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REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF CUSTOMS, Petitioner, - versus - AIR PHILIPPINES CORPORATION (APC), Respondent.	CTA EB NO. 1704 (CTA Case Nos. 7252, 7362, 7383, 7445, 7494, 7517, 7521, & 7566)
COMMISSIONER OF INTERNAL REVENUE and COMMISSIONER OF CUSTOMS, Petitioners, - versus - AIR PHILIPPINES CORPORATION, Respondent.	CTA EB NO. 1707 (CTA Case Nos. 7252, 7362, 7383, 7445, 7494, 7517, 7521, & 7566) Present: DEL ROSARIO, *PJ* CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.* Promulgated: SEP 16 2019 3:46 p.m.

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RESOLUTION

Fabon-Victorino, J.:

On May 2, 2019, the Court *En Banc* promulgated a Decision[1], the dispositive portion of which reads:

[1] *En Banc* docket (CTA EB No. 1704), pp. 353-388.

> **WHEREFORE**, the instant consolidated *Petitions for Review* filed by the Commissioner of Customs and Commissioner of Internal Revenue, docketed as CTA EB No. 1704 and CTA EB No. 1707, respectively, are hereby **DENIED**, for lack of merit. Accordingly, the assailed Amended Decision and Resolution dated May 8, 2017 and August 11, 2017, respectively, are **AFFIRMED.**
>
> **SO ORDERED.**

The assailed Decision sustained the finding of the Court in Division and directed both petitioners Commissioner of Internal Revenue (CIR) and Commissioner of Customs (COC) to refund in favor of respondent Air Philippines Corporation (APC) the aggregate amount of Php235,613,134.47, representing the latter's payment under protest of specific taxes on its importation of Jet A-1 aviation fuel for the period covering May 2003 to December 2004.

Aggrieved, petitioners CIR and COC filed separate *Motions for Reconsideration* on May 22, 2019 and May 24,2019.

Petitioner COC claims[2] that:

1. The Court has no jurisdiction over the subject matter of the consolidated cases; and

2. The assessment and collection of excise taxes by the COC on respondent's importations of Jet A-1 aviation fuel had long become final and immutable.

Petitioner CIR, on the other hand, contends that:

1. THE COURT ERRED IN RULING THAT RESPONDENT WAS ABLE TO PROVE THAT ITS IMPORTATIONS FOR JET A-1 AVIATION FUEL ARE USED FOR ITS

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[2] *En Banc* docket (CTA EB No. 1704), pp. 394-416.

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TRANSPORT AND NON-TRANSPORT OPERATIONS; and

2. THE COURT ERRED IN RULING THAT RESPONDENT WAS ABLE TO PROVE THAT THE IMPORTED ARTICLES WERE NOT LOCALLY AVAILABLE IN REASONABLE QUANTITY, QUALITY OR PRICE BASED SOLELY ON THE AIR TRANSPORTATION OFFICE (ATO) CERTIFICATIONS ISSUED TO RESPONDENT.

By way of *Consolidated Comment (To CIR's Motion for Reconsideration dated May 24, 2019 and COC's Motion for Reconsideration dated 21 May 2019)*[3], respondent submits that the arguments raised by petitioners in their respective motions are mere replicas of their already ruled upon theories and that no new matters were raised to justify a a modification, much more a reversal of the assailed Decision of May 2, 2019. For respondent, petitioners' contentions lack merit on the following grounds, to wit:

I. Respondent APC complied and has presented uncontroverted evidence that the importations of subject Jet A-1 fuel were actually used for its transport and non-transport operations.

II. The ATO Certifications were properly given weight by the Court.

III. The Court has jurisdiction over respondent's claim for refund considering that:

  A) The primary issue of the present case is respondent's claim for refund which is well within the Court's jurisdiction, and
  B) The provisions of the Tariff and Customs Code of the Philippines are inapplicable.

Perusal of the motions for reconsideration separately filed by petitioners reveals that they merely mirror the arguments they raised in their previous pleadings filed with the Court in Division and later with the Court *En Banc*.

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[3] *En Banc* docket (CTA EB No. 1704), pp. 437-463.

There are no new or substantial arguments raised in the said motions or any good reason to warrant the reversal or even modification of the assailed Decision of May 2, 2019.

WHEREFORE, the *Motions for Reconsideration* separately filed by petitioners Commissioner of Customs and Commissioner of Internal Revenue are hereby **DENIED**, for lack of merit.

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

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

(On Leave)
ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice