REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

PETRON CORPORATION, *Petitioner,*	**CTA CASE. NO. 9751, 9813 and 9848**
-versus-	Members:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**DEL ROSARIO**, *P.J., Chairperson,* **MANAHAN**,[1] *and* **MODESTO-SAN PEDRO**,[2] *JJ.*
	Promulgated: JUN 21 2021 10:07am

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DECISION

DEL ROSARIO, P.J.:

Before the Court are the three (3) consolidated Petitions for Review filed by petitioner Petron Corporation on January 12, 2018, April 13, 2018, and June 4, 2018, praying for a refund of, or issuance of a tax credit certificate in the amounts of ₱20,956,877.00, ₱21,071,330.00, and ₱22,304,411.00 or a total amount of ₱64,332,618.00, allegedly representing its excise tax payments on importations of alkylate in taxable year 2016.

THE PARTIES

Petitioner, Petron Corporation, is a corporation organized and existing under the laws of the Philippines with principal office at San Miguel Corporation Head Office Complex, 40 San Miguel Avenue, 1550 Mandaluyong City. It is engaged in the business of manufacturing and marketing petroleum products. It is registered with the Bureau of Internal Revenue with Tax Identification Number (TIN) 000-168-801-00000.[3]

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[1] Inhibited.
[2] Appointed as Special Member per Memorandum dated August 20, 2020.
[3] Exhibit "P-5"; CTA Docket No. 9751, Vol. II, p. 1069.

Respondent, Commissioner of Internal Revenue (CIR), is the chief of the Bureau of Internal Revenue (BIR), a government agency tasked to, among others, assess and collect all national internal revenue taxes and charges, and enforce all forfeitures, penalties, and fines connected therewith. He may be served with legal processes, orders and resolutions of the Court at the Office of the Commissioner, BIR National Office Bldg., BIR Road, Diliman, Quezon City, Metro Manila and/or through the Office of the Solicitor General, 134 Amorsolo Street, Legaspi Village, Makati City, Metro Manila.

THE FACTS

Petitioner was accredited by the Bureau of Customs (BOC) as an importer from July 11, 2014 until July 11, 2017, as per Certification dated August 18, 2014.[4]

In the year 2016, petitioner imported alkylate and paid the excise taxes thereon, details of which are shown below:[5]

Importation	Dates of Payment of Taxes	Taxes Paid
January 2016 importation, shipped through MT Oceanic Cerise	January 14, 2016 June 1, 2016	₱ 33,560,181.00 1,721,741.00 ₱ 35,281,922.00 (**₱20,956,877.00** pertains to payment of excise tax)
April 2016 importation, shipped through MT Alpine Mary	April 15, 2016 September 20, 2016	₱ 33,765,995.00 1,613,832.00 ₱ 35,379,827.00 (**₱21,071,330.00** pertains to payment of excise tax)
July 2016 Importation, shipped through MT Altesse	July 8, 2016 October 4, 2016	₱ 34,795,643.00 1,559,089.00 ₱ 36,354,732.00 (**₱22,304,411.00** pertains to payment of excise tax)

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[4] Certificate of Accreditation as Importer; Exhibit P-7; CTA Docket 9751, Vol. II, p. 1086.

[5] January 2016 Importation, Exhibits P-8, P-9, P-10, P-15, P-16, P-17, P-18, P-19; April 2016 Importation, Exhibits P-64, P-65, P-66, P-69, P-70, P-71, P-72, P-73; July 2016 Importation, Exhibits P-75, P-76, P-79, P-80, P-80A, P-81, P-82 and P-83.

Petitioner filed its administrative claims for refund of excise taxes on its aforesaid importations of alkylate in 2016, details of which are shown hereunder:

Administrative Claim for Refund	Date of Filing	Period Covered	Amount
Application for Tax Credits/Refunds (BIR Form No. 1914) and Letter dated December 29, 2017[6]	January 3, 2018	January 2016	₱20,956,877.00
Application for Tax Credits/Refunds (BIR Form No. 1914) and Letter dated March 23, 2018[7]	March 23, 2018	April 2016	₱21,071,330.00
Application for Tax Credits/Refunds (BIR Form No. 1914) and Letter dated May 16, 2018	May 16, 2018	July 2016	₱22,304,411.00

Thereafter, petitioner filed three (3) separate judicial claims,[8] to wit:

Case No.	Division	Date of Filing	Period Covered	Amount
9751	First Division	January 12, 2018	January 2016	₱20,956,877.00
9813	Third Division	April 13, 2018	April 2016	₱21,071,330.00
9848	First Division	June 4, 2018	July 2016	₱22,304,411.00

Eventually, CTA Case Nos. 9751, 9813 and 9848 were consolidated.[9]

Respondent filed his Answers in CTA Case Nos. 9751, 9813 and 9848 on April 13, 2018,[10] June 27, 2018,[11] and September 10, 2018,[12]

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[6] Exhibits P-11 and P-12; CTA Case 9751 Docket, Vol. II, pp. 1091-1107
[7] Exhibits P-67 and P-68; CTA Case 9751 Docket, Vol. II, pp. 1199-1212.
[8] CTA Case No. 9751 Docket, pp. 10-86; CTA Case No. 9813 Docket, pp. 10-92; and, CTA Case No. 9848 Docket, pp. 10-90.
[9] CTA Case No. 9751 Docket, pp. 154, 157, 161-162; CTA Case No. 9848 Docket, pp. 93 and 105.
[10] CTA Case No. 9751 Docket, p. 104.
[11] CTA Case No. 9813 Docket, p. 111.
[12] CTA Case No. 9751 Docket, p. 171.

respectively. Respondent raised therein common Special and Affirmative Defenses, *viz.:*

1. The Court does not have jurisdiction over the present Petitions as the subject matter thereof does not fall under the special jurisdiction granted by statute to the Court of Tax Appeals. The core issue of the case at bar is the interpretation of Section 148(e) of the NIRC as embodied in Customs Memorandum Circular (CMC) No. 164-2012 which implemented the Letter of the CIR. CMC 164-2012 was issued in the exercise of quasi-legislative function; thus, the Court has no jurisdiction to act on the present cases being a collateral attack on a validly issued circular;

2. The present Petitions were prematurely filed for failure to exhaust all available remedies with the administrative level in accordance with the Tariff and Customs Code of the Philippines (TCCP). A taxpayer's remedies arise only after the payment of duties and taxes, and, unless the tax is first paid, protested and decided [by the Collector], and appealed to the Commissioner of Customs, the CTA is without jurisdiction over the case. In filing the Petitions, petitioner made it appear that it was claiming refund of erroneously paid tax, but the truth of the matter is that petitioner is assailing the validity of CMC No. 164-2012 which implemented the Letter issued by the CIR. The subject matter of the Petitions is beyond the jurisdiction of the CTA;

3. Assuming a letter may be assailed in accordance with Section 4 of the NIRC, any interpretation made by the CIR is subject to the review of the Secretary of Finance;

4. Assuming the Court has jurisdiction, the excise tax paid by petitioner on its importation of Alkylate is neither erroneous nor illegal, and, its reliance on Sections 204 and 229 of the NIRC of 1997, as amended, is misplaced; and,

5. Assuming the Court has jurisdiction over the pending cases, petitioner is not entitled to the claimed refund as enunciated in the case of *Petron Corporation vs. CIR, CTA Case No. 9111.*

A Consolidated Pre-Trial Brief for Respondent,[13] while a Pre-Trial Brief for Petitioner[14] were both filed on October 31, 2018.

Pre-Trial Conference was held on December 6, 2018,[15] where the Court directed the parties to submit their Joint Stipulation of Facts and Issue. In compliance therewith, the parties filed their Joint Stipulation of Facts and Issue on December 21, 2018,[16] and the same

[13] CTA Case No. 9751 Docket, p. 191.
[14] CTA Case No. 9751 Docket, p. 452.
[15] CTA Case No. 9751 Docket, pp. 619-622.
[16] CTA Case No. 9751 Docket, pp. 634-647.

was approved by the Court in its Resolution dated January 11, 2019.[17] Pre-Trial Order was eventually issued on March 6, 2019.[18]

During trial, petitioner presented testimonial and documentary evidence. It presented the following witnesses, namely: Marissa U. Viray,[19] petitioner's Operations Finance Manager,[20] Clarissa C. Arguelles,[21] petitioner's Tax Manager,[22] Jurrel D. Pumatong,[23] petitioner's Acting Process Engineering Manager of its Bataan Refinery,[24] Ricardo S. Infante,[25] Supervising Science Research Specialist of the Oil Industry Management Bureau (OIMB) of the Department of Energy,[26] Michael F. Manzano,[27] petitioner's Commercial Services Manager,[28] Cecilia N. Sengia,[29] petitioner's Refinery Finance Department Manager,[30] Leopoldo G. Lorenzo,[31] Terminal Manager of petitioner's Limay Terminal,[32] the Independent Certified Public Accountant Madonna Mia S. Dayego,[33] and Simon Christopher Mulqueen,[34] the Director of Technical Services for Europe, Middle East, Africa and Asia Pacific for Innospec Fuel Specialties.[35]

Petitioner filed its Formal Offer of Exhibits on October 23, 2019,[36] while respondent filed his Comment thereon on October 24, 2019. Petitioner's offered exhibits were admitted in the Court's Resolution dated July 14, 2020, save for certain exhibits which were denied admission on various grounds.[37] In the same Resolution, after noting of respondent's manifestation that he will no longer present any evidence, both parties were directed to file their respective memoranda within thirty (30) days from notice.

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[17] CTA Case No. 9751 Docket, pp. 661-662.
[18] CTA Case No. 9751 Docket, pp. 743-763.
[19] CTA Case No. 9751 Docket, pp. 731-733.
[20] Exhibit "P-86"; CTA Case No. 9751 Docket, p. 481.
[21] CTA Case No. 9751 Docket, pp. 739-740.
[22] Exhibit "P-88"; CTA Case No. 9751 Docket, p. 310.
[23] CTA Case No. 9751 Docket, pp. 739-740.
[24] Exhibit "P-89"; CTA Case No. 9751 Docket, p. 592.
[25] CTA Case No. 9751 Docket, p. 891-892.
[26] Exhibit "P-90"; CTA Case No. 9751 Docket, p. 433.
[27] CTA Case No. 9751 Docket, p. 905-906.
[28] CTA Case No. 9751 Docket, p. 199.
[29] CTA Case No. 9751 Docket, p. 905-906.
[30] Exhibit "P-91"; CTA Case No. 9751 Docket, p. 534.
[31] CTA Case No. 9751 Docket, p. 913.
[32] Exhibit P-92, CTA Case No. 9751 Docket, p. 510.
[33] CTA Case No. 9751 Docket, p. 946-947.
[34] CTA Case No. 9751 Docket, p. 955.
[35] Exhibit "P-96"; CTA Case No. 9751 Docket, p. 415.
[36] CTA Case No. 9751 Docket, p. 970-1044.
[37] CTA Case No. 9751 Docket, pp. 1318-1321.

Respondent's Memorandum was posted on August 20, 2020, and received by the Court on September 1, 2020.[38] Petitioner's Memorandum was posted on September 18, 2020 and received by the Court on September 30, 2020.[39]

On October 7, 2020, the consolidated cases were submitted for decision.[40]

ISSUE

Whether or not petitioner is entitled to a refund or issuance of a tax credit certificate representing excise taxes allegedly paid on importations of alkylate on January 10, 2016, April 15, 2016, and July 6, 2016 in the amounts of ₱20,956,877.00, ₱21,071,330.00, and ₱22,304,411.00, respectively, or in the aggregate amount of ₱64,332,618.00.

PARTIES' ARGUMENTS

Petitioner argues that:

(1) Its importations of alkylate on January 10, 2016, April 15, 2016 and July 6, 2016 are not subject to excise tax under Sections 148(e) and/or 148(f) of the NIRC of 1997, as amended. The CIR has the burden of proving that alkylate is subject to excise tax. Tax laws should be strictly construed against the Government and in favor of the taxpayer; and, the CIR failed to discharge its burden to prove that alkylate was an excisable article under the NIRC of 1997, as amended;

(2) It has presented unrebutted evidence that alkylate is not a product of crude oil distillation similar to naphtha and regular gasoline;

(3) Alkylate was produced by alkylation and not distillation;

(4) Alkylate, which is used solely as a blending component for the production of gasoline, is not subject to excise tax; and,

(5) The CIR's decision to impose excise taxes on both imported alkylate and finished gasoline has resulted in double taxation.

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[38] CTA Case No. 9751 Docket, p. 1322-1332.
[39] CTA Case No. 9751 Docket, pp. 1388-1436.
[40] October 7, 2020 Resolution, CTA Case No. 9751 Docket, p. 1440.

Respondent counter-argues as follows:

1. Section 148(e) of the NIRC of 1997, as amended, imposes an excise tax of four pesos and thirty five centavos (P4.35) for every liter of volume capacity of naphtha, regular gasoline and other similar products of distillation; alkylate is a product of distillation and falls within the category of naphtha, regular gasoline and other similar products of distillation subject to excise tax under the aforesaid provision;

2. Section 131 of the NIRC of 1997, as amended, clearly dictates that imported articles cannot be released from the customhouse until and unless the corresponding excise tax has been paid; the alkylate imported by petitioner and removed from customs custody, although alleged to have been used as blending component, is still lawfully subject to excise tax for being a thing imported in accordance with Section 129 of the NIRC of 1997, as amended;

3. The allegation that the imposition of excise tax on imported alkylate is tantamount to double taxation, highly oppressive, arbitrary and confiscatory is erroneous conclusion or interpretation of fact and law; alkylate is entirely different from other products subject to excise tax;

4. The power of the CIR to interpret the NIRC and other tax laws is clearly explicit under Section 4 of the NIRC of 1997, as amended, and the interpretation of the CIR is reviewable by the Secretary of Finance; petitioner cannot immediately invoke the jurisdiction of the Court and claim that it made erroneous and illegal payments of excise taxes; and,

5. Claims for refund are strictly construed against the claimant and liberally in favor of the taxing authority.

RULING OF THE COURT

Jurisdiction of CTA; Timeliness of filing of Petitions

Foremost, the Court will address respondent's contention in his Answers that this Court does not have jurisdiction over the Petitions as the subject matter thereof is a collateral attack on a validly issued Customs Memorandum Circular (CMC) No. 164-2012 which embodied the interpretation of Section 148(e) of the NIRC of 1997, as amended, and implemented the Letter of the CIR.

In these consolidated Petitions for Review, petitioner specifically seeks for a judgment declaring that (i) it is not liable for excise tax on its importation of alkylate, and that (ii) it is entitled to a refund of, or issuance of a tax credit certificate in the amounts of ₱20,956,877.00, ₱21,071,330.00, and ₱22,304,411.00 in CTA Case Nos. 9751, 9813 and 9848, respectively, representing its alleged erroneously paid or illegally collected excise taxes for its alkylate importations in 2016. In view of respondent's inaction on its administrative claims, petitioner was constrained to file the present judicial claims.

The CTA is vested with exclusive appellate jurisdiction to review on appeal inactions of respondent on claims for refund of internal revenue taxes,[41] like in the case at bench. Case law recognized the power of the CTA to review such inactions of respondent on taxpayer's refund claims, *viz.*:[42]

> "Republic Act No. 1125 vests the Court of Tax Appeals with jurisdiction over the BIR's inaction on a taxpayer's refund claim."[43]
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> xxx xxx xxx
>
> "Section 7 provides that the Court of Tax Appeals has exclusive appellate jurisdiction over tax refund claims in case the Commissioner fails to act on them."[44]

Respondent's contentions that CTA has no jurisdiction to act on these consolidated cases for being a collateral attack on CMC 164-2012, which implemented the Letter of the CIR, embodying the interpretation of Section 148(e) of the NIRC, as amended, is devoid of merit.

The CTA is clothed with authority to review the aforesaid CMC and the letter of the CIR, embodying the interpretation of Section 148(e) of the NIRC, as amended, as these are considered ***"other***

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[41] Sec. 7. Jurisdiction. - The CTA shall exercise:
a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
xxx
2. Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relations thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;"

[42] SMI-ED Philippines Technology, Inc. vs. Commissioner of Internal Revenue, G.R. No. 175410, November 12, 2014; Philippine Airlines, Inc. (PAL) vs. Commissioner of Internal Revenue, G.R. No. 206079, January 17, 2018).

[43] SMI-ED Philippines Technology, Inc. vs. Commissioner of Internal Revenue, G.R. No. 175410, November 12, 2014.

[44] Philippine Airlines, Inc. (PAL) vs. Commissioner of Internal Revenue, G.R. No. 206079, January 17, 2018).

matters" contemplated under Section 7(a)(2) of Republic Act (RA) No. 1125, as amended by RA 9282.

> "Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> 1. Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or **other matters** arising under the National Internal Revenue or other laws administered by the Bureau of Internal Revenue;
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> xxx xxx xxx
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> 4. Decisions of the Commissioner of Customs in cases involving liability for customs duties, fees or other money charges, seizure, detention or release of property affected, fines, forfeitures or other penalties in relation thereto, or **other matters** arising under the Customs Law or other laws administered by the Bureau of Customs;"

Plainly, the CTA is authorized to review, on appeal, decisions of the CIR on *"other matters arising under the NIRC and other tax laws administered by the BIR,"* and decisions of the Commissioner of Customs (COC) on *"other matters arising under the Customs Law or other tax laws administered by the Bureau of Customs".* The "other matters" contemplated under the aforesaid provision of law includes rulings of the CIR or the COC implementing tax laws. In ***CIR vs. Josefina Leal***,[45] the Supreme Court was no less categorical in declaring that jurisdiction to review rulings of the CIR, *i.e., RMO No. 15-91 and RMC No. 43-91*, is vested with the CTA, *viz.:*

> **"The questioned RMO No. 15-91 and RMC No. 43-91 are actually rulings or opinions of the Commissioner implementing the Tax Code on the taxability of pawnshops**. xxx
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> xxx xxx xxx
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> **Under Republic Act No. 1125 (An Act Creating the Court of Tax Appeals [CTA for brevity])**, as amended, **such rulings of the Commissioner of Internal Revenue are appealable to that court**, thus:
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>> 'SEC. 7. Jurisdiction. — The Court of Tax Appeals shall exercise exclusive appellate jurisdiction to review by appeal, as herein provided —

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[45] G.R. No. 113459, November 18, 2002.

(1) Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other laws or part of law administered by the Bureau of Internal Revenue;

xxx xxx xxx

'SEC. 11. Who may appeal; effect of appeal. — Any person, association or corporation adversely affected by a decision or ruling of the Commissioner of Internal Revenue, or the Commissioner of Customs or any provincial or city Board of Assessment Appeals may file an appeal in the Court of Tax Appeals within thirty days after the receipt of such decision or ruling.' xxx

'SEC. 18. . . . — No judicial proceedings against the Government involving matters arising under the National Internal Revenue Code, the Customs Law or the Assessment Law shall be maintained, except as herein provided, until and unless an appeal has been previously filed with the Court of Tax Appeals and disposed of in accordance with the provisions of this Act.' xxx

The Court, in Rodriguez, etc. vs. Blaquera, etc., ruled:

'Plaintiff maintains that this is not an appeal from a ruling of the Collector of Internal Revenue, but merely an attempt to nullify General Circular No. V-148, which does not adjudicate or settle any controversy, and that, accordingly, this case is not within the jurisdiction of the Court of Tax Appeals.

'We find no merit in this pretense. General Circular No. V-148 directs the officers charged with the collection of taxes and license fees to adhere strictly to the interpretation given by the defendant to the statutory provisions abovementioned, as set forth in the Circular. The same incorporates, therefore, a decision of the Collector of Internal Revenue (now Commissioner of Internal Revenue) on the manner of enforcement of the said statute, the administration of which is entrusted by law to the Bureau of Internal Revenue. As such, it comes within the purview of Republic Act No. 1125, Section 7 of which provides that the Court of Tax Appeals 'shall exercise exclusive appellate jurisdiction to review by appeal . . . decisions of the Collector of Internal Revenue in . . . matters arising under the National Internal Revenue Code or other law or part of the law

> administered by the Bureau of Internal Revenue.' . . .' xxx (emphasis supplied)
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> In the same vein, we held in Meralco Securities Corporation vs. Savellano, thus:
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> > 'Respondent judge has no jurisdiction to take cognizance of the case because the subject matter thereof clearly falls within the scope of cases now exclusively within the jurisdiction of the Court of Tax Appeals. Section 7 of Republic Act No. 1125, enacted June 16, 1954, granted to the Court of Tax Appeals exclusive appellate jurisdiction to review by appeal, among others, decisions of the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue. The law transferred to the Court of Tax Appeals jurisdiction over all cases involving said assessments previously cognizable by Courts of First Instance, and even those already pending in said courts. The question of whether or not to impose a deficiency tax assessment on Meralco Securities Corporation undoubtedly comes within the purview of the words "disputed assessments" or of "other matters arising under the National Internal Revenue Code. . . ." In the case of Blaquera, etc. vs. Rodriguez, etc. (103 Phil. 511 [1958]), this Court ruled that 'the determination of the correctness or incorrectness of a tax assessment to which the taxpayer is not agreeable, falls within the jurisdiction of the Court of Tax Appeals and not of the Court of First Instance, for under the provisions of Section 7 of Republic Act No. 1125, the Court of Tax Appeals has exclusive appellate jurisdiction to review, on appeal, any decision of the Collector of Internal Revenue in cases involving disputed assessments and other matters arising under the National Internal Revenue Code or other law or part of law administered by the Bureau of Internal Revenue.'
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> Here, as earlier mentioned, respondent Josefina Leal, being a pawnshop owner, is assailing the revenue orders imposing 5% lending investor's tax on pawnshops issued by petitioner. Clearly then, she should have filed her petition with the Court of Tax Appeals, not the RTC. Indeed, the Court of Appeals erred in holding that the RTC order should have been challenged before this Court. *(Emphases supplied)*

Indubitably, rulings or opinions of the CIR or the COC implementing tax laws, like CMC 164-2012 and the Letter of the CIR which embodied the interpretation of Section 148(e) of the NIRC, are reviewable by the CTA as they pertain to ***"other matters"*** arising under the NIRC or other laws administered by the BIR, or other laws administered by the BOC.

Moreover, it is already settled that the CTA has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund. The CTA may likewise take cognizance of cases directly challenging the constitutionality or validity of a tax law or regulation or **administrative issuance** (revenue orders, revenue memorandum circulars, rulings).[46]

Judicial review of official acts on the ground of unconstitutionality may be sought or availed of through any of the actions cognizable by courts of justice, not necessarily in a suit for declaratory relief. The constitutional issue, however, (a) must be properly raised and presented in the case, and (b) its resolution is necessary to a determination of the case, *i.e., the issue of constitutionality must be the very lis mota presented.*[47] *Lis mota* literally means "the cause of the suit or action".[48]

In the present consolidated cases, petitioner raised the propriety of the imposition by respondent of excise tax on alkylate as implemented by the BOC through CMC No. 164-2012 pursuant to the BIR Letter dated June 29, 2012 asserting that the same is without basis in law and that respondent over-extended the interpretation of the phrase *"other similar products of distillation"* under Section 148(e) of the NIRC of 1997, as amended.[49] In other words, the validity and constitutionality of CMC No. 164-2012 were pleaded and raised as an issue in support of petitioner's claimed erroneous payments of excise taxes on alkylate. This Court therefore can review the basis of respondent's imposition of excise tax on alkylate, *i.e., Section 148(e) of the NIRC of 1997, as amended, and CMC No. 164-2012*, since the same are the very *lis mota* of the present controversy. The proper interpretation of Section 148(e) of the NIRC of 1997, as amended and the validity or constitutionality of CMC 164-2012 are inextricably linked to the issue of whether petitioner is entitled to the refund of the claimed erroneously paid excise tax on alkylate.

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[46] Banco De Oro vs. Republic, G.R. No. 198756, August 16, 2016.
[47] Planters Products, Inc. vs. Fertiphil Corporation, G.R. No. 166006, March 14, 2008.
[48] Katipunan Ng Damay Ang Mahihirap, Inc. et al. vs. Jessie Robredo et al., G.R. No. 200903, July 22, 2014.
[49] Paragraphs 53 and 53.1, Petition for Review, CTA Case No. 9751 Docket, p. 24; Paragraphs 57 and 57.1, Petition for Review, CTA Case No. 9813 Docket, pp. 29-30; Paragraphs 57 and 57.1, Petition for Review, CTA Case No. 9848 Docket, pp. 29-30.

Anent respondent's assertion that the Petitions for Review were prematurely filed for failure to exhaust all available remedies as provided in the TCCP, the Court finds the same bereft of merit.

Suffice it to say that the excise tax sought to be refund in this case is a national internal revenue tax, as expressly stated in Section 21 of the NIRC of 1997, as amended;[50] hence, the procedure outlined in Sections 204 and 229 of the NIRC of 1997, as amended, on claiming for refund of erroneously paid internal revenue taxes would apply.

Sections 204 and 229 of the NIRC of 1997, as amended, state:

> "**SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* -** The Commissioner may -
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> xxx xxx xxx
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> **(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.
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> 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."
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> xxx xxx xxx
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> "**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, of any sum

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[50] SEC. 21. *Sources of Revenue* - The following taxes, fees and charges are deemed to be national internal revenue taxes:
(a) Income tax;
(b) Estate and donor's taxes;
(c) Value-added tax;
(d) Other percentage taxes;
(e) **Excise taxes**;
(f) Documentary stamp taxes; and
(g) Such other taxes as are or hereafter may be imposed and collected by the Bureau of Internal Revenue.

alleged to have been excessively or in any manner wrongfully 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."

Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.[51] In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty.[52]

Reflected below are the dates of payment of excise taxes by petitioner, the deadline of the two-year prescriptive period, and the dates of its filing of the administrative and judicial claims, *viz.*:

Period of Importation	Dates of Payment of Taxes	Deadline of the two-year prescriptive period	Dates of filing of Administrative Claims for Refund or TCC	Date Petition for Review was filed
January 2016	January 14, 2016 June 1, 2016	January 14, 2018 June 1, 2018	January 3, 2018	January 12, 2018
April 2016	April 15, 2016 September 20, 2016	April 15, 2018 September 20, 2018	March 28, 2018	April 13, 2018
July 2016	July 8, 2016 October 4, 2016	July 8, 2018 October 4, 2018	May 16, 2018	June 4, 2018

Clearly, petitioner was able to file its administrative claims for refund and its Petitions for Review within the two-year prescriptive period reckoned from the payments of excise taxes.

Payment of excise taxes on Alkylate importations is erroneous.

Section 229 of the NIRC allows the recovery of taxes erroneously or illegally collected. An "**erroneous or illegal tax**" is defined as one

[51] CIR vs. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.), GR No. 231581, April 10, 2019.
[52] CBK Power Company Limited vs. CIR, G.R. Nos. 193383-84, January 14, 2015; CIR vs. CBK Power Company Limited, G.R. Nos. 193407-08, January 14, 2015.

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 is some other similar respect is illegal.[53]

The crux of the controversy in the case at bar is the interpretation of Section 148(e) of the NIRC. Section 148 (e) of the NIRC provides:

> "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
>
> (e) **Naphtha, regular gasoline and other similar products of distillation**, per liter of volume capacity, Four pesos and thirty-five centavos (P4.35): *Provided, however*, That naphtha, when used as a raw material in the production of petrochemical products or as replacement fuel for natural-gas-fired-combined cycle power plant, in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Energy, in consultation with the Secretary of Finance, per liter of volume capacity, zero (P0.00): *Provided, further*, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section;" *(Boldfacing supplied)*

It is indispensable for the Court to determine the nature of alkylate considering that Section 148(e) of the NIRC of 1997, as amended, imposed the excise tax only and particularly to *"Naphtha, regular gasoline and other similar products of distillation."* Where the law enumerates the subject or condition upon which it applies, it is to be construed as excluding from its effects all those not expressly mentioned. *Expressio unius est exclusio alterius.* Anything that is not included in the enumeration is excluded therefrom and a meaning that does not appear nor is intended or reflected in the very language of the statute cannot be placed therein. The rule proceeds from the premise that the legislature would not have made specific enumerations in a

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[53] CIR vs. Pilipinas Shell Petroleum Corporation, G.R. No. 188497, April 25, 2012.

statute if it had the intention not to restrict its meaning and confine its terms to those expressly mentioned.[54]

The rule in the interpretation of tax laws is that a statute will not be construed as imposing a tax unless it does so clearly, expressly, and unambiguously. A tax cannot be imposed without clear and express words for that purpose. Accordingly, the general rule of requiring adherence to the letter in construing statutes applies with peculiar strictness to tax laws and the provisions of a taxing act are not to be extended by implication. In answering the question of who is subject to tax statutes, it is basic that in case of doubt, such statutes are to be construed most strongly against the government and in favor of the subjects or citizens because burdens are not to be imposed nor presumed to be imposed beyond what statutes expressly and clearly import. As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws.[55] The operations of the tax laws should not be enlarged so as to embrace matters not specifically provided.[56]

Petitioner's witness, Simon Christopher Mulqueen, who has a degree in Chemistry, and a Director of Technical Services for Europe, Middle East, Africa and Asia Pacific for Innospec Fuel Specialist, specifically stated in his Judicial Affidavit that alkylate is not a product of distillation but produced through a process called "alkylation", *viz.*:[57]

> "Q-13 How is alkylate produced?
>
> Q-13 Alkylate is produced from the combination of light olefins (C3-C5) with isobutene in the presence of a strong acid catalyst. The chemical process is known as alkylation.
>
> xxx
>
> Q-15 What, if you know, are the raw materials or feedstock to produce alkylates?
>
> A-15 Light C_3-C_5 **olefins**, e.g. isobutene and isobutene.
>
> Q-16 **How are these raw materials produced**?

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[54] San Pablo Manufacturing Corporation vs. Commissioner of Internal Revenue, G.R. No. 147749, June 22, 2006.
[55] SMI-ED Philippines Technology, Inc. vs. Commissioner of Internal Revenue, G.R. No. 175410, November 12, 2014.
[56] Philippine Health Care Providers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 167330, September 18, 2009.
[57] Exhibit P-96, CTA Case 9751 Docket, pp. 414-425, 418.

A-16 **Light C_3-C_5 are typically produced from a fluid catalytic cracker (FCC) unit and/or a coker unit.**

Isobutane, on the other hand, is a component of natural gas. It can be a product of crude oil distillation or it can also be recovered from other petroleum refinery streams that result from catalytic cracking, catalytic reforming.

xxx

Q-22 Based on the process you explained, **is alkylate a product of distillation**?

A-22 **No**. Even if one of its raw materials, isobutane, may be derived through the process of distillation, it is not correct to place alkylate under the group "similar products of distillation" on the sole basis that one of its raw materials is a distillate.

If products may be classified as "products of distillation" on the sole reason that one of its raw materials underwent distillation, then the classification would encompass a wide variety of common items, such as chewing gum, plastics, and polyester.

Q-23 **Why do you say that alkylate is not a product of distillation**?

A-23 **Alkylate can only be produced through a process called alkylation. Alkylation is a very specific chemical process; it begins with two molecules that are fed to a reactor and <u>combined</u>, through a catalyst, to create a product entirely different from its raw materials**.

In contrast, distillation starts off with a mixture containing two or more compounds. With the use of heat, the mixture is broken down or <u>physically separated</u> into its constituent parts.

Given this difference, **alkylate cannot be produced through distillation because alkylate only comes into existence after the <u>combination</u> of two components or raw materials** (i.e., isobutane and olefins), and <u>not</u> the physical separation of a mixture.

Q-24 Is it correct to say that distillation is part of the process for the production of alkylate?

A-24 No, during the alkylation process, chemical reactions occur to combine starting materials into a single material known as alkylate. The heat and pressure in the reactor along with the acid catalyst forces the isobutane and olefins to combine. Distillation, in general terms, describes the separation of a mixture into its constituent parts and therefore the term distillation does not accurately describe the chemical process of alkylation.

Q-25 You mentioned that alkylation is necessary to produce alkylate. You also mentioned that isobutane, which is a raw material of alkylate, may result from the distillation of crude. Can you therefore say that alkylates are a product of distillation?

A-25 **It would not be accurate to say that alkylate is a product of distillation as the fundamental process to produce alkylate is alkylation**. While isobutene, a raw material of alkylate, results from distillation, to produce alkylate from isobutene involves various complex processes which require that it be combined with olefins through a chemical process which alters its chemical structure. To say that alkylate is a product of distillation is like saying polyester fabric or plastic is a product of distillation.

Q-26 What is the purpose or use of alkylate?

A-26 Alkylate is used as a blending component in motor or aviation gasoline in order to meet certain required characteristics such as octane number and volatility requirements e.g., distillation and boiling range.

Q-27 How does alkylate affect the manufactured gasoline when blended together?

A-27 Alkylate typically increases the octane number of a straight run gasoline or naphtha without increasing its aromatic and olefinic content." (Boldfacing supplied)

The aforequoted testimony of the witness is considered as an expert opinion on the nature of alkylate. Noteworthy, respondent's counsel did not object to the offer of testimony of said witness as expert in fuel products but made a belated objection only after the witness testified by way of his Judicial Affidavit.[58] Taking into account the witness' qualification and experience,[59] the Court finds him qualified as an expert witness.

Expert opinion evidence is to be considered or weighed by the court like any other testimony, in the light of their own general knowledge and experience upon the subject of inquiry. The probative force of the testimony of an expert does not lie in a mere statement of the theory or opinion of the expert, but rather in the aid that he can

[58] Transcript of Stenographic Notes dated September 10, 2019, pp. 4 and 10.
[59] Exhibit P-96, Judicial Affidavit of Simon Christopher Mulqueen, CTA Case No. 9751 Docket, pp. 414-415; Transcript of Stenographic Notes dated September 10, 2019, pp. 10-11.

render to the courts in showing the facts which serve as a basis for his criterion and the reasons upon which the logic of his conclusion is founded.[60]

Under our rules on evidence, experts' opinions are not ordinarily conclusive in the sense that they must be accepted as true. They are generally regarded only as purely advisory in character.[61] The opinion of the expert may not be arbitrarily rejected; it is to be considered by the court in view of all the facts and circumstances in the case and when common knowledge utterly fails, the expert opinion may be given controlling effect. The problem of the credibility of the expert witness and the evaluation of his testimony is left to the discretion of the trial court.[62] Parenthetically, if both the documentary and testimonial evidence were unavailable, expert evidence could be considered.[63]

Truth to tell, tax refund case is only civil in nature,[64] and only a preponderance of evidence is needed to grant a claim for tax refund based on excess payment.[65] Nothing in the Rules of Court requires that only documentary evidence is allowed in civil cases. All that is required is the satisfaction of the quantum of evidence, that is, preponderance of evidence.[66] Jurisprudence has it that an unrebutted testimony is enough evidence,[67] and sufficient to establish a basis for the court's award.[68] The declarations of the Supreme Court regarding the weight of testimonial evidence are quoted below:

> "He contends, in the first place, that the lower court erred in not finding that the applicant has failed to establish satisfactorily that he had previously filed his declaration of intention to become a citizen of the Philippines and that he is not exempted from the prerequisite of filing said declaration.

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[60] People of the Philippines vs. PFC Floro Malejana, G.R. No. 145002, January 24, 2006.
[61] Re: Release by Judge Manuel T. Muro, RTC, Branch 54 Manila, of an Accused in a Non-Bailable Offense, A.M. No. P-00-7-323-RTJ, October 17, 2001.
[62] People of the Philippines vs. Basite, G.R. No. 150382, October 2, 2003.
[63] People of the Philippines vs. Jorie Wahiman y Rayos, G.R. No. 200942, June 16, 2015.
[64] Philippine Phosphate Fertilizer Corporation vs. Commissioner of Internal Revenue, G.R. No. 141973, June 28, 2005.
[65] Southern Philippines Power Corporation vs. Commissioner of Internal Revenue, G.R. No. 179632, October 19, 2011.
[66] People of the Philippines vs. Jorie Wahiman y Rayos, G.R. No. 200942, June 16, 2015.
[67] Bienvenido Yap vs. The Solicitor General, G.R. No. L-1602, September 9, 1948.
[68] People of the Philippines vs. Elroswell Manzano y Brebonera @ Boy Ulo, G.R. No. 138303, November 26, 2001.

> Applicant alleged under oath in his petition that he had filed his declaration of intention to become a Filipino citizen with the Office of the Solicitor General in 1941, although all the records have been lost by reason of the war. This allegation is not disputed in any answer or objection and is supported by the **unrebutted testimony of the applicant, who was duly cross-examined in the trial court. This is enough evidence.** Appellant's contention that applicant's testimony should be supported by documentary proof is not well taken. There is nothing in the law in support of such requirement."[69]
>
> xxx xxx xxx
>
> "We agree with the Solicitor General that it was proper to award compensation to the heirs of the victim for loss of earning capacity, pursuant to Article 2206 of the Civil Code. Although the prosecution did not present documentary evidence to support this claim, **testimonial evidence is sufficient** to establish a basis for which the court can make a fair and reasonable estimate of damages for loss of earning capacity. **The unrebutted testimony** of Angelita Kasilag **is sufficient basis for the award.** At the time of his death, Ernesto, thirty-three years old, was earning an average of P150.00 a day buying and selling bottles and junk materials. If not for his untimely death, he would have earned more for his family."[70]

The Court finds that the expert witness' opinion that *"alkylate is not a product of distillation, but a product of alkylation"* is acceptable. Absent any contrary evidence of the respondent, who opted not to present any evidence during trial, this Court sees no reason not to give effect to the said expert opinion.

More importantly, after a painstaking scrutiny of the case records of the present case, including the parties' testimonial and documentary evidence, the Court finds the following:

(i) Alkylate is used as blending component in motor or aviation gasoline in order to meet certain required characteristics such as octane number and volatility requirements, e.g. distillation boiling range;

(ii) Alkylate is a product of alkylation reaction, a refining process for chemically combining isobutene with olefin hydrocarbons (e.g., propylene, butylene) through the control of temperature and pressure in the presence of an acid catalyst, usually sulfuric acid or hydrofluoric acid;

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[69] Bienvenido Yap vs. The Solicitor General, G.R. No. L-1602, September 9, 1948.
[70] People of the Philippines vs. Elroswell Manzano y Brebonera @ Boy Ulo, G.R. No. 138303, November 26, 2001.

(iii) **The raw materials to produce Alkylate are light olefins and isobutane.**

(iv) Light olefins are typically produced from a fluid catalytic cracker unit and/or a coker unit. Olefin is ultimately derived from crude oil feed stock. **It is not produced by distillation**;

(v) Isobutane is a component of natural gas. Isobutane is the basic material to produce transport fuel. **Isobutane can be a product of crude oil distillation OR it can be recovered from other petroleum refinery streams that result from catalytic cracking, calatytic reforming**.

Alkylate in itself is not a product of distillation. Although one of the raw materials of Alkylate – Isobutane -- can be a product of distillation, this does not justify the imposition of excise tax thereon. Section 148(e) of the NIRC of 1997, as amended, imposes tax on the following products: naphta, regular gasoline and other similar products of distillation," and **not on the ingredients or raw materials to come up with naphta, regular gasoline and other similar products**. Stated otherwise, what is being subjected to 148(e) of the NIRC of 1997, as amended, are the aforesaid three (3) finished products, and not the ingredients used to produce them.

For a better understanding of the process, the Court opts to use common consumable household items which analogously illustrate the essence of how a "finished product" should be appreciated:

(i) Coffee drink: supposed distilled water is used in brewing coffee beans, could it be said that coffee drink is a product of distillation?

(ii) Egg tart: supposed condensed milk is added to egg yolk and other basic ingredients and thereafter baked, should the egg tart be considered as product of condensation?

In both instances, it is obvious that the finished products are not *per se* products of the "process by which the ingredients were made" but by the process necessary to produce the end products themselves.

For the coffee drink, it can easily be said that it is a product of brewing, and for the egg tart -- a product of baking.

Similarly, Alkylate does not come into existence by distillation just because one out of its two (2) basic ingredients is produced by distillation. Alkylate is undisputedly a product of alkylation.

In fine, Alkylate cannot be classified or embraced under the catch-all item - ***"other similar products of distillation"*** under Section 148(e) of the NIRC of 1997, as amended. Alkylate, whether or not used as raw materials, is not subject to excise tax because it is not specifically enumerated under Section 148(e) of the NIRC of 1997, as amended, as a raw material that is exciseable. Thus, petitioner's payments of excise taxes in 2016 for its importation of alkylate are considered erroneous and can be the proper subject of refund.

Substantiation of claimed excise taxes

Petitioner claims refund of excise taxes paid on the importation of 14,789,108 liters of alkalyte in the total amount of ₱64,332,619.80, as shown below:

CTA Case No.	SAD Import Entry No.	Vessel Name	Importation/ Arrival Date	Volume (in liters)	Date of Payments	Amount of Excise Taxes Paid at ₱4.35 per liter)
9751	C2-16 [71]	M/T Oceanic Cerise	January 10, 2016	4,817,673	January 14, 2016; June 1, 2016	₱20,956,877.55
9813	C44-16 [72]	M/T Alpine Mary	April 15, 2016	4,843,984	April 15, 2016; September 20, 2016	21,071,330.40
9848	C82-16 [73]	M/T Altesse	July 06, 2016	5,127,451	July 8, 2016; October 4, 2016	22,304,411.85
Total				**14,789,108**		**₱64,332,619.80**

To prove its claim, petitioner submitted documents for each of the three import entries it transacted with the BOC, such as Bills of Lading[74], Commercial Invoices[75], Single Administrative Documents

[71] Exhibit "P-19" to Exhibit "P-19-a", CTA Case No. 9751 Docket, Vol. II, pp. 1130-1131.
[72] Exhibit "P-73" to Exhibit "P-73-a", CTA Case No. 9751 Docket, Vol. II, pp. 1228-1229.
[73] Exhibit "P-83" to Exhibit "P-83-a", CTA Case No. 9751 Docket, Vol. II, pp. 1262-1263.
[74] Exhibit "P-15", Exhibit "P-69", Exhibit "P-79", CTA Case No. 9751 Docket, Vol. II, pp. 1115, 1213, 1246.
[75] Exhibit "P-16", Exhibit "P-70", Exhibit "P-80", CTA Case No. 9751 Docket, Vol. II, pp. 1116, 1214, 1247.

(SADs), Customs Payment Receipts[76], BOC Form No. 38-A[77], BOC Certifications[78], Authority to Release Imported Goods[79], and Certificates of Independent Survey[80].

To prove the fact of importation and the corresponding payment of duties and taxes through the e2m customs system, it is required that an importer-claimant presents, at the very least, **BOTH** the: (1) IEIRD/SAD, which must contain the necessary details and statements as required by law, rules and regulations; and (2) Statement of Settlement of Duties and Taxes (SSDT) or any other document issued by the BOC evidencing payment of customs duties and taxes.

Petitioner submitted the SADs for the three importations. It is noted that even if petitioner did not offer in evidence the SSDTs, nevertheless, the Court finds that the Customs Payment Receipts and BOC Form No. 38-A, supported by BOC Certifications, are sufficient to establish payment of duties and taxes.

Perusal of the SADs reveals that petitioner initially declared and paid taxes and duties in the total amount of ₱102,121,819.00. Upon verification of the BOC, the duties and taxes imposable on the importations amounted to ₱107,016,481.00, leaving a difference of ₱4,894,662.00, as shown below:

Exhibit No.	Date	Duties and Taxes	Declaration	BOC's Findings	Difference
Import Entry No. C2-16					
"P-19" to "P-19-a"	1/11/16	VAT	₱ 12,673,458.00	₱ 14,321,280.00	₱ 1,647,822.00
		Excise Tax	20,882,958.00	20,956,877.00	73,919.00
		IPF/CGL/DF	3,765.00	3,765.00	-
Total			**33,560,181.00**	**35,281,922.00**	**1,721,741.00**
Import Entry No. C44-16					
"P-73" to "P-73-a"	4/14/16	VAT	12,855,217.00	14,304,732.00	1,449,515.00
		Excise Tax	20,907,013.00	21,071,330.00	164,317.00
		IPF/CGL/DF	3,765.00	3,765.00	-
Total			**33,765,995.00**	**35,379,827.00**	**1,613,832.00**
Import Entry No. C82-16					

[76] Exhibit "P-8", Exhibit "P-9", Exhibit "P-64", Exhibit "P-75", CTA Case No. 9751 Docket, Vol. II, pp. 1087-1088, 1089-1090, 1195-1196, 1230-1231.
[77] Exhibit "P-65", CTA Case No. 9751 Docket, Vol. II, p. 1197; Exhibit "P-202-9".
[78] Exhibit "P-10", Exhibit "P-66", Exhibit "P-76", CTA Case No. 9751 Docket, Vol. II, pp. 1090, 1198, 1232.
[79] Exhibit "P-18", Exhibit "P-72, Exhibit "P-82, CTA Case No. 9751Docket, Vol. II, pp. 1129, 1227,1261.
[80] Exhibit "P-17", Exhibit "P-71, Exhibit "P-81, CTA Case No. 9751 Docket, Vol. II, pp. 1117-1128, 1215-1226, 1249-1260.

"P-83" to "P-83-a"	7/5/16	VAT	12,487,467.00	14,046,556.00	1,559,089.00
		Excise Tax	22,304,411.00	22,304,411.00	-
		IPF/CGL/DF	3,765.00	3,765.00	-
Total			**34,795,643.00**	**36,354,732.00**	**1,559,089.00**
Grand Total			**₱ 102,121,819.00**	**₱ 107,016,481.00**	**₱ 4,894,662.00**

Petitioner submitted in evidence copies of Customs Payment Receipts (CPRs) and BOC Form No. 38-A to show that the taxes and duties for the importations of alkalytes subject of Import Entry Nos. C02-16, C44-16, and C82-16 in the amount of ₱35,281,922.00, ₱35,379,827.00 and ₱36,354,732.00, respectively, or a total amount of ₱107,016,481.00, as shown below, were paid:

Proof of Payment	Exhibit No.	Date	Amount
Import Entry No. C2-16			
Customs Payment Receipt No. 2016 R 8	"P-8"	1/14/16	₱ 33,560,181.00
Customs Payment Receipt No. 2016 R 154	"P-9"	1/6/16	1,721,741.00
Total Amount Paid			**35,281,922.00**
Import Entry No. C44-16			
Customs Payment Receipt No. 2016 R 101	"P-64"	4/15/16	33,765,995.00
BOC Form No. 38-A No. 01876900225	"P-65"	9/20/16	1,613,832.00
Total Amount Paid			**35,379,827.00**
Import Entry No. 82-16			
Customs Payment Receipt No. 2016 R 186	"P-75"	7/8/16	34,795,643.00
BOC Form No. 38-A No. 01876900326	"P-202-9"	10/4/16	1,559,089.00
Total Amount Paid			**36,354,732.00**
Grand Total			**₱ 107,016,481.00**

To show the breakdown of the total payments reflected in the CPRs and BOC Form No. 38-A, petitioner submitted in evidence BOC Certifications showing that the BOC received payment of the above customs duties and taxes, the breakdown of which are reflected as follows:

Exhibit No.	Date	Duties and Taxes	Amount
Import Entry No. C2-16			
"P-10"	7/14/16	VAT	₱ 14,321,280.00
		Excise Tax	20,956,877.00
		SGL	2,500.00
		IPF	1,000.00
		D&F	265.00
Total Amount Paid			**35,281,922.00**
Import Entry No. C44-16			
"P-66"	9/27/16	VAT	14,304,732.00

		Excise Tax	21,071,330.00
		SGL	2,500.00
		IPF	1,000.00
		D&F	265.00
Total Amount Paid			**35,379,827.00**
Import Entry No. C82-16			
"P-76"	10/11/16	VAT	14,046,556.00
		Excise Tax	22,304,411.00
		SGL	2,500.00
		IPF	1,000.00
		D&F	265.00
Total Amount Paid			**36,354,732.00**
Grand Total			**₱ 107,016,481.00**

Based on the above table, the total excise taxes paid by petitioner and received by the BOC on the subject importations amounted to ₱64,332,618.00, as summarized below:

CTA Case No.	Amount of Excise Tax
9751	₱ 20,956,877.00
9813	21,071,330.00
9848	22,304,411.00
Total	**₱ 64,332,618.00**

Claims for refund are civil in nature and as such, petitioner, as claimant, though having a heavy burden of showing entitlement, need only prove preponderance of evidence in order to recover excess credit in cold cash.[81] Verily, with petitioner having offered both testimonial and documentary evidence to prove its entitlement for refund, *sans* any contrary evidence offered by the respondent, the burden of proof of establishing the propriety of the claim for refund has been sufficiently discharged. Hence, the grant of refund is proper.

WHEREFORE, premises considered, the Petitions for Review filed by petitioner Petron Corporation on January 12, 2018, April 13, 2018, and June 4, 2018 are **GRANTED**. Accordingly, respondent is ordered to **REFUND** and/or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Petron Corporation in the amounts of ₱20,956,877.00 in CTA Case No. 9751, ₱21,071,330.00 in CTA Case No. 9813 and ₱22,304,411.00 in CTA Case No. 9848, or a total of

[81] Winebrenner & Iñigo Insurance Brokers, Inc. vs. Commissioner of Internal Revenue, G.R. No. 206526, January 28, 2015.

₱64,332,618.00 representing its excise taxes paid in the year 2016 on the importation of alkalytes per SAD Import Entry Nos. C2-16, C44-16 and C82-16.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

I CONCUR:

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice
Special Member

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice