REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

UNIOIL PETROLEUM PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 11222**
	Members:
- versus -	**RINGPIS-LIBAN,** *P.J., Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 07 2026

x -x

DECISION

***FERRER-FLORES, J.*:**

The **Petition for Review** filed on July 25, 2023, prays for the refund and/or issuance of tax credit certificate in the amount of **₱16,541,044.80**, allegedly representing petitioner's erroneously paid excise tax and value-added tax (VAT) on excise tax on its importation of Aromatic Hydrocarbon VV under *Authority to Release Imported Goods* (ATRIG) No. ELTRDOIL193100.[1]

THE PARTIES

Petitioner **Unioil Petroleum Philippines, Inc.** is a domestic corporation duly organized and existing under Philippine laws with office address at 38th & 39th Floors, Exquadra Tower, 1 Jade Drive, Ortigas Center, San Antonio, Pasig City, Metro Manila.[2]

---

[1] Summary of the Case, Pre-Trial Order dated May 27, 2024, Docket – Vol. I, p. 392.

[2] Par. 5, *Petition for Review*, Docket – Vol. I, p. 7; Par. 1, Summary of Admitted Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 353.

Respondent **Commissioner of Internal Revenue** is the Chief Executive Officer of the Bureau of Internal Revenue (BIR), an attached agency of the Department of Finance responsible for the collection of more than half of the total revenues of the government. He has the statutory power to grant refunds or tax credits of erroneously or illegally paid taxes. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On July 23, 2021, petitioner paid excise tax and VAT, as evidenced by the Bureau of Customs (BOC) Statement of Settlement of Duties and Taxes[4] and BOC Certification,[5] on its importation of Aromatic Hydrocarbon VV under Import Entry and Internal Revenue Declaration with Bill of Lading (BL) No. HRUNIOIL022021, Customs Reference No. C 426 dated July 21, 2021,[6] and ATRIG No. ELTRDOIL193100 dated July 22, 2021.[7]

Petitioner's administrative claim for refund was filed on July 20, 2023,[8] requesting for the refund of excise tax of ₱14,768,790.00 paid on July 23, 2021 on its importation of 1,476,879 liters of Aromatic Hydrocarbon VV under ATRIG No. ELTRDOIL193100 dated July 22, 2021.[9]

PROCEEDINGS BEFORE THIS COURT

As earlier stated, petitioner filed the present *Petition for Review* on July 25, 2023.[10]

On August 15, 2023, Summons was issued by the Court requiring respondent to file his Answer to the Petition for Review within 30 days from notice. The Summons was received by respondent on August 23, 2023.[11]

Respondent filed a *Motion for Extension to File Answer* on September 21, 2023,[12] which the Court granted in the Minute Resolution dated September 27, 2023.[13] Respondent was given until October 22, 2023 to file his Answer.

---

3 Par. 6, *Petition for Review*, vis-à-vis par. 1, *Answer (to Petitioner's Petition for Review dated 25 July 2023)*, Docket – Vol. I, pp. 8 and 95, respectively.
4 Exhibit "P-3", Docket – Vol. I, p. 41.
5 Exhibit "P-4", Docket – Vol. I, p. 414.
6 Exhibit "P-2", Docket – Vol. I, pp. 39 to 40.
7 Exhibit "P-1", Docket – Vol. I, p. 38.
8 Par. 2, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 353.
9 Exhibit "P-5", Docket – Vol. I, pp. 44 to 53.
10 Docket – Vol. I, pp. 6 to 24.
11 Docket – Vol. I, p. 87.
12 Docket – Vol. I, pp/ 89 to 91.
13 Docket – Vol. I, p. 94.

Respondent timely filed his *Answer (to Petitioner's Petition for Review dated 25 July 2023)*[14] on October 23, 2023, since October 22, 2023, the last day to file Answer, fell on a Sunday.

Respondent transmitted the *BIR Records* of the present case, consisting of 236 pages in one folder, on November 7, 2023.[15] He likewise submitted the *Supplemental BIR Records* on March 13, 2024, consisting of eight pages in one folder.[16]

The Pre-Trial Conference was set[17] and held on February 8, 2024.[18] Prior thereto, *Respondent's Pre-Trial Brief* was filed on February 1, 2024,[19] while *Petitioner's Pre-Trial Brief* was submitted on February 2, 2024.[20]

On March 8, 2024, the parties filed their *Joint Stipulation of Facts and Issues*,[21] which was admitted and approved by the Court in its Resolution dated April 4, 2024,[22] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated May 27, 2024 was then issued.[23]

Trial then ensued, with both parties presenting and offering their respective testimonial and documentary evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. Hernan S. Chua,[24] its Import Manager; and (2) Ms. Carolyn B. Panergo,[25] the Purchasing Manager of Yokohama Tire Philippines, Inc. (YTPI).

Petitioner's Formal Offer of Evidence was filed on July 1, 2024,[26] to which respondent filed his *Comment Re: Petitioner's Formal Offer of Evidence* on July 10, 2024.[27] In the Resolution dated September 10, 2024,[28] the Court admitted all of petitioner's offered exhibits.

---

[14] Docket – Vol. I, pp. 95 to 108.
[15] *Compliance* dated October 23, 2023, Docket – Vol. I, pp. 110 to 112.
[16] *Compliance (Supplemental BIR Records)* dated March 13, 2024, Docket – Vol. I, pp. 367 to 369.
[17] Notice of Pre-Trial Conference dated November 16, 2023, Docket – Vol. I, pp. 115 to 116.
[18] Order dated February 8, 2024, Docket – Vol. I, pp. 349 to 352.
[19] Docket – Vol. I, pp. 117 to 120.
[20] Docket – Vol. I, pp. 123 to 137.
[21] Docket – Vol. I, pp. 353 to 364.
[22] Docket – Vol. I, p. 390.
[23] Docket – Vol. I, pp. 392 to 400.
[24] Exhibits "P-10" and "P-11", Docket – Vol. I, pp. 29 to 37 and 140 to 150, respectively; Order dated June 11, 2024, Docket – Vol. I, pp. 401 to 402.
[25] Exhibit "P-12", Docket – Vol. I, pp. 333 to 337; Minutes of the hearing held on, and Order dated, June 11, 2024, Docket – Vol. I, pp. 401 to 402.
[26] Docket – Vol. I, pp. 403 to 413.
[27] Docket – Vol. I, pp. 416 to 418.
[28] Docket – Vol. II, pp. 424 to 425.

For his part, respondent presented the testimony of Revenue Officer (RO) Precious Doquila.[29] After the presentation of said witness, respondent's counsel orally offered her evidence, which were all admitted by the Court.[30]

On October 8, 2024, petitioner presented the testimony of Engr. Eugenio M. Pranada, Jr., a Chemicals Consultant, as its rebuttal evidence, and orally offered its exhibits, which were all admitted by the Court.[31]

Petitioner's Memorandum[32] and *Petitioner's Supplemental Memorandum*[33] were filed on November 7, 2024 and December 12, 2024, respectively. Respondent, however, failed to file his memorandum.[34]

The present case was considered submitted for decision on January 7, 2025.[35]

THE STIPULATED ISSUES

As stipulated by the parties, the issues for this Court's resolution are the following:

> "WHETHER OR NOT THE HONORABLE COURT HAS JURISDICTION OVER THE INSTANT CASE.
>
> WHETHER OR NOT PETITIONER IS ENTITLED TO A REFUND OR CREDIT OF SIXTEEN MILLION FIVE HUNDRED FORTY-ONE THOUSAND FORTY-FOUR PESOS AND 80/100 (₱16,541,044.80) AS ERRONEOUSLY PAID EXCISE TAX AND VAT ON EXCISE TAX ON ITS IMPORTATION OF AROMATIC HYDROCARBON VV UNDER ATRIG NO. ELTRDOIL193100."[36]

---

[29] Exhibit "R-5", Docket – Vol. I, pp. 342 to 347; Order dated September 12, 2024, Docket – Vol. II, pp. 421 and 423 to 423-A, respectively.
[30] Order dated September 12, 2024, Docket – Vol. II, pp. 421 and 423 to 423-A, respectively.
[31] Exhibit "P-19", Docket – Vol. II, pp. 427 to 439; Minutes of the hearing held on, and Order dated, October 8, 2024, Docket – Vol. II, pp. 453 to 455.
[32] Docket – Vol. II, pp. 457 to 479.
[33] Docket – Vol. II, pp. 484 to 488.
[34] Records Verification dated December 11, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 482.
[35] Minute Resolution dated January 7, 2025, Docket – Vol. II, p. 491.
[36] Statement of the Issue, JSFI, Docket – Vol. I, pp. 353 to 354.

Petitioner's arguments:

Petitioner argues that the Court has jurisdiction over the instant case; and that it is entitled to the refund of the erroneously paid excise tax and VAT on excise tax considering that: (a) BIR Ruling No. DA-075-A-05 dated March 10, 2005 issued to petitioner expressly exempts its importation of Aromatic Hydrocarbon VV from excise tax; (b) BIR Ruling No. DA-075-A-05 was issued by the Deputy Commissioner of Internal Revenue (DCIR) for Legal and Inspection Group Jose Mario C. Buñag pursuant to a delegated authority from respondent which can only be reversed by respondent himself; (c) the Division Chief, Excise Large Taxpayer Regulatory Division, has no authority to issue the ATRIG imposing the excise tax assessment and the corresponding VAT on excise tax thereon; (d) petitioner's importation of Aromatic Hydrocarbon VV was subsequently sold to YTPI and used as raw material in the manufacture of tires and rubber, which are non-excisable products; (e) BIR Ruling No. DA-075-A-05 is applicable to petitioner's importation of Aromatic Hydrocarbon VV, which is merely a brand of Aromatic Hydrocarbon; and, (f) the findings in the Laboratory Report as cited in the Letter dated October 15, 2019 of DCIR Guballa to petitioner are wrong; and that petitioner's imported Aromatic Hydrocarbon VV is and should not be subject to excise tax under Section 148(a) of the National Internal Revenue Code of 1997, as amended.

Respondent's counter-arguments:

In his *Answer*, respondent contends that this Court has no jurisdiction over the case for petitioner's failure to exhaust administrative remedies; and that, assuming, without conceding, that the Court has jurisdiction, petitioner is not entitled to its claim for refund of alleged excise tax and VAT.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

Governing provisions for refund claims.

Sections 204(C) and 229 of the NIRC of 1997, as amended, read:

> 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, in 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.
>
> xxx xxx xxx
>
> 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. *(Emphases added)*

The aforequoted provisions are clear: within two years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two-year reglementary period.

Timeliness of the filing of the claim is mandatory and jurisdictional, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that as for the judicial claim, tax law even explicitly provides that it be filed within two years from payment of the tax "regardless of any supervening cause that may arise after payment."[37]

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which in some other similar aspect is illegal.[38] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner

---

[37] *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

[38] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[39]

Thus, for the present claim for refund or issuance of tax credit certificate to prosper, petitioner must not only establish that it timely filed its refund claim, it must likewise prove that the subject excise tax and VAT on excise tax paid are "erroneous or illegal."

Petitioner timely filed its administrative and judicial claims; hence, the Court has jurisdiction over the present case.

Excise taxes on imported articles, in general, are paid by the owner or importer upon importation and prior to removal thereof from the customshouse as provided in Section 131(A) of the NIRC of 1997, as amended, to wit:

> SEC. 131. *Payment of Excise Taxes on Imported Articles.* —
>
> (A) *Persons Liable.* — **Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customshouse,** or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.
>
> xxx xxx xxx. *(Emphasis and underscoring added)*

Thus, from the foregoing, the two-year period prescribed in Sections 204(C) and 229 of the NIRC of 1997, in relation to the afore-quoted provision of Section 131 of the same Code, should be reckoned from the date of actual payment of excise taxes.

In this case, petitioner paid excise tax of ₱14,768,790.00 and VAT on excise tax of ₱1,772,254.80 or a total of ₱16,541,044.80 to the BOC on July 23, 2021.[40] Counting from this date, petitioner had two years or until **July 23, 2023** to file its administrative and judicial claims for refund, pursuant to Sections 204(C) and 229 of the NIRC of 1997, as amended.

---

39 *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

40 Exhibits "P-3" and "P-4", Docket – Vol. I, pp. 41 and 414, respectively.

Petitioner's administrative claim for refund was filed on July 20, 2023[41] while its judicial claim was filed before this Court on July 25, 2023.[42] Since July 23, 2023 fell on a Sunday and work in government offices in the National Capital Region was suspended on July 24, 2023, pursuant to Memorandum Circular No. 25 dated July 21, 2023 signed by Executive Secretary Lucas P. Bersamin, both administrative and judicial claims fell within the two-year prescriptive period.

Respondent, however, asserts that petitioner failed to exhaust administrative remedies by filing the judicial claim merely days after the filing of its administrative claim. According to respondent, petitioner admitted in *Paragraph 3* of the instant *Petition* that it filed its administrative request for refund on July 20, 2023 or a mere three working days before its judicial filing to the Court. Hence, for petitioner's failure to comply with the exhaustion of administrative remedies, respondent submits that this Court has no jurisdiction over the case.

On the other hand, citing the case of *Commissioner of Internal Revenue vs. Carrier Air Conditioning Philippines, Inc.* (*Carrier* case),[43] petitioner contends that it does not matter how far apart the administrative and judicial claims for refund were filed, as long as both are filed within the two-year prescriptive period.

This Court agrees with petitioner.

In the *Carrier* case, the Supreme Court held as follows:

> **Section 229, which requires a prior administrative claim before a judicial claim is filed, recognizes the Commissioner of Internal Revenue's primary jurisdiction to decide refunds of internal revenue taxes.** It gives the Commissioner 'an opportunity to consider [their] mistake, if mistake has been committed,' or to investigate and ascertain the veracity of the claim, before they are sued. This Court in *CBK Power Company*,[44] citing *P.J. Kiener*,[45] held that the **primary purpose of filing an administrative claim is to serve as a *notice or warning* to the Commissioner that *court action would follow unless the tax or penalty is refunded.*** This necessarily implies that the Commissioner has sufficient time to examine, evaluate, and act on the matter within their jurisdiction.
>
> xxx xxx xxx
>
> **Sections 204 and 229 fixed the same period of two years for filing an administrative claim for refund before the Bureau of Internal**

---

[41] Exhibit "P-5", Docket – Vol. I, pp. 44 to 53.
[42] Docket – Vol. I, pp. 6 to 27.
[43] G.R. No. 226592, July 27, 2021.
[44] That is, *CBK Power Company Limited vs. Commissioner of Internal Revenue*, 750 Phil. 748 (2015) [Per *J.* Perlas-Bernabe, First Division].
[45] That is, *P.J. Kiener Company, Ltd. vs. David*, 92 Phil. 945 (1953) [Per *J.* Tuason, *En Banc*].

> **Revenue and to sue before the Court of Tax Appeals.** ***CBK Power Company*** **explained that <u>as long as these two acts fall within the two-year period, there is no legal impediment to the judicial claim for refund</u>.**
>
> **Consequently, from the plain language of the law, <u>it does not matter how far apart the administrative and judicial claims were filed</u>, or whether the Commissioner of Internal Revenue was actually able to rule on the administrative claim, <u>so long as both claims were filed within the two-year prescriptive period</u>.**
>
> Thus, in *CBK Power Company*, as with subsequent cases, this Court upheld the propriety of the taxpayer's judicial claim instituted as early as five and 13 days after the administrative claim had been filed, on the ground that both claims were filed within the two-year prescriptive period.
>
> The Court of Tax Appeals likewise allowed judicial claims filed simultaneously, or one to 28 days from the administrative claim's filing, on the same ground that both claims were filed within the two-year prescriptive period. *(Emphases and underscoring added)*

Section 229 of the NIRC of 1997, as amended, thus, only requires that an administrative claim be priorly filed primarily to give notice or warning to respondent that court action would follow unless the tax or penalty alleged to have been collected erroneously or illegally is refunded. As long as the filing of both administrative and judicial claims falls within the two (2)-year prescriptive period, there is no legal impediment to the judicial claim for refund.

This was reiterated by the Supreme Court in *Commissioner of Internal Revenue vs. Estate of Mr. Charles Marvin Romig, Represented by its Sole Heir Mrs. Maricel Narciso Romig* (*Romig* case)[46]:

> Sections 204 and 229 of the 1997 NIRC provide for the refund of erroneously or illegally collected taxes. **Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.** Said provision state:
>
> xxx xxx xxx
>
> Based on the above-quoted provisions, it is manifestly clear that **an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax. In the instant case, the two-year period to file a claim for refund is reckoned from June 30, 2015, the date respondent paid the estate tax amounting to PHP 4,565,439.07. <u>Since the Estate first filed its administrative claim at 8:00 a.m. on June 28, 2017, and thereafter its judicial claim at 4:47 p.m. on even date, both claims were filed on time or within the two-year prescriptive period provided by law</u>.**

---

[46] G.R. No. 262092, October 9, 2024.

> **It is of no moment that there is only a short interval between the filing of the two claims. The law merely requires that both claims are filed within the two-year period.** In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*,[47] where therein petitioner similarly argued that the judicial claim for refund, which was filed barely 10 days from the filing of the administrative claim, was premature and violative of the doctrine of exhaustion of administrative remedies, this Court held that, 'from the plain language of the law, **it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.**'
>
> Moreover, the Court agrees with the finding of the CTA Second Division and CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.
>
> **While the Court recognizes that the CIR may not have had the proper chance to act on the matter within their jurisdiction because of the short period of time between the filing of the two claims, the silence or insufficiency in the law on what is to be considered a reasonable period for the CIR to resolve a claim for refund of taxes is one that can be addressed not by judicial pronouncement, but by appropriate legislation.** *(Emphases and underscoring added)*

The foregoing jurisprudential pronouncements confirm that the law merely requires that both claims are filed within the two-year reglementary period. Thus, so long as the said claims are lodged within such period, the judicial claim may be taken cognizance of by this Court. This holds true even when the filing of the administrative claim and subsequently, of the judicial claim, is merely hours apart, such as in the *Romig* case.

Since the two-year prescriptive period was about to lapse, petitioner was justified in filing its judicial claim, without waiting for the respondent's decision, to protect its interest. It should be stressed that petitioner need not await the final resolution of its administrative claim for refund, since doing so would be tantamount to petitioner's forfeiture of its right to seek judicial recourse should the two-year prescriptive period expire without the appropriate judicial claim being filed. Hence, petitioner's judicial claim filed within the two-year prescriptive period is proper and cannot be dismissed on the ground of failure to exhaust administrative remedies.

Be that as it may, a reading of petitioner's administrative claim for refund filed before the respondent on July 20, 2023,[48] shows that only the

---

47 G.R. No. 226592, July 27, 2021.
48 Exhibit "P-5", Docket – Vol. I, pp. 44 to 53.

amount of ₱14,768,790.00 excise tax paid on its importation of 1,476,879 liters of Aromatic Hydrocarbon VV is being requested to be refunded, and not the amount of ₱16,541,044.80, which includes the 12% VAT on the excise tax of ₱1,772,254.80, prayed for in the present *Petition*. The amount of ₱14,768,790.00 being claimed for refund in the administrative level is likewise confirmed by the *Application for Tax Credits/Refunds* (BIR Form No. 1914)[49] attached to petitioner's letter request for refund.

Moreover, the BIR's letter dated November 15, 2023,[50] signed by the OIC-Assistant Commissioner, Large Taxpayers Service, Jethro M. Sabariaga, also stated that the said letter was in response to petitioner's letter dated July 20, 2023 regarding the "application for refund in the form of Tax Credit Certificate for the payment of excise tax amounting to ₱14,768,790.00 on your importation of 1,476,879 liters of Aromatic Hydrocarbon VV" and found that petitioner is not entitled to a refund of excise taxes paid on importation of Aromatic Hydrocarbon VV in the amount of ₱14,768,790.00.

Given the foregoing, only the amount ₱14,768,790.00 may be the subject of petitioner's judicial claim for refund as it failed to include in its administrative claim for refund the amount of ₱1,772,254.80, representing the 12% VAT paid on the excise tax. The Court cannot grant a refund without a prior administrative claim for refund being filed pursuant to Section 229 of the NIRC of 1997.

The issuance of (a) BIR Ruling No. DA-075-A-05 dated March 10, 2005 by the Deputy Commissioner of Legal and Inspection Group; and (b) BIR letter dated October 15, 2019 by the Deputy Commissioner of the Operations Group is not a valid exercise of a delegated authority.

Section 1 of Revenue Memorandum Order No. 9-2014[51] defines tax rulings as "official positions of the Bureau on inquiries of taxpayers, who request clarification on certain provisions of the National Internal Revenue Code (NIRC), other tax laws, or their implementing regulations, usually for the purpose of seeking tax exemptions. Rulings are based on particular facts and circumstances presented and are interpretations of the law at a specific point in time."

In other words, BIR Rulings "are the official position of the Bureau to queries raised by taxpayers and other stakeholders relative to clarification and

---

49 BIR Records - Folder 1 (Exhibit "R-4"), p. 29.
50 Exhibit "R-3", BIR Records - Folder 2 (Exhibit "R-4"), pp. 7 to 8.
51 SUBJECT: Requests for Rulings with the Law and Legislative Division.

interpretation of tax laws. In this regard, the primary purpose of a BIR Ruling is simply to determine whether a certain transaction, under the law, is taxable or not based on the circumstances provided by the taxpayer."[52]

What sets apart BIR Rulings from other issuances of the BIR is that it relates to a particular taxpayer's set of facts and circumstances and a consequent determination of taxability or tax exemption, when applicable.[53]

In this case, BIR Ruling No. DA-075-A-05 dated March 10, 2005[54] signed by Deputy Commissioner for Legal and Inspection Group, Jose Mario C. Buñag, and issued as a response to a query made by petitioner, ruled that petitioner's importation of Aromatic Hydrocarbon is not subject to excise tax. The same is now invoked by petitioner as basis for its claim for refund of its excise tax paid. Pertinent portions of the said ruling are quoted below:

> In a similar request for a ruling, the Bureau ruled in BIR Ruling No. DA-445-2004 dated August 23, 2004 as follows:
>
> > *'In view of the foregoing and considering that the use of Aromatic Hydrocarbon as <u>solvent</u> in the manufacture of tires and rubber which are non-excisable products and not as a catalytic or motive power enhancer, in effect is not within the contemplation of Section 148 of the Tax Code, this Office holds that your importation and sale of Aromatic Hydrocarbon are not subject to excise tax.'*
>
> Since the facts presented is very much identical to the facts that caused the issuance of the aforesaid ruling, this Office believes that the importation of Unioil Petroleum Phils., Inc. of Aromatic Hydrocarbon is also not subject to excise tax.

The aforementioned ruling was issued by the Deputy Commissioner for Legal and Inspection Group **under a delegated authority**. Relative thereto, Section 7 of the NIRC of 1997, as amended, governs the delegation of any power granted to respondent under the said law. It reads:

> SEC. 7. *Authority of the Commissioner to Delegate Power.* – The **Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with rank equivalent to a division chief or higher**, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: *Provided, however*, That **the following powers of the Commissioner shall <u>not</u> be delegated**:

---

52 *Commissioner of Internal Revenue vs. Lucio L. Co, et al.*, G.R. No. 241424, February 26, 2020.

53 *Commissioner of Internal Revenue vs. Court of Tax Appeals (First Division) and Pilipinas Shell Petroleum Corporation, et seq.*, G.R. Nos. 210501, 211294, and 212490, March 15, 2021.

54 Exhibit "P-6", Docket – Vol. I, pp. 329 to 330.

> (a) The powers to recommend the promulgation of rules and regulations by the Secretary of Finance;
>
> (b) **The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau**;
>
> (c) The power to compromise or abate, under Sec. 204(A) and (B) of this Code, any tax liability: *Provided, however*, That assessments issued by the regional offices involving basic deficiency taxes of Five hundred thousand pesos (P500,000) or less, and minor criminal violations, as may be determined by rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, discovered by regional and district officials, may be compromised by a regional evaluation board which shall be composed of the Regional Director as Chairman, the Assistant Regional Director, the heads of the Legal, Assessment and Collection Divisions and the Revenue District Officer having jurisdiction over the taxpayer, as members; and
>
> (d) The power to assign or reassign internal revenue officers to establishments where articles subject to excise tax are produced or kept. *(Emphases and underscoring added)*

Based on the foregoing provision, respondent is authorized to delegate to his subordinates the powers vested in him, **except, among others, the power to issue rulings of first impression.**

Pursuant to Section 2(c) of Revenue Memorandum Circular No. 37-2007,[55] the "Deputy Commissioner, Legal and Inspection Group is hereby authorized to sign all rulings which grant as well as confirm any tax exemption and/or tax incentive including tax treaty relief, including those that are originating from the VAT Review Committee provided that they are not covered by the abovementioned exceptions to the existing issuances; and provided further, that the **said rulings are clearly covered by precedent rulings** and guidelines, as well as, pertinent issuances on the subject." Further, **"[a]ll rulings of first impression, as defined in Revenue Administrative Order No. 1-03, shall be signed by the Commissioner.** Moreover, the Commissioner may, *motu propio*, reverse, modify or alter any such ruling issued by the Assistant Commissioner, Legal Service or the Deputy Commissioner, Legal and Inspection Group, at any time after its issuance if he determines the same not to be in accordance with the established precedent rulings or pertinent tax laws and revenue issuances, but after due notice to the concerned taxpayer, and in accordance with Section 246 of the Tax Code of 1997, without prejudice however, to administrative sanctions relative to such actions." (*Emphases supplied*)

---

[55] SUBJECT: Delegation of Authority to Sign Rulings Granting and/or Confirming Tax Exemptions, Tax Incentives as well as Tax Treaty Relief Through the Ruling Process.

Rulings of first impression and rulings with established precedents are distinctly defined under Section 3(a) and (b) of Revenue Administrative Order No. 1-03[56] as follows:

> a) *Rulings of first impression* — These refer to the rulings, opinions and interpretations of the Commissioner of Internal Revenue with respect to the provisions of the Tax Code and other tax laws **without established precedent**, and which are issued in response to a specific request for ruling filed by a taxpayer with the Bureau of Internal Revenue. Provided, however, that the term shall include reversal, modification or revocation of any existing ruling.
>
> b) *Rulings with established precedents* — These refer to **mere reiteration of previous rulings, opinions and interpretations of the <u>Commissioner</u>**, as delegated to duly authorized internal revenue officers (*i.e.*, Deputy Commissioner, Legal and Inspection Group; Assistant Commissioner, Legal Service; Regional Directors) that are issued in response to a specific request for ruling filed by a taxpayer with the Bureau of Internal Revenue. *(Emphases and underscoring added)*

A reading of BIR Ruling No. DA-075-A-05 quoted earlier shows that its precedent ruling is BIR Ruling No. DA-445-2004 dated August 23, 2004, another delegated authority ruling signed by Deputy Commissioner for Legal and Inspection Group, Jose Mario C. Buñag, and not the respondent. In turn, BIR Ruling No. DA-445-2004 made mention of BIR Ruling No. 93-91, signed by then Commissioner Jose U. Ong. The said ruling, however, pertains to the importation of carbon black feedstock oil (petroleum based aromatic concentrate), which ruled that it is not an "aromatic extract" subject to excise tax since the same is used in the production of carbon black, a non-excisable petroleum product.

Considering that BIR Ruling No. DA-075-A-05 is not covered by a precedent ruling signed by respondent, it is one of first impression. It follows then that the same is not a valid exercise of the Deputy Commissioner of Legal and Inspection Group's delegated authority as respondent cannot delegate the issuance of rulings of first impression to his subordinates.

As regards the letter dated October 15, 2019 signed by Deputy Commissioner of the Operations Group, Arnel SD. Guballa,[57] which is in conflict with BIR Ruling No. DA-075-A-05 as it held that Aromatic Hydrocarbon VV is an aromatic extract subject to excise tax, it is readily

---

[56] SUBJECT: Amending the Provisions of Revenue Administrative Order No. 2-2001.
[57] Exhibit "P-8", Docket – Vol. I, pp. 331 to 332.

apparent that the tenor and wording of the same qualify it as a BIR Ruling. The pertinent portions thereof are herein reproduced for easy reference:

> This refers to your request for the proper tax classification of the imported product, AROMATIC HYDROCARBON VV.
>
> xxx xxx xxx
>
> In view of the foregoing facts, the properties/characteristics of AROMATIC HYDROCARBON VV, which is an unlabeled/label-free and non-carcinogenic aromatic extender oil, fit those for TDAE, hence, the said product is classified as aromatic extract, an article covered by excise tax under Sec. 148(a) of the Tax Code of 1997, as amended.

As may be gleaned from the first paragraph of the said letter, the query relates to the proper tax classification of the imported product, Aromatic Hydrocarbon VV. It also calls for an interpretation of whether Aromatic Hydrocarbon VV falls under the classification of "aromatic extract" under Section 148(a) of the NIRC of 1997, as amended. Finally, it concludes with a determination of the taxability of petitioner's importation.

Hence, the clarificatory/interpretative tenor of BIR letter dated October 15, 2019 relative to petitioner's excise tax liability remains. As such, the said BIR letter is effectively a BIR Ruling issued against petitioner, and which must likewise follow the rules earlier set forth for issuing a BIR Ruling. Considering that it is a ruling of first impression, as the said ruling is without established precedent by the respondent and said letter likewise seeks to reverse or revoke BIR Ruling No. DA-075-A-05, an existing ruling then, **respondent should have issued the same and not the Deputy Commissioner of the Operations Group**. Consequently, BIR letter dated October 15, 2019 is likewise an **invalid exercise of delegated authority.**

Aromatic Hydrocarbon VV does not fall under "aromatic extracts" subject to excise tax under Section 148(a) of the NIRC of 1997, as amended.

Section 148(a) of the NIRC of 1997, as amended, subjects to excise tax lubricating oils and greases, to wit:

> SEC. 148. *Manufactured Oils and Other Fuels.* — There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:
>
> xxx xxx xxx
>
> Effective January 1, 2020

> (a) **Lubricating oils and greases, including but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not**, per liter and kilogram, respectively, of volume capacity or weight, Ten pesos (₱10.00): *Provided*, That lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax: *Provided, further*, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, rerefined or recycled shall likewise be subject to the tax imposed under this subsection. *(Emphasis and underscoring added)*

Section 2(f) of Revenue Regulations No. 7-90[58] provides for the definition of aromatic extracts as follows:

> f) The term 'aromatic extracts' means extracts derived from aromatic materials produced by solvent extraction using N-methylpyrrolidienone, phenol, or furfural which are common solvents and includes BTX (benzene, toluene, xylene) from naphtha fractions used for chemical manufacture, upgrading middle distillates such as kerosene, diesel and jet fuel.

In support of its argument that Aromatic Hydrocarbon VV should not be subject to excise tax as it is used as raw material/solvent in the manufacture of tires, and not as a catalytic or motive power enhancer, and therefore is not within the contemplation of Section 148 of that Tax Code, petitioner presented Engr. Eugenio M. Pranada, Jr., a Chemicals Consultant specializing in lubricants/base stocks, formulation, industry/Original Equipment Manufacturer (OEM) specifications, certification and approvals, quality control and quality assurance, a licensed chemical engineer who has been in the profession for 30 years and also a Certified Level II Machinery Lubricant Analysis (MLA) ISO Equivalency: ISO 18436-4, Category II.[59] He testified as follows:

> Q13: What can you say about this BIR Ruling in favor of Unioil?
>
> A13: I agree with the BIR Ruling. **The Aromatic Hydrocarbon that Unioil imports is not a lubricating oil or grease or used as base stock or additive in the manufacture of lubricating oils and greases**, therefore is not covered by Sec. 148 (a) of the Tax Code – it's as simple as that. The **Aromatic Hydrocarbon is purchased by YTPI for use as solvent, plasticizers extender and binder in the production of tire products to improve the vulcanization process making the rubber more elastic and easier to form. The**

---

[58] SUBJECT: Revenue Regulations Implementing Republic Act No. 6965 - An Act Revising the Form of Taxation on Petroleum Products from Ad Valorem to Specific, Amending for the purpose Section 145 of the National Internal Revenue Code, as amended.

[59] Q&A Nos. 2, 5 to 7, Exhibit "P-19", Docket – Vol. II, pp. 428 to 429; Exhibits "P-14" to "P-16", Docket – Vol. II, pp. 442 to 446.

Aromatic Hydrocarbon is not used as a catalytic or motive power enhancer.

Q14: Let's go the technicalities... from a technical standpoint, what is a lubricating oil or grease?

A14: Lubricating oils and greases, collectively known as lubricants are substances or materials that are interposed between mating or rubbing surfaces to reduce friction and wear between them. Other functions of lubricants are to clean, protect, cool and transmit power. These mixtures are blends of base oils and additives in a precise formulation or recipe to achieve consistent physical and chemical properties specified by global industry bodies like the American Petroleum Institute (API), Society of Automotive Engineers (SAE) and American Society of Testing and Materials to name a few. I have printed out some pictures of oil containers to show you that these organizations are mentioned in the label. In this printout of a picture of a Shell Helix bottle, it says here 'API' and the term '5W-30' is the viscosity grade given by SAE. And in this printout of a photo of a Petron 5W-40, it is written at the bottom part of the bottle 'API' and 'SAE' with the SAE donut logo.

Lubricating grease, n—a semi-fluid to solid product of a dispersion of a thickener in a liquid lubricant. It can be compared to a paste with slippery feel. It's an oily stuff but it does not flow like a normal lubricating oil. This type of lubricant is useful in lubricating machine parts where liquid lubricants can't stay in place for long periods or can be circulated like in internal combustion engine.

xxx xxx xxx

Q15: In layman's terms, can you please explain what is a lubricating oil or grease?

A15: I will explain to you by giving examples...Examples of lubricating oils are your engine oils, automatic transmission fluids, gears oils, and your four stroke oils for your motorcycles. For industrial applications like hydraulic oil, gear oils, compressor oils, turbine oils to name a few.

Now... greases are those applied in automobile underchassis to lubricate parts like ball joint, wheel bearings, bushings, ball bearings and others. In industrial machineries, it is used to lubricate bearing and gears.

Q16: **Is the Aromatic Hydrocarbon that petitioner imports considered a lubricating oil or grease?**

A16: **No, of course not. And neither is it intended for lubricating oils and greases. Unioil's imported Aromatic Hydrocarbon is used as solvent, plasticizer, extender and binder in the manufacture of tires and rubber**; therefore, it should not be subject to excise tax under Sec. 148 (a) of the Tax Code.

Q17: When you say Aromatic Hydrocarbon, does this include Aromatic Hydrocarbon VV?

A17: Yes.

xxx xxx xxx

Q19: You mentioned that Aromatic Hydrocarbon VV is used as solvent by YTPI in the manufacture of tires, what do you mean by this?

A19: Before we dwell into that question, let's understand first the three important terminologies in general chemistry – Solute, Solvent and Solution. Solute + Solvent = Solution. Solvent is the substance that dissolves (solubilize) the solute, in the same manner, solute is the substance being dissolved (solubilized), thereby forming a solution.

In the case of Aromatic Hydrocarbon VV, due to its inherently high aromatic content, it has the ability to solubilize (functions as solvent) or plasticize both natural rubber and synthetic rubber to improve the vulcanization process making the rubber more elastic and easier to form. That's the reason why it is described as a solvent because of its ability to dissolve or solubilize.

Q20: Is Aromatic Hydrocarbon VV a solvent or not a solvent?

A20: In tire manufacturing process, it functions as a solvent, plasticizer, extender or binder as I explained in my previous answer.

xxx xxx xxx

Q25: How so?

A25: The report issued by Maria Lourdes Rosula Ramos, Chief of Laboratory Section of the BIR, where the physical and chemical properties of a certain Treated Distillate Aromatic Extracts or TDAE with the Aromatic Hydrocarbon VV were matched, and based on her opinion is a close fit and therefore it was recommended to Maria Rosario Puno that the Aromatic Hydrocarbon VV is classified as aromatic extract, an article covered by excise tax under Section 148(a) of the Tax Code of 1997, as amended.

The typical properties of a TDAE and Aromatic Hydrocarbon VV may exhibit some similarities. However, the aromatic extracts described in Section 148(a) is intended for lubricating oils and greases application, while the application of the Aromatic Hydrocarbon VV is as solvent, plasticizer, extender and binder, in the manufacture of tires and rubber, and are not used as a catalytic or motive power enhancer, therefore should not be subject to excise tax under Sec. 148 (a) of the Tax Code.

A material is termed as solvent if it has the ability to dissolve or 'solubilize' a solute. Contrary to the conclusion reached by the BIR, the color of a material has nothing to do with its dissolving ability. Aromatic extracts have been used in applications where their solvency is valued, such as in the manufacture of tires and rubber where aromatic extracts are used as solvent, plasticizer, extender and binder. The BIR was incorrect in concluding that Aromatic Hyd[r]ocarbon VV is non-solvent or not a solvent just because of its brown color; the BIR should have considered how the imported Aromatic Hydrocarbon VV was or is used after importation.

Q26: How do you compare Aromatic Hydrocarbon and Aromatic Hydrocarbon VV?

A26: Aromatic extracts have been used in applications where their solvency is valued, such as in the manufacture of tires and rubbers. Aromatic Hydrocarbon is essentially an aromatic extract, and Aromatic Hydrocarbon VV is derived from a conventional aromatic extract after undergoing another extraction process/es, and the only significant difference is the level of PAH (Polycyclic Aromatic Hydrocarbon), that has a maximum content of 3 % by wt., which is lower than the former. They are both used as solvent, plasticizer, extender or binder in the manufacture of tires and rubbers and not as lubricating oils or greases, and therefore should not be subject to excise tax under Sec. 148 (a) of the Tax Code.

xxx xxx xxx

Q28: Why?

A28: The Aromatic Hydrocarbon VV is a derivative of and used in the same way as the Aromatic Hydrocarbon described in BIR Ruling No. DA-075-A-05 dated 10 March 2005, both are use [sic] as solvent, plasticizer, extender or binder in the manufacture of tires and rubbers, and are not use [sic] as a catalytic or motive power enhancer, therefore should not be subject to excise tax under Sec. 148 (a) of the Tax Code.

Q29: Mr. Witness, you mentioned a while ago that YTPI uses the Aromatic Hydrocarbon and Aromatic Hydrocarbon VV in the manufacture of tire and rubber products, is this correct?

A29: Yes, Atty.

Q30: And, how do you know that YTPI uses the Aromatic Hydrocarbon as well as the VV brand as raw material in the production of tire products?

A30: Aside from hearing it from my friend and fellow chemical engineer, YTPI's Ms. Carolyn B. Panergo, it is common knowledge for chemical engineers and chemists, who took the Chemical Process Industries subject in college, that tires and rubber manufacturers use aromatic extracts as solvent, plasticizer, extender, binder, in the manufacture of tires and rubbers. Moreover, being in the lubricants and base stock industry for over 30 years, I have the required level of awareness of key changes in environmental regulations affecting the industry - including the reduction of PAH in rubber process oils used in tires and rubber industry.[60] *(Emphases added)*

During cross-examination and re-direct examination, Engr. Pranada, Jr. also clarified the difference between Aromatic Hydrocarbon and Aromatic

[60] Q&A Nos. 13 to 17, 19 to 20, 25 to 26, 28 to 30, Exhibit "P-19", Docket – Vol. II, pp. 431 to 436.

Hydrocarbon VV and that Aromatic Hydrocarbon VV cannot be used in lubricating oils and greases, to wit:

> ATTY. DE LA PAZ:
> Are the chemical components of aromatic hydrocarbon and aromatic hydrocarbon VV exactly the same?
>
> WITNESS:
> **The typical properties of aromatic hydrocarbon VV is essentially the same as the aromatic hydrocarbon. However, the only difference is the carcinogenic materials present in the fluid, because aromatic hydrocarbon VV is less carcinogenic version of aromatic hydrocarbon.** Meaning, the polycyclic aromatic hydrocarbon is set at 3% maximum by the European Union in order for the ti[r]es manufactured by Yokohama to be exported to Europe. The same typical properties, except for the polycyclic aromatic hydrocarbon content.
>
> ATTY. DE LA PAZ:
> So, in short, they are not exactly the same.
>
> JUSTICE LIBAN:
> Actually, they are the same. It's just lesser carcinogenic.
>
> WITNESS:
> **Less carcinogenic. Meaning, more environment friendly or health friendly.**
>
> xxx xxx xxx
>
> ATTY. DE LA PAZ:
> What I'm asking, Mr. Witness, is that can you use aromatic hydrocarbon or VV brand as the raw material other than making a tire?
>
> JUSTICE LIBAN:
> Where else can you use aromatic hydrocarbon or aromatic hydrocarbon VV? What other products?
>
> WITNESS:
> Well, according to literature, it can be used also in offset printing inks.
>
> ATTY. DE LA PAZ:
> So, meaning Mr. Witness, there are other products which aromatic hydrocarbon and VV brand can be used as raw material, yes?
>
> WITNESS:
> In other applications, Attorney, but I cannot confirm today.
>
> xxx xxx xxx
>
> ATTY. SANTOS:
> And then a while ago you were asked where else do you use aromatic hydrocarbon VV, in this connection, **do you use aromatic hydrocarbon VV in lubricating oils and greases**?

WITNESS:
Absolutely not, Attorney.

ATTY. SANTOS:
Why not?

WITNESS:
Because the aromatics has already been extracted out. Aromatics has a very low oxidation stability and then very poor in rheological properties, those properties are mandated by industry global industry bodies like American Petroleum Institute, the Society of Automotive Engineers and the American Society of Testing Materials, to name a few. So that it aromatic is undesirable in lubricant application.[61] *(Emphases added)*

Petitioner likewise presented Mr. Hernan S. Chua, its Import Manager, who testified that petitioner's importation of Aromatic Hydrocarbon VV was substantially sold to YTPI, its sole customer, which uses it as raw materials for the manufacture of tires and rubber, to wit:

Q22: Mr. Witness, what was the reason given under BIR Ruling No. DA-075-A-05 for petitioner's exemption from the payment of excise tax?

A22: As stated in the BIR Ruling, **the Aromatic Hydrocarbon we import is used as a raw material in the manufacture of tires and rubber which are non-excisable products, and not as a catalytic or motive power enhancer**, so in effect, it is not within the contemplation of Sec. 148(a) of the Tax Code. As a result, our importation and sale of Aromatic Hydrocarbon is not subject to excise tax, as well as VAT on the excise tax. **Unioil sells this imported Aromatic Hydrocarbon to YTPI, its sole customer, which uses it for the manufacture of tires and rubber, which are non-excisable products**.[62] *(Emphases added)*

To prove that it delivered and sold Aromatic Hydrocarbon VV to YTPI from August 11, 2021 to December 7, 2021, petitioner presented its *Delivery Receipts* (DRs) and *Sales Invoices* (SIs).[63] The DRs show that a total of 1,358,000 liters were delivered while the SIs provide that 1,355,591 liters were actually received.

Mr. Chua likewise clarified the volume of Aromatic Hydrocarbon sold to YTPI as follows:

Q4: Why did you send us an updated summary of the DRs and SIs?

---

[61] Transcript of Stenographic Notes taken during the hearing held on October 8, 2024, pp. 10 to 11, and 14 to 15, and 17.
[62] Q&A No. 22, Exhibit "P-10", Docket – Vol. I, pp. 33 to 34.
[63] Exhibits "P-9-a" to "P-9-jjjj-1", Docket – Vol. I, pp. 153 to 328.

A4: We double checked our records and found out there were errors in the initial summary that we gave you, Atty. The errors were because of repeated entries and also we took out the orders that were cancelled. This updated summary reflects that the total volume more or less per DRs is 1,358,000 liters and per SIs is 1,355,591 liters.[64]

Q30: Mr. Witness, why is there a difference between the volume per DRs and volume per SIs?

A30: The DR volume is the actual withdrawal of the Aromatic Hydrocarbon from our terminal which is weighed via weighing scale. While the SI volume is the amount of Aromatic Hydrocarbon received by YTPI weighed via flowmeter. The difference in the DR and SI volume may be because of temperature changes and the calibration of the flowmeter and the weighing scale, and other factors.

Q31 And, how many liters of Aromatic Hydrocarbon was imported under ATRIG Control No. ELTRDOIL193100

A31: 1,476,879 liters, ma'am.

[Q32]: What is your proof that the Aromatic Hydrocarbon is used by YTPI as raw material in the production of tires?

[A32]: The testimony of Ms. Carolyn Panergo from YTPI, Atty. I was told that she intends to testify that YTPI used the Aromatic Hydrocarbon purchased from Unioil as raw material in the production of tires.[65]

Mr. Chua's statements were corroborated by YTPI's Purchasing Manager, Ms. Carolyn B. Panergo, who testified as follows:

Q7: How does YTPI use the Aromatic Hydrocarbon purchased from petitioner?

A7: **YTPI uses the Aromatic Hydrocarbon as a raw material in making rubber compounds used to produce tires.** To be used as raw materials, the delivered Aromatic Hydrocarbon in tanker lorry is transferred or unloaded into a storage tank in YTPI. It is then pumped into the Day Tank located inside Mixing Process to elevate its temperature, and then it is injected to the Mixer to be incorporated with the other raw materials to make the rubber compound for tires.

Q8: Do you know since when YTPI started purchasing Aromatic Hydrocarbon from petitioner?

A8: Yes. We purchased our Aromatic Hydrocarbon requirement from Unioil since year 2000 for Uniflex 655 brand, and then Vivatec brand from 2009 up to the present.

---

64 Q&A No. 4, Exhibit "P-11", Docket – Vol. I, p. 148.
65 Q&A Nos. 30 to [32], Exhibit "P-10", Docket – Vol. I, pp. 35 to 36.

> Q9: Do you know how much Aromatic Hydrocarbon did YTPI purchase from petitioner Unioil for the following periods: 03 May 2021 to 10 August 2021; 11 August 2021 to 07 December 2021; and 08 December 2021 to 30 March 2022?
>
> A9: Yes, ma'am . For the period from 03 May 2021 to 10 August 2021, we purchased and received from Unioil 1,383,589 liters of Aromatic Hydrocarbon; for the period of 11 August 2021 to 07 December 2021, it was 1,386,159 liters; and 1,398,577 liters for the period of 08 December 2021 to 30 March 2022.
>
> Q10: And, what did YTPI do with the Aromatic Hydrocarbon it ordered from and was delivered by petitioner Unioil?
>
> A10: **Like how we always use it, we used it as raw material for the manufacture of our main product – automative and truck tires. As a raw material it improves the blending of the rubber formulations or improves the incorporation of fillers and other additives.**
>
> Q11: **Aside from using Aromatic Hydrocarbon in the manufacture of automotive and truck tires, do you use it for any other purpose**?
>
> A11: **No, ma'am**.[66] *(Emphases added)*

After going over the testimonies of the witness, the Court is convinced that Aromatic Hydrocarbon VV **does not fall within the classification of "aromatic extract" under Section 148(a) of the NIRC of 1997, as amended.**

Under the principle of *ejusdem generis*, "where a general word or phrase follows an enumeration of particular and specific words of the same class or where the latter follow the former, the general word or phrase is to be construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned."[67]

Furthermore, under the doctrine of *noscitur a sociis*, the construction of a particular word or phrase, which is in itself ambiguous, or is equally susceptible of various meanings, may be made clear and specific by considering the company of words in which it is found or with which it is associated. In other words, the obscurity or doubt of the word or phrase may be reviewed by reference to associated words.[68]

Although "including but not limited to" means that the enumeration is not exhaustive, still the enumeration must still pertain to lubricating oils and greases. Moreover, the qualifying phrase "for lubricating oils and greases" at

---

[66] Q&A Nos. 7 to 11, Exhibit "P-12", Docket – Vol. I, p. 335.
[67] *Petron Corporation vs. Commissioner of Internal Revenue*, G.R. No. 255961, March 20, 2023.
[68] *Commissioner of Internal Revenue vs. Villanueva, Jr.*, G.R. No. 249540, February 28, 2024.

the end of the enumeration also connotes that the enumeration must be for lubricating oils and greases.

Therefore, in construing the phrase **"[l]ubricating oils and greases,** *including but not limited to*, basestock for lube oils and greases, high vacuum distillates, aromatic extracts and other similar preparations, and additives **for lubricating oils and greases**, whether such additives are petroleum based or not," as stated in Section 148(a) of the NIRC of 1997, as amended, **the same must only include or be restricted to things or cases akin to, resembling, or of the same kind or class as those specifically mentioned**, *i.e.*, lubricating oils and greases. Hence, considering that Aromatic Hydrocarbon VV, used in the manufacture of tires and rubber, does not belong to the same category as lubricating oils and greases, the same should not be subjected to excise tax.

It also bears stressing that, in this case, petitioner's claim for tax refund/credit is not founded on any tax exemption law but on the government's erroneous assessment and collection of excise tax on its Aromatic Hydrocarbon VV importation without clear legal basis therefor. Otherwise stated, petitioner's entitlement to a tax refund/credit is not based on the existence of a tax exemption clause in its favor but premised on its claim that Aromatic Hydrocarbon VV is not subject to excise tax under Section 148(a) of the NIRC of 1997, as amended.

Hence, when the claim for tax refund is premised on the taxpayer's erroneous payment of the tax or the government's exaction in the absence of a law, the rule to be applied must be the well-settled doctrine of strict interpretation in the imposition of taxes, not the similar doctrine as applied to tax exemptions.[69]

Verily, since petitioner's claim for tax refund is not in the nature of a tax exemption, it is not burdened to prove that the legislature intended to exempt it from tax clearly and distinctly. To reiterate, its Aromatic Hydrocarbon VV is not among the articles covered by Section 148(a) of the NIRC of 1997, as amended. Thus, in the absence of a law expressly and unambiguously imposing excise tax on Aromatic Hydrocarbon VV, the appropriate rule to be applied is the strict interpretation in the imposition of taxes such that the statute must be construed most strongly against the government and in favor of the taxpayer. Simply put, insofar as excise tax is concerned, non-taxability is the rule, while taxability is the exception. Verily, since its Aromatic Hydrocarbon VV is not categorically covered by Section 148(a) of the NIRC of 1997, as amended, the doubt should be resolved in petitioner's favor. As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws.[70]

---

[69] *Petron Corporation vs. Commissioner of Internal Revenue*, supra.
[70] *Ibid.*

In sum, petitioner is entitled to a refund or tax credit certificate for erroneously paid excise tax paid on July 23, 2021 on its importation of Aromatic Hydrocarbon VV, but only in the amount of ₱14,768,790.00, as the Court cannot grant a refund for the VAT on the excise tax in the amount of ₱1,772,254.80, petitioner having failed to file a prior administrative claim for refund for the said tax.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱14,768,790.00**, representing petitioner's erroneously paid excise tax on its importation of Aromatic Hydrocarbon VV under ATRIG No. ELTRDOIL193100.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice
Division Chairperson

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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice