REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPCIAL FIRST DIVISION

CTA CASE NO. 10730

PHILIPPINE AIRLINES, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF DECISION

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

ATTY. KARISSA INEZ A. SEGUNDO
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8th Floor, PNB Financial Center
Pres. Diosdado P. Macapagal Avenue
CCP Complex, 1307 Pasay City

GREETINGS:

You are hereby notified by these presents that on **February 21, 2024,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **February 22, 2024.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court II

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PHILIPPINE AIRLINES, INC.,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10730

Members:

DEL ROSARIO, *P.J., Chairperson,*
MANAHAN, *and*
REYES-FAJARDO, *JJ.*

Promulgated:
FEB 21 2024 10:44 am

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DECISION

MANAHAN, *J.:*

In this Petition for Review[1] filed on February 2, 2022, petitioner Philippine Airlines, Inc. (PAL) seeks for the refund or issuance of a tax credit certificate in the amount of Five Hundred Eighty-Six Thousand Three Hundred Twenty-Six Pesos and 28/100 (₱586,326.28), representing the alleged erroneously paid excise taxes on importation of alcohol products for the period September to December 2019.

FACTS

Petitioner PAL is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with registered address at PNB Financial Center, President Diosdado P. Macapagal Avenue, CCP Complex, 1307 Pasay City.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), with office address at the Bureau of

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[1] Docket, pp. 6-30.
[2] Par. 1, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI). *Id.* at pp. 360-361.

Internal Revenue (BIR) National Office Building, Agham Road, Diliman, Quezon City.[3]

On June 11, 1987, petitioner was granted a franchise to operate domestic and international air transport services by virtue of Presidential Decree (PD) No. 1590, otherwise known as *"An Act Granting a New Franchise to Philippine Airlines, Inc. to Establish, Operate, and Maintain Air-Transport Services in the Philippines and Between the Philippines and Other Countries."*[4]

From September to December 2019, petitioner made various importations of assorted liquors and wine (alcohol products) which were covered by Bureau of Customs (BOC) Single Administrative Documents, Air Waybills and Authorities to Release Imported Goods (ATRIGs), respectively.[5] Petitioner accordingly paid, albeit under protest, the relevant excise taxes in the total amount of ₱586,326.28 on January 17, 2020.[6]

On January 11, 2022,[7] petitioner filed an administrative claim for refund before the BIR's Excise Large Taxpayers Audit Division (BIR-ELAD) II.

On February 2, 2022,[8] petitioner filed the present Petition for Review. On May 2, 2022, respondent filed his Answer.[9]

On September 9, 2022, the parties submitted their Joint Stipulation of Facts and Issues.[10] On October 7, 2022, the Court issued a Pre-Trial Order.[11]

During trial, petitioner presented the following witnesses: (1) Jonathan R. Castillo Lee,[12] Manager for Company Materials Handling Division; (2) Cheryl V. Capinpin,[13] Manager for In-

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[3] *Ibid.*
[4] Par. 3, Admitted Facts, JSFI. *Id.* at p. 361.
[5] Exhibits "P-4" to "P-4.8," "P-5" to "P-5.8," and "P-6" to "P-6.8." *Id.* at pp. 414- 449.
[6] Exhibit "P-8" and "P-9." *Id.* at pp. 459-460.
[7] Exhibit "P-2." *Id.* at pp. 402-411.
[8] See note 1.
[9] Docket, pp. 297-302.
[10] *Id.* at pp. 360-372.
[11] *Id.* at pp. 582-598.
[12] Exhibit "P-21." *Id.* at pp. 40-49.
[13] Exhibit "P-22." *Id.* at pp. 101-113.

flight Procurement Division; and (3) Ruel Ryan O. Julian,[14] Manager for Tax Services Division.

On October 4, 2022, petitioner filed its Formal Offer of Evidence.[15] On October 5, 2022, respondent posted his Comment (to Petitioner's Formal Offer of Evidence) and Manifestation.[16]

On November 17, 2022 the Court issued a Resolution[17] admitting petitioner's evidence. On the other hand, respondent manifested that he would not be presenting evidence.[18]

On December 27 and 28, 2022, respectively, petitioner electronically filed and sent through licensed carrier its Memorandum.[19] On January 12, 2023, respondent filed his Memorandum.[20]

On January 27, 2023,[21] the Court issued a Resolution submitting the case for decision. Hence, this Decision.

ISSUE

Is petitioner entitled to the refund of excise taxes allegedly paid under protest on January 17, 2020 amounting to FIVE HUNDRED EIGHTY-SIX THOUSAND THREE HUNDRED TWENTY-SIX PESOS AND 28/100 (₱586,326.28), pertaining to its importations of liquor and wine for its catering and commissary supplies for international consumption?[22]

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[14] Exhibit "P-23." *Id.* at pp. 196-203.
[15] *Id.* at pp. 384-401.
[16] *Id.* at pp. 577-579.
[17] *Id.* at pp. 600-602.
[18] Respondent's Manifestation, posted on October 5, 2022, see note 18.
[19] *Id.* at pp. 613-618.
[20] *Id.* at pp. 627-635.
[21] *Id.* at p. 637.
[22] See Stipulated Issue, JSFI. *Id.* at p. 363.

RULING

The Petition is unmeritorious.

The Court has jurisdiction over the case

The Court shall first determine whether it has jurisdiction over the case.

Section 7(a)(2) of Republic Act (RA) No. 1125,[23] as amended by RA No. 9282 reads:

> "Sec. 7. Jurisdiction. - The CTA shall exercise:
>
> a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> xxx xxx 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;" *(Emphasis supplied)*

Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)[24] clarified that the Court in Division has jurisdiction over respondent's inaction involving refunds of internal revenue taxes, among others. In case of illegal or erroneous collection of tax under in Sections 204 and 229, respectively, of the 1997 National Internal Revenue Code (NIRC), as amended, the Supreme Court has this to say in relation to jurisdiction:[25]

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[23] An Act Creating the Court of Tax Appeals.
[24] A.M. 05-11-07-CTA.
[25] *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, G.R. No. 226592, July 27, 2021.

> "Section 204 [of the NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
>
> Section 229 [of the NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
>
> Reading the two provisions together, both administrative and judicial claims must be filed within the two-year period. Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that '[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund file either prematurely or out of time."

Petitioner paid the excise taxes on its subject importations on January 17, 2020.[26] Counting two (2) years therefrom, petitioner had until January 17, 2022 to institute its administrative and judicial claims for refund, respectively.

As per Supreme Court Administrative Circular No. 01-2022, the filing of pleadings in all courts that fell due on the month of January 2022 shall be extended until February 1, 2022. Considering that February 1, 2022 fell on a Chinese New Year, a special non-working holiday,[27] petitioner had until February 2, 2022 to file its judicial claim for refund.

Considering that petitioner's administrative claim[28] and judicial claim[29] for refund were filed on January 11, 2022 and February 2, 2022, respectively, said claims were timely filed. Hence, the Court has jurisdiction over the instant case.

Petitioner is not entitled to its refund claim

Section 13 of PD No. 1590 pertinently provides:

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[26] See note 6.
[27] See Presidential Proclamation No. 1236 dated October 29, 2021.
[28] See note 7.
[29] See note 8.

> "SECTION 13. xxx
>
> xxx xxx xxx
>
> The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:
>
> xxx xxx xxx
>
> (2) All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of aircraft, engines, equipment, machinery, spare parts, accessories, **commissary and catering supplies**, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; **provided, that such articles or supplies or materials are imported for the use of the grantee in its transport and transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price**;" *(Emphasis supplied)*

Based on the above-quoted provision, the following requirements must be satisfied by petitioner for it to be tax exempt: (1) the payment of corporate income tax; (2) the imported supplies are to be the used in its transport/non-transport operations and other incidental activities; and (3) said supplies are not locally available in reasonable quantity, quality or price.[30]

Records show that petitioner paid its corporate income tax, as evidenced by its Annual Income Tax Returns for Calendar Years (CY) ending December 31, 2019[31] and December 31, 2020,[32] respectively. Likewise, petitioner proved that it is a Value-Added Tax (VAT)-registered entity and that it accounted and paid for the VAT on its sales/receipts as evidenced by BIR Certificates of Registration, Payment Form No. 0605,[33] 3rd Quarterly VAT Return[34] and 4th Quarterly VAT

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[30] *Commissioner of Internal Revenue, et al. v. Philippine Airlines, Inc.*, G.R. Nos. 215705-07, February 22, 2017.
[31] Exhibit "P-15." Docket, pp. 498-527.
[32] Exhibit "P-19." *Id.* at pp. 540-572.
[33] Exhibit "P-14," *Id.* at p. 497; Exhibit "P-18," *Id.* at p. 537.
[34] Exhibits "P-16" to "P-16.1." *Id.* at pp. 528-531.

Return[35] for CY 2019, and 1st Quarterly VAT Return for CY 2020.[36]

In relation to the second (2nd) requisite, *i.e.*, the imported supplies are to be the used in its transport/non-transport operations and other incidental activities, the relevant ATRIG[37] on petitioner's imported alcohol products from September to December 2019, uniformly state that "*...the shipment to be released at the port of Ninoy Aquino Int'l Airport consisting of the above described articles, will be used exclusively FOR INTERNATIONAL INFLIGHT CONSUMPTION ONLY.*" Thus, the imported alcohol products are to be used on an activity incident to petitioner's transport operations, *i.e.*, international inflight consumption.

Finally, with respect to the third (3rd) requisite, *i.e.*, said supplies are not locally available in reasonable quantity, quality or price, petitioner presented as evidence the price lists from various local suppliers, *viz:*

(1) 2019 Price List of Absolute Sales Corporation (ASC);[38]

(2) Future Trade International Travel Retail Price List, effective October 20, 2018 (FTI);[39]

(3) 2019 Price List of Minivan Enterprises (ME);[40] and,

(4) On top of these price lists, Revenue Memorandum Circular (RMC) No. 90-2012.[41]

In this regard, it is noteworthy that in *Philippine Airlines, Inc. v. Commissioner of Internal Revenue* (previous *PAL* case),[42] the Court in Division had the following observations and corresponding conclusion:

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[35] Exhibits "P-17" to "P-17.1." *Id.* at pp. 532-534, and 536.
[36] Exhibits "P-20" to "P-20.1." *Id.* at pp. 573-576.
[37] Exhibits "P-6" to "P-6.8." *Id.* at pp. 441-449.
[38] Exhibit "P-11." Docket, p. 463.
[39] Exhibit "P-11.1." *Id.* at pp. 464-472.
[40] Exhibit "P-11.2." *Id.* at p. 473.
[41] Exhibit "P-11.3." *Id.* at pp. 474-494.
[42] CTA Case No. 10311, May 30, 2023.

"To prove that the imported alcohol products were not locally available in reasonable quantity, quality or price, petitioner submitted the: (1) Judicial Affidavit of Ms. Cheryl V. Capinpin, its Manager for In-flight Materials Purchasing Division; (2) 2014 and 2015 Price Lists of **Absolute Sales Corporation**; (3) 2013, 2014, 2015, 2016, 2017, and 2018 Price Lists of **Future Trade International Travel Retail**; (4) 2014, 2015, 2016, 2017, and 2018 Price Lists of **Minivan Enterprise**; (5) 2016 and 2017 Price Lists of AB Heineken Phils., Inc.; and, (6) BIR's Price List per Revenue Memorandum Circular (RMC) No. 90-2012.

xxx xxx xxx

Based on the foregoing disquisitions, petitioner failed [to] make an effort to look for a supplier or dealer that can offer a price lower than the price of the subject imported alcohol products.

The Court cannot simply rely on the product price lists from **four (4) dealers**, and the testimony merely based thereon. It is hard to be convinced that the price lists from the said dealers represent the market price locally or for the entire country.

Lacking corroborating evidence to prove that the price lists of Absolute Sales Corporation and Future Trade International Travel Retail, Minivan Enterprise, and AB Heineken Phils., Inc., represent the local market prices for the subject alcohol products for the period August 2014 until February 2018 vis-à-vis the totality of local suppliers who are engaged in selling similar products in the same years, this Court cannot conclude that petitioner's comparison of the prices of its imported alcohol products with that of the said dealers is deemed sufficient. Likewise, considering that RMC No. 90-2012 was based on the 2010 BIR price survey of alcohol products, no valid comparison can be made to the prices of petitioner's imported alcohol products for 2014 to 2018 with that of the said price survey.

Furthermore, as elicited from the Court's questioning of petitioner's witness, there is no showing that local suppliers cannot reasonably match their selling price to the cost of importation of the same products in the quantities and qualities purchased by petitioner.

Simply put, with the evidence presented by petitioner, the Court cannot determine, with certainty, that said products are not available locally in reasonable quantity, quality or price." *(Emphasis supplied)*

In both the present case and in the previous *PAL* case, petitioner presented essentially the same suppliers. Likewise, in both cases, petitioner failed to present corroborating evidence that the price list of the said suppliers represent the local market prices for the imported alcohol products *vis-à-vis* the totality of local suppliers who are engaged in selling similar products in the same years. Finally, considering that RMC No. 90-2012 was based on the 2010 BIR price survey of alcohol products, no valid comparison can be made to the prices of petitioner's imported alcohol products for 2018 to 2019 with that of the said price survey.

Consequently, based on the evidence presented by petitioner, it cannot be determined with certainty whether the subject imported alcohol products are not locally available in reasonable quantity, quality or price. Thus, the Court finds that petitioner failed to satisfy the third (3rd) requirement for it to avail the benefits of Section 13 of PD No. 1590.

Considering the foregoing, the denial of the present Petition for Review is in order.

WHEREFORE, the instant Petition for Review is **DENIED**, for lack of merit.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

Marian Ivy F. Reyes-Fajardo
(With Concurring and Dissenting Opinion)
MARIAN IVY F. REYES-FAJARDO
Associate Justice

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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PHILIPPINE AIRLINES, INC., *Petitioner,*	**CTA Case No. 10730**
	Members:
- versus -	**DEL ROSARIO,** *PJ, Chairperson,* **MANAHAN,** and **REYES-FAJARDO,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 21 2024 10:44 am

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CONCURRING AND DISSENTING OPINION

REYES-FAJARDO, *J.*:

I concur with the *ponencia* on the following points: (1) the Court has jurisdiction over CTA Case No. 10730; (2) petitioner timely filed its administrative and judicial claims for refund pivoted on Sections 204(C) and 229 of the 1997 National Internal Revenue Code, as amended.

I, too, agree with the *ponencia* that petitioner convincingly established: (1) its payment of pertinent corporate income tax; and (2) its supplies are imported for use in its transport or non-transport operations and other incidental activities, both of which are required for tax exemption on its imported commissary supplies in Presidential Decree (PD) No. 1590.[1]

My digress lies on the *ponencia's* denial of petitioner's refund claim of excise taxes on its imported wines and liquors, because the latter's evidence is deficient to demonstrate that its imported liquors

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1 AN ACT GRANTING A NEW FRANCHISE TO PHILIPPINE AIRLINES, INC. TO ESTABLISH, OPERATE, AND MAINTAIN AIR-TRANSPORT SERVICES IN THE PHILIPPINES AND OTHER COUNTRIES.

and wines were *not* locally available in reasonable quantity, quality, or price.

Allow me to elaborate.

For petitioner to be exempted from the taxes it paid on its imported liquors and wines, Section 13(b) of PD No. 1590 requires that such articles are not locally available in reasonable quantity, quality, or price,[2] *inter alia. Commissioner of Internal Revenue, et al. v. Philippine Airlines, Inc.* and *Philippine Airlines, Inc. v. Commissioner of Internal Revenue, et al. (2023 PAL)*[3] detailed the satisfactory proof to show that petitioner's imported wines and liquors are *not* locally available in reasonable quantity, quality, or price:

> Here, there is no question that the imported liquors, wines, and cigarettes were "inflight materials" used in PAL's transport/flight operations. Moreover, the Judicial Affidavit of Capinpin categorically stated that the imported goods, specifically the Carlsberg Beer in Can, the Absolut Vodka, and the Gordon's Gin, were not locally available in reasonable quantity, quality, or price. She testified that PAL imported the same because importation of said products is cheaper than buying them locally. We also note that the Tables of Comparison and supporting price lists submitted by PAL corroborated Capinpin's testimony that the imported items were not locally available in reasonable quantity, quality or price. Thus, in line with prevailing jurisprudence, We agree with PAL that the CTA erred in ruling that PAL has inadequately shown its compliance with Section 13 (b) (2) of PD [No.] 1590 as regards the amount of ₱240,283.71.

The pieces of evidence deemed acceptable by the Supreme Court in *2023 PAL,* to exhibit the non-availability of imported wines and liquors locally, in reasonable quantity, quality, or price, were produced by petitioner in this case. Bear in mind:

First. Cheryl V. Capinpin (Capinpin) declared that the imported alcohol products are *not* locally available in reasonable quantity, quality, or price.[4]

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2 *Commissioner of Internal Revenue, et al. v. Philippine Airlines, Inc.,* G.R. Nos. 215705-07, February 22, 2017.

3 G.R. Nos. 236343-45, and 236372-74, Resolution dated January 17, 2023.

4 Answer to Question No. 7, Judicial Affidavit of Ms. Cheryl V. Capinpin (Exhibit "P-22"). Docket, p. 102.

Second. Capinpin also professed that said wines and liquors, when imported, are cheaper compared to those locally available. Her declaration was arrived at, by comparing the local prices thereof vis-à-vis such articles' importation costs.[5]

Third. Capinpin's declarations here are like what she attested in the proceedings before the Court in Division in *2023 PAL.*[6]

Fourth. Capinpin's testimony was buttressed by price lists from petitioner's various local suppliers, namely: (1) 2019 Price List of Absolute Sales Corporation (ASC);[7] (2) Future Trade International Travel Retail Price List, effective October 20, 2018 (FTI);[8] and (3) 2019 Price List of Minivan Enterprises (ME).[9] On top of these price lists, Revenue Memorandum Circular No. 90-2012 (RMC)[10] was also adduced as evidence.[11]

In sum, the pieces of evidence presented by petitioner here is essentially same as those in *2023 PAL*; hence, the latter satisfactorily proved that ***most*** of the alcohol products it imported from September to December 2019, are not available locally in reasonable quantity, quality, or price.

Specifically, the amount of excise taxes paid by petitioner on its alcohol products imported from September to December 2019, in the total amount of ₱586,326.28, are detailed below:

Description	BOC SAD				Airway Bill		ATRIG		
	Number	Value in USD	Arrival Date	Exhibit	Number	Exhibit	Control No.	Excise Tax(₱)	Exhibit
Beringer California Chardonnay	17PL9091803	2,250.00	15-Sep-19	P-4	7945271214	P-5	ELTRDALC155720	17,082.00	P-6
Beringer	17PL9091801		15-Sep-19	P-4.1	7945271225	P-5.1	ELTRDALC155719		P-6.1

5 Answer to Question Nos. 8 and 9, Judicial Affidavit of Ms. Cheryl V. Capinpin (Exhibit "P-22"). *Id.* at pp. 102-103.

6 See Answer to Question Nos. 16 and 17, Judicial Affidavit of Ms. Cheryl Capinpin in CTA Case No. 8514 (Exhibit "WWW"). Docket (CTA Case No. 8514), pp. 619-620.

7 Exhibit "P-11." Docket, p. 463.

8 Exhibit "P-11.1." *Id.* at pp. 464-472.

9 Exhibit "P-11.2." *Id.* at p. 473.

10 SUBJECT: Revised Tax Rates of Alcohol and Tobacco Products Under Republic Act No. 10351, "An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9334, and for Other Purposes."

11 Exhibit "P-11.3." Docket, pp. 474-494.

California Chardonnay		2,250.00						17,082.00	
Asahi Super Dry Beer	17PL9100212	8,726.27	01-Oct-19	P-4.2	7946118553	P-5.2	ELTRDALC157493	100,663.20	P-6.2
Asahi Super Dry Beer	17PL9101517	8,718.81	12-Oct-19	P-4.3	7946118660	P-5.3	ELTRDALC157486	100,663.20	P-6.3
Camus Cognac VSOP Elegance	17PL9101807	7,400.00	17-Oct-19	P-4.4	7946118671	P-5.4	ELTRDALC159950	67,061.76	P-6.4
Hardy's Stamp Riesling	17PL9110504	4,536.00	29-Oct-19	P-4.5	7942660844	P-5.5	ELTRDALC159672	34,164.00	P-6.5
Asahi Super Dry Beer	17PL9110705	8,734.06	06-Nov-19	P-4.6	7946118844	P-5.6	ELTRDALC159948	100,663.20	P-6.6
Camus Cognac VSOP Elegance	17PL9120905	5,328.00	07-Nov-19	P-4.7	7946119032	P-5.7	ELTRDALC161993	48,283.72	P-6.7
Asahi Super Dry Beer in Can	17PL9120906	8,736.53	08-Dec-19	P-4.8	7946119010	P-5.8	ELTRDALC162086	100,663.20	P-6.8
		56,679.67						586,326.28	

Meanwhile, the imported liquors and wines' purchase price per importation were likewise established, with the following results:

Description	Excise Tax Under Protest (A)	Value Per SAD (USD) (B)	Number of Bottles/ Cans (C)	Ave. Purchase Price per Can/ Bottle(USD) (D=B/C)	Conversion Ave. Rate Exh. "P-12"[12] (E)	Ave. Purchase Price per Can/ Bottle (PHP) (F=DxE)	Ave. Excise Tax per Product (G=A/C)	**Total Purchase Price Per Importation (H=F+G)**
Beringer California Chardonnay	17,082.00	2,250.00	600	3.75	52.1052	195.39	28.47	**223.8645**
Beringer California Chardonnay	17,082.00	2,250.00	600	3.75	52.1052	195.39	28.47	**223.8645**
Asahi Super Dry Beer	100,663.20	8,726.27	12,000	0.73	51.5042	37.45	8.39	**45.8419**
Asahi Super Dry Beer	100,663.20	8,718.81	12,000	0.73	51.5042	37.42	8.39	**45.8099**
Camus Cognac VSOP Elegance	67,061.76	7,400.00	600	12.33	51.5042	635.22	111.77	**746.9881**
Hardy's Stamp Riesling	34,164.00	4,536.00	1,200	3.78	51.5042	194.69	28.47	**223.1559**
Asahi Super Dry Beer	100,663.20	8,734.06	12,000	0.73	50.7268	36.92	8.39	**45.3095**
Camus Cognac VSOP Elegance	48,283.72	5,328.00	432	12.33	50.7268	625.63	111.77	**737.3984**
Asahi Super Dry Beer in Can	100,663.20	8,736.53	12,000	0.73	50.7671	36.96	8.39	**45.3493**
TOTAL	**₱586,326.28**							

By comparing the respective purchase price per importation of the above imported wines and liquors against the Price Lists obtained by petitioner from ASC, FTI, ME, along with the RMC, only ₱470,980.80 worth of excise taxes should be permitted as refund because these are the only liquors whose cost per can or bottle when

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12 Exhibit "P-12." *Id.* at p. 495.

imported, is lower than purchasing them locally. The specifics are tabled as follows:

Arrival Date	Description	Excise Tax Under Protest	Purchase Price Per Importation	Per ASC	Per FTI	Per ME	Per RMC
15-Sep-19	Beringer California Chardonnay	17,082.00	**223.8645**	None	None	579.00	739.77
15-Sep-19	Beringer California Chardonnay	17,082.00	**223.8645**	None	None	579.00	739.77
01-Oct-19	Asahi Super Dry Beer	100,663.20	**45.8127964**	56.25	None	None	103.43
12-Oct-19	Asahi Super Dry Beer	100,663.20	**45.8127964**	56.25	None	None	103.43
29-Oct-19	Hardy's Stamp Riesling	34,164.00	**223.155876**	None	340.00	None	None
06-Nov-19	Asahi Super Dry Beer	100,663.20	**45.32832076**	56.25	None	None	103.43
08-Dec-19	Asahi Super Dry Beer in Can	100,663.20	**45.34929101**	56.25	None	None	103.43
	Total	**₱470,980.80**					

On the other hand, the remainder of the excise taxes being refunded by petitioner, in the sum of ₱115,345.48, must be rejected because there is no evidence showing that the cost of importation of the liquor referred to below, is lower than locally purchasing the same. Ponder on the following presentation:

Arrival Date	Description	Excise Tax Under Protest	Purchase Price Per Importation	Per ASC	Per FTI	Per ME	Per RMC No.
17-Oct-19	Camus Cognac VSOP Elegance	67,061.76	746.9880667	None	None	None	None
07-Nov-19	Camus Cognac VSOP Elegance	48,283.72	737.3984037	None	None	None	None
	Total	**₱115,345.48**					

FOR THESE REASONS, I VOTE to: (1) **PARTIALLY GRANT** the Petition for Review dated February 2, 2022, in CTA Case No. 10730; and (2) **DIRECT** the Commissioner of Internal Revenue to **REFUND** or **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of Philippine Airlines, Inc., the amount of ₱470,980.80, representing the latter's erroneously paid excise taxes on its importation of liquors and wines for the periods September to December 2019.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice