18-000540-0106

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NOS. 9993 & 10015

PETRON CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

NOTICE OF RESOLUTION

To:

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

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

DU-BALADAD & ASSOCIATES
20th Floor, Chatham House, Rufino cor. Valero Streets
Salcedo Village, Makati City

GREETINGS:

You are hereby notified by these presents that on **April 22, 2024,** a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **April 23, 2024.**

Atty. Margarette Y. Guzman
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
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PETRON CORPORATION,
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CTA Case Nos. 9993 & 10015

Members:
DEL ROSARIO, *PJ, Chairperson,*
MANAHAN, and
REYES-FAJARDO, *JJ.*

Promulgated:
APR 22 2024 2:20PM

x--x

RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is the Commissioner of Internal Revenue (CIR)'s Motion for Reconsideration [1] of the Decision promulgated on December 5, 2023, where the Court granted a partial refund in favor of Petron Corporation amounting to ₱459,958,622.12 representing erroneously paid excise taxes on petroleum products sold to international carriers and tax-exempt entities between January 1, 2017 to December 31, 2017.

The CIR filed the instant Motion for Reconsideration, insisting that Petron Corporation is not entitled to the refund or credit sought because, in fact, there was *no* erroneous or illegal collection of excise taxes.[2] Its main argument is that the exemption under Section 135 of the National Internal Revenue Code of 1997, as amended (Tax Code), benefits the *buyer* of the fuel; it cannot be invoked by the *sellers* thereof. The excise tax paid on the fuel upon importation/manufacture cannot be passed on by the seller to the buyer and included in the purchase price. This tax is the importer/manufacturer's direct liability. Thus, Petron Corporation's excise taxes payments on its imported/manufactured Jet A-1 fuel and unleaded gasoline were not erroneous or illegal.[3]

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[1] Docket – Vol. 5, pp. 3266-3274.
[2] Docket – Vol. 5, p. 3267.
[3] Docket – Vol. 5, p. 3269-3270.

In its Comment/Opposition to the instant motion, Petron Corporation points out that the CIR's arguments are a mere rehash of those raised previously in its Answers.[4] It emphasizes that the exemption from excise tax under Section 135 is extended in favor of importers/manufacturers of petroleum products if the same has been sold to international carriers and tax-exempt entities.[5]

On February 14, 2024, the CIR's Motion for Reconsideration, with Petron Corporation's Comment/Opposition, was submitted for resolution.

After a careful review of the records of the present case, the Court finds no compelling reason to reverse or modify the Assailed Decision. The instant motion raises the same arguments already passed upon and discussed at length by the Court. The CIR has not adduced any substantial argument to warrant reconsideration or modification of the Assailed Decision.[6] It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those which have already been passed upon and, in fact, adjudged as unmeritorious by the Court, these cannot be regarded as substantial and no longer require another full-blown discussion.[7] Any further discourse will only be unnecessary and repetitive.[8]

To be sure, there is no merit in the CIR's argument that Petron Corporation cannot benefit from the tax exemption under Section 135 of the Tax Code. It is already settled that an importer or manufacturer has standing as the claimant of the excise tax exemption under Section 135. We repeat that, in the context of Petron Corporation's manufacture of petroleum products sold to various entities, the tax liability or the fiscal responsibility for the payment of excise tax remains with Petron Corporation, notwithstanding its capacity to transfer the economic weight or the tax burden, to its consumers. Pertaining to Section 135 of the Tax Code, in instances where petroleum products are vended to tax-exempt entities, it is imperative that the benefit of such exemption aligns with the party actually bearing the tax liability. Consequently, the exemption should

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4 Docket – Vol. 5, p. _.
5 Docket – Vol. 5, p. _.
6 *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938 (Resolution), January 22, 2007, 541 PHIL 138-143.
7 *Roque, Jr. v. Commission on Elections*, G.R. No. 188456 (Resolution), February 10, 2010, 626 PHIL 75-92.
8 *Social Justice Society (SJS) Officers, et al. v. Lim*, G.R Nos. 187836 & 187916, March 10,2015.

appropriately correspond to Petron Corporation, the entity shouldering the fiscal responsibility to settle the tax.

When it is shown that the tax-paid petroleum products have become tax-exempt within the context of Section 135 of the Tax Code, the excise taxes which were previously paid thereon shall then be regarded as "erroneously or illegally collected," and, thus, subject to refund pursuant to Section 229 of the Tax Code.[9]

WHEREFORE, in light of the foregoing considerations, the Commissioner of Internal Revenue's Motion for Reconsideration of the Decision promulgated on December 5, 2023 is **DENIED** for lack of merit.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

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[9] See *Pilipinas Shell Petroleum Corp. v. Commissioner of Internal Revenue*, G.R. No. 211303, June 15, 2021.