of petroleum products, We find the petitioner not liable for the same. As to the mayor's permit, We find that it is excessive. Accordingly, the respondent is hereby a)declared **legally proscribed** from imposing business taxes on the manufacture and distribution of petroleum products and b) **to refund** in the form of tax credit the excessive mayor's permit in the amount of **THREE MILLION FIVE HUNDRED TWENTY FIVE THOUSAND TEN PESOS and FIFTY CENTAVOS (P3,525,010.50).**

"SO ORDERED."

On July 13, 2007, Petitioner Pilipinas Shell Petroleum Corporation ("PSPC") filed a "Motion for Clarification" on the exact amount to be refunded by respondent Batangas City as regards the Mayor's Permit Fees on the following grounds:

1. page 25 of the Decision made mention of the total amount of P3,870,860 (P704,305.00 + P3,166,555.00) as the amount of Mayor's Permit Fees Refundable to petitioner; however, dispositive portion on page 26 states the amount of P3,525,010.50 as the amount refundable to petitioner; and
2. in view of respondent Batangas City's failure to file a motion for reconsideration of the decision of the RTC, the portion declaring that the Mayor's Permit Fees as grossly excessive and unreasonable has become final and executory, thus, petitioner alleges that "what merely remained to be done was the implementation of the RTC Decision insofar as the court a quo declared that the amount of P4,299,851.00 was grossly excessive and unreasonable."

After a perusal of the motion for clarification with reference to the assailed decision, this Court finds the motion for clarification partly meritorious.

The second ground had been considered and passed upon by this

Court in our Decision dated June 21, 2007. However, the first ground deserves merit.

Indeed, there is discrepancy in the amount to be refunded and to clarify, the amount should be **P3,870,860.00** as written in the body of the decision as follows:

> Since, respondents failed to modify the computation of the mayor's permit fee and based on justice and equity, petitioner should be refunded with the mayor's permit fees ordered revoked by the court a quo.
>
> The details[1] of the additional amount of P4,299,851.00 mayor's permit fees are as follows:

	Manufacturer	Distributor
Mayor's Permit Fee	**P704,305.00**	**P3,166,555.00**
License Fee	70,535.50	
Prot. Fee Res/Bus		25,000.00
Fire Insp. Fee		1,000.00
Occ./Prof.Tax		
San Permit & San Insp. Fee		12,000.00
Fire Code Fee		320,455.00
Total Amount	**P774,840.50**	**P3,525,010.50**

> The amount to be refunded is not the full amount of P4,299,851.00 but the excessive mayor's permit for manufacturing and distributing *in the amount of P704,305.00 and P3,166,555.00, respectively or in the total amount of P3,870,860.00.* (*Italics Supplied*)

To conform to this aforequoted pronouncement, the dispositive portion of the assailed decision should be amended so that the exact amount of the Mayor's Permit Fees to be refunded be changed from P3,525,010.50 to P3,870,860.00.

Section 2, Rule 36 of the Rules of Court reads as follows:

> SEC.2. *Entry of judgments and final orders.*- If no appeal or motion for new trial or reconsideration is filed within the time provided in these Rules, the judgment or final order shall forthwith be entered by the clerk in the book of entries of judgments. The date of

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[1] Petition for Review, page 10.

finality of the judgment or final order shall be deemed to be the date of its entry....

In this case, PSPC received the Decision on June 28, 2007 and it filed its motion for clarification(treated as a motion for reconsideration) on July 13, 2007 which is within the period allowed by law. In effect, our Decision has not yet become final and executory. Hence, our Decision may be amended.

Moreover, pursuant to Section 5 (g), Rule 135 of the Revised Rules of Court that every court shall have the power to amend and control its process and orders so as to make them conformable to law and justice, the Second Division of this Court resolves to amend its Decision dated June 21, 2007 by making the necessary corrections.

WHEREFORE, in view of the foregoing, petitioner's Motion for Clarification is partly **GRANTED**. Accordingly, the dispositive portion of this Court's Decision dated June 21, 2007 is hereby **AMENDED** to read as follows:

> "**WHEREFORE**, premises considered, the judgment/order of the RTC Branch II of Batangas City is hereby **MODIFIED.** As to the business taxes on the manufacture and distribution of petroleum products, We find the petitioner not liable for the same. As to the mayor's permit, We find that it is excessive. Accordingly, the respondent is hereby a)declared **legally proscribed** from imposing business taxes on the manufacture and distribution of petroleum products and b) **to refund** in the form of tax credit the excessive mayor's permit in the amount of **THREE MILLION EIGHT HUNDRED SEVENTY THOUSAND EIGHT HUNDRED SIXTY PESOS (P3,870,860.00)**
>
> **"SO ORDERED."**

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

(Reiterates dissenting opinion in the original decision)
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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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