REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

BAYER PHILIPPINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11122

Members:

RINGPIS-LIBAN, UY, *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

JUN 27 2025 4:11 p.m.

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DECISION

RINGPIS-LIBAN, *J*.:

THE CASE

Before this Court is a *Petition for Review* praying that the Court render judgment ordering respondent to refund to petitioner the amount of ₱37,620,000.00, representing excise tax which the Bureau of Internal Revenue (BIR), through the Bureau of Customs (BOC), erroneously assessed and wrongfully collected on April 13, 2021 upon the importation of twelve (12) pallets containing a total of 125,400 boxes of Saridon TABL BLI 10 PH.[1]

THE PARTIES

Petitioner Bayer Philippines, Inc. is a domestic corporation duly organized and existing under Philippines laws, with principal business address at the 8th Floor, Science Hub Tower 1, Campus Avenue corner Turin Street, McKinley Hill Cyberpark, Pinagsama, Taguig City, 1630.[2] It is engaged in the business of, among others, manufacturing, processing, buying, selling, importing, exporting, and generally dealing in all kinds of medicinal and pharmaceutical products.[3] It is registered with the BIR's Revenue District Office No. 116 – Regular Large

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[1] Prayer, *Petition for Review*, Docket – Vol. I, p. 37.
[2] Exhibit "P-2", Docket – Vol. I, pp. 381 to 395.
[3] Par. 1.02, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 294; Exhibit "P-2-1", Docket, p. 384.

Taxpayers (LT) Audit Division I under Taxpayer Identification Number 000-051-391-00000.[4]

Respondent is the Commissioner of Internal Revenue who is duly appointed and empowered by law to act on claims for tax refund or credit.[5]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

Petitioner is an importer of Saridon TABL BLI 10 PH.[6] On April 10, 2021, it imported twelve (12) pallets containing a total of 125,400 boxes of Saridon TABL BLI 10 PH (the subject importation),[7] as shown on Invoice No. 812A090941 dated April 9, 2021,[8] with Weight Note No. 812A090941 and Packing List,[9] Air Waybill No. 4831219798,[10] and Single Administrative Document (SAD) with Customs Reference No. C-4465 dated April 12, 2021.[11]

Respondent, through its collecting agent, the BOC, assessed excise tax amounting to ₱37,620,000.00 on the subject importation[12] and collected the same on April 13, 2021.[13]

Thereafter, petitioner filed its administrative claim for refund with the BIR on September 17, 2021,[14] through the letter dated August 17, 2021,[15] requesting for the refund of excise tax and value-added tax (VAT) in the total amount of ₱42,134,400.00, which was allegedly erroneously assessed and debited to its account for the subject importation. It likewise filed the *Applications for Tax Credits/Refunds* (BIR Form No. 1914) for excise tax in the amount of ₱37,620,000.00,[16] and for VAT in the amount of ₱4,514,400.00,[17] with the BIR – Regular LT Audit Division I on December 3, 2021.

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[4] Exhibit "P-3", BIR Records, pp. 16 to 18.
[5] Par. 1.01, Stipulation of Facts, JSFI, Docket – Vol. I, p. 293.
[6] Par. 1.03, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294.
[7] Par. 1.04, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294.
[8] Exhibit "P-10", BIR Records, pp. 1b to 1c.
[9] Exhibits "P-10-1" to "P-10-2", BIR Records, pp. 1 to 1a.
[10] Exhibit "P-11", Docket – Vol. I, p. 431.
[11] Exhibit "P-15", Docket – Vol. I, pp. 437 to 438.
[12] Par. 1.05, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294; Exhibits "P-16" and "P-16-1", BIR Records, p. 3.
[13] Par. 1.06, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294; Exhibits "P-17" and "P-17-1", BIR Records, p. 2a; Exhibit "P-19", BIR Records, p. 6.
[14] Par. 1.07, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294.
[15] Exhibits "P-20" and "P-20-1", BIR Records, p. 10.
[16] Exhibit "P-22", BIR Records, p. 12.
[17] Exhibit "P-23", Docket – Vol. I, p. 448.

In the letter dated June 27, 2022,[18] the BIR denied the administrative claim for *VAT refund* in the amount of ₱4,514,400.00 for lack of legal basis. However, respondent has yet to act on the administrative claim for refund of excise tax.[19]

PROCEEDINGS BEFORE THIS COURT

Petitioner, thus, filed the present *Petition for Review (with Motion to Defer Submission of Judicial Affidavit and Supporting Evidence)* on April 12, 2023.[20]

On July 3, 2023, respondent filed an *Answer*,[21] interposing the following special and affirmative defenses, to wit: (1) petitioner is *not* entitled to the refund of the alleged erroneously paid excise tax in the aggregate amount of ₱37,620,000.00; and (2) claims for refund of excise taxes paid are authorized only by Section 130(D) of the National Internal Revenue Code (NIRC) of 1997, as amended.

Respondent then transmitted the *BIR Records* of the present case on July 12, 2023, consisting of 39 pages in one (1) folder.[22]

Petitioner's *Pre-Trial Brief* was filed on September 28, 2023,[23] while *Respondent's Pre-Trial Brief* was submitted on September 29, 2023.[24] The Pre-Trial Conference was set and held on October 3, 2023.[25]

On October 27, 2023, the parties filed their *Joint Stipulation of Facts and Issues*,[26] which was admitted and approved in the *Resolution* dated November 15, 2023,[27] thereby terminating the Pre-Trial. The *Pre-Trial Order* dated February 15, 2024 was then issued.[28]

Trial ensued.

Petitioner presented its testimonial and documentary evidence and offered the testimonies of the following individuals, namely: (1) Mr. Ambrocio B.

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[18] Exhibit "P-24", Docket – Vol. I, pp. 449 to 450.
[19] Par. 1.08, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294.
[20] Docket – Vol. I, pp. 6 to 47.
[21] Docket – Vol. I, pp. 144 to 153.
[22] *Compliance* dated July 12, 2023, Docket – Vol. I, pp. 157 to 159.
[23] Docket – Vol. I, pp. 169 to 185.
[24] Docket – Vol. I, pp. 284 to 286.
[25] Notice of Pre-Trial Conference dated July 5, 2023, Docket – Vol. I, pp. 155 to 156; Minutes of the hearing held on, and Order dated, October 3, 2023, Docket – Vol. I, pp. 288 and 290 to 291, respectively.
[26] Docket – Vol. I, pp. 293 to 302.
[27] Docket – Vol. I, p. 306.
[28] Docket – Vol. I, pp. 314 to 320.

Alfonso,[29] employed at Macoda Logistics as a Licensed Customs Broker, and assigned as the designated Account Officer of petitioner; and, (2) Ms. Katrhina Orbizo-Callo,[30] its Country Supply Chain Management and Order-to-Cash Lead.

In the meantime, upon petitioner's *Motion to Amend Pre-Trial Order* posted on February 20, 2024,[31] the *Pre-Trial Order* was amended pursuant to the *Resolution* dated March 14, 2024.[32]

Petitioner filed its *Motion to Sub-Mark Part of Marked Exhibit and Formal Offer of Documentary Evidence* on April 15, 2024,[33] to which respondent filed a *Comment and Manifestation Re: Petitioner's Formal Offer of Evidence* on April 19, 2024,[34] stating that since no memorandum report has been finalized pertaining to petitioner's administrative claim for refund, respondent will no longer present any witness in the case. In the *Resolution* dated May 30, 2024,[35] the Court granted petitioner's *Motion*, and admitted all of its offered exhibits.

On June 27, 2024, respondent filed his *Manifestation*,[36] stating that he is adopting the arguments he raised in his *Answer* filed on July 3, 2023 as his *Memorandum*, while petitioner posted its *Memorandum* on July 3, 2024.[37]

The present case was considered submitted for decision on August 15, 2024.[38]

Thereafter, on February 3, 2025, petitioner filed a *Manifestation*,[39] informing the Court that it received an *undated* letter from respondent stating that its administrative claim for refund of excise tax amounting to ₱37,620,000.00, subject of this case, has been *approved in full*, and likewise attaching thereto an original copy of said letter signed by Commissioner Romeo D. Lumagui, Jr.[40] Respondent filed his *Comment (Re: Petitioner's Manifestation dated 03 February 2025)* on March 6, 2025,[41] which confirmed that petitioner's administrative request for refund was granted in full through a letter addressed to petitioner's President.

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[29] Exhibit "P-25", Docket – Vol. I, pp. 120 to 134; Minutes of the hearing held on, and Order dated, February 15, 2024, Docket – Vol. I, pp. 321 to 322.
[30] Exhibit "P-28", Docket – Vol. I, pp. 186 to 202; Minutes of the hearing held on, and Order dated, March 14, 2024, Docket – Vol. I, pp. 339 to 341.
[31] Docket – Vol. I, pp. 323 to 332.
[32] Docket – Vol. I, pp. 337 to 338.
[33] Docket – Vol. I, pp. 364 to 375.
[34] Docket – Vol. I, pp. 483 to 485.
[35] Docket – Vol. II, pp. 489 to 491.
[36] Docket – Vol. II, pp. 492 to 494.
[37] Docket – Vol. II, pp. 496 to 532.
[38] Minute Resolution dated August 15, 2024, Docket – Vol. II, p. ___.
[39] Docket – Vol. II, pp. 546 to 549.
[40] Docket – Vol. II, p. 550.
[41] Docket – Vol. II, pp. 557 to 559.

On April 21, 2025, petitioner again filed a *Manifestation*, which stated that notwithstanding the approval of the administrative claim, it has yet to be endorsed to the BOC for payment and, thus, the process of payment has not yet begun. Accordingly, petitioner alleged that the case has *not* been rendered moot by the recommendation in respondent's undated letter.[42]

THE STIPULATED ISSUE

The parties agreed that the issue for this Court's resolution is:

> "Whether or not Petitioner is entitled to a refund of excise tax amounting to **Thirty-Seven Million Six Hundred Twenty Thousand Pesos (₱37,620,000.00)**, representing alleged erroneously assessed and wrongfully collected taxes on **13 April 2021** on the importation of 12 pallets containing a total of 125,400 boxes of **SaridonTABL BLI 10 PH**, pursuant to Section 229, in conjunction with Section 204(C), of the Tax Code."[43]

Petitioner's Arguments:

Petitioner argues that it is entitled to a refund of excise tax erroneously assessed and wrongfully collected on April 13, 2021 upon its importation of 125,400 boxes of Saridon TABL BLI 10 PH, considering that the assessment and collection of excise tax on the importation of Saridon TABL BLI 10 PH, an analgesic drug in tablet form, is erroneous and illegal for having been imposed without statutory authority and on a property not subject to excise tax, and both the administrative and judicial claims for refund were filed within two (2) years from the time the excise tax subject of this claim for refund was erroneously assessed and wrongfully collected.

Respondent's Counter-Arguments:

In the *Answer*, respondent contends that petitioner is *not* entitled to the refund of the alleged erroneously paid excise tax in the aggregate amount of ₱37,620,000.00; and that claims for refund of excise taxes paid are authorized only by Section 130(D) of the NIRC of 1997, as amended.

THE COURT'S RULING

The present *Petition for Review* is meritorious.

Governing provisions for refund claims.

[42] Docket – Vol. II, pp. 563 to 572.
[43] Par. 2, Statement of the Issues, JSFI, Docket – Vol. I, p. 294.

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

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx xxx
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Emphasis added)*
>
> "SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any **national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected,** until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> **In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphases added)*

The provisions are clear: within two (2) years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two (2)-year reglementary period. Timeliness of the filing of the claim is *mandatory and jurisdictional*, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that as for the judicial claim, tax law even explicitly provides that it be filed within two (2) years from payment of the tax "regardless of any supervening cause that may arise after payment."[44]

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

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[45] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[46]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it timely filed its refund claim, it must likewise prove that the subject excise tax paid is erroneous, illegal, or wrongful.

Petitioner timely filed its administrative and judicial claims.

In this case, it is shown that petitioner paid the excise tax on the subject importation amounting to ₱37,620,000.00 on April 13, 2021.[47] Counting two (2) years from that date, petitioner had until April 13, 2023, to file its administrative and judicial claims for refund. Notably, petitioner's administrative claim for refund was filed on September 17, 2021,[48] and the judicial claim for refund filed before this Court on April 12, 2023.[49] Thus, both administrative and judicial claims fell within the two (2)-year prescriptive period. Petitioner, therefore, timely filed its administrative and judicial claims.

Petitioner's importation of Saridon TABL BLI 10 PH is **not** ***subject to excise tax. Thus, the excise tax paid on the subject importation was erroneously or illegally collected.***

The Court shall now determine whether the excise tax collected from the subject importation of Saridon TABL BLI 10 PH is illegal or erroneous.

To reiterate, petitioner argues that the assessment and collection of excise tax on the importation of Saridon TABL BLI 10 PH, an analgesic drug in tablet

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[45] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.
[46] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.
[47] Par. 1.06, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294; Exhibits "P-17" and "P-17-1", BIR Records, p. 2a; Exhibit "P-19", BIR Records, p. 6.
[48] Par. 1.07, Stipulation of Facts, JSFI, Docket – Vol. I, p. 294; Exhibits "P-20" and "P-20-1", BIR Records, p. 10.
[49] Docket – Vol. I, pp. 6 to 47.

form, is erroneous and illegal for having been imposed without statutory authority and on a property not subject to excise tax.

On the other hand, respondent counters that petitioner's importation of Saridon TABL BLI 10 PH is *not* among those which are expressly exempt from excise tax, and that tax refunds are in the nature of tax exemptions which are construed *strictissimi juris* against the taxpayer and liberally in favor of the government.

The Court agrees with petitioner.

For excise tax on imported articles, in general, the same is paid by the owner or importer upon importation and prior to removal thereof from the customshouse as provided in Sections 129 and 131 of the NIRC of 1997, as amended, to wit:

> "SEC. 129. *Goods Subject to Excise Taxes.* — **<u>Excise taxes apply</u> to goods manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition and <u>to things imported</u>.** The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.
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> xxx xxx xxx." *(Emphasis and underscoring added)*
>
> "SEC. 131. *Payment of Excise Taxes on Imported Articles.* —
>
> (A) *Persons Liable.* — **Excise taxes on <u>imported articles</u> shall be <u>paid by the owner or importer</u> to the Customs Officers, conformably with the regulations of the Department of Finance and <u>before the release of such articles from the customshouse</u>,** or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.
>
> xxx xxx xxx." *(Emphasis and underscoring added)*

However, in *Exxonmobil Petroleum and Chemical Holdings, Inc. – Philippine Branch vs. Commissioner of Internal Revenue*,[50] the Supreme Court held that for excise tax to be imposed, the subject article must belong to any of the categories of goods enumerated in Title VI of the NIRC of 1997, as amended, to wit:

> "**Excise taxes are imposed under Title VI of the NIRC.** They apply to specific goods manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition, and to those that are imported. **In effect, these taxes are imposed when two conditions concur: first, that the articles subject to tax belong to any of the categories of goods enumerated in Title VI of the NIRC**; and second, that said articles are for domestic sale or consumption, excluding those that are actually exported." *(Emphases added)*

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[50] G.R. No. 180909, January 19, 2011.

In *Petron Corporation vs. Commissioner of Internal Revenue*,[51] the Supreme Court granted the claim for refund therein considering that alkylate is not among the articles covered by Section 148(e) of the NIRC of 1997, as amended, and clarified that when the claim for tax refund is premised on the taxpayer's erroneous payment of the tax or the government's exaction in the absence of a law, the rule to be applied must be the well-settled doctrine of strict interpretation in the imposition of taxes, not the similar doctrine as applied to tax exemptions, to wit:

> "As correctly pointed out by petitioner, **not all claims for tax refund partake the nature of a tax exemption such that the rule of strict interpretation against the taxpayer is always applicable.** The Court has long settled that '[t]here is parity between tax refund and tax exemption only when the former is based either on a tax exemption statute or a tax refund statute.'[52] In such case, the rule of strict interpretation against the taxpayer is applicable as the claim for refund partakes of the nature of an exemption, a legislative grace, which cannot be allowed unless granted in the most explicit and categorical language.
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> However, **when the claim for tax refund is premised on the taxpayer's erroneous payment of the tax or the government's exaction in the absence of a law, the rule to be applied must be the well-settled doctrine of strict interpretation in the imposition of taxes, not the similar doctrine as applied to tax exemptions.**
>
> In the case at bar, **petitioner's claim for tax refund is not founded on any tax exemption law but on the government's erroneous assessment and collection of excise taxes on its alkylate importations, without clear legal basis therefor.** Otherwise stated, **petitioner's entitlement to a tax refund is not based on the existence of a tax exemption clause in its favor but premised on its claim that alkylate is not subject to excise tax under Art. 148 (e) of the 1997 NIRC, as amended.** Thus, the CTA Special Second Division erroneously applied the doctrine of strict construction against the taxpayer in this case.
>
> Verily, since petitioner's claim for tax refund is not in the nature of a tax exemption, it is not burdened to prove that the legislature intended to exempt it from tax clearly and distinctly, contrary to the CTA Special Second Division's ratiocination. To reiterate, **alkylate is not among the articles covered by Sec. 148 (e) of the 1997 NIRC, as amended. Thus, in the absence of a law expressly and unambiguously imposing excise tax on alkylate, the appropriate rule to be applied is the strict interpretation in the imposition of taxes such that the statute must be construed most strongly against the government and in favor of the taxpayer. Simply put, insofar as excise tax is concerned, non-taxability is the rule, while taxability is the exception.** Verily, **since alkylate is not categorically covered by Sec. 148 (e) of the 1997 NIRC, as amended, the doubt should be resolved in petitioner's favor.** As burdens, taxes should not be unduly exacted nor assumed beyond the plain meaning of the tax laws.
>
> xxx xxx xxx

[51] G.R. No. 255961, March 20, 2023.
[52] *Commissioner of Internal Revenue vs. Fortune Tobacco Corporation*, 581 Phil. 146, 166 (2008).

> Indeed, **alkylate is not expressly mentioned in the above-quoted provision as one of the goods subject to excise tax.** xxx
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> xxx xxx xxx
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> Consequently, **the payment of excise taxes by petitioner upon its importation of alkylate is deemed illegal and erroneous in the absence of a specific provision of law that distinctly and categorically imposes tax thereon.** As discussed earlier, the rule that tax laws must be construed *strictissimi juris* against the government and in favor of the taxpayer applies herein since Sec. 148 (e) of the 1997 NIRC, as amended, did not clearly, expressly, and unambiguously impose tax on alkylate (or those which are not directly produced by distillation)." *(Emphases added)*

From the foregoing, similar to alkylate, there is no specific provision of law that distinctly and categorically imposes excise tax on Saridon TABL BLI 10 PH.

Under Title VI (Excise Taxes on Certain Goods) of the NIRC of 1997, as amended, the following goods or services are subject to excise tax, to wit:

1) <u>Distilled Spirits</u> – under Section 141, Chapter III;
2) <u>Wines</u> – under Section 142, Chapter III;
3) <u>Fermented Liquor</u> – under Section 143, Chapter III;
4) <u>Tobacco Products, Heated Tobacco Products, and Vapor Products</u> – under Section 144, Chapter IV;
5) <u>Cigars and Cigarettes</u> – under Section 145, Chapter IV;
6) <u>Manufactured Oils and Other Fuels</u> – under Section 148, Chapter V;
7) <u>Automobiles</u> – under Section 149, Chapter VI;
8) <u>Non-essential Goods (jewelry; perfumes and toilet waters; yachts and other vessels intended for pleasure or sports)</u> – under Section 150, Chapter VI;
9) <u>Non-essential Services (invasive cosmetic procedures, surgeries, and body enhancements)</u> – under Section 150-A, Chapter VI;
10) <u>Sweetened Beverages [non-alcoholic beverages of any constitution (liquid, powder, or concentrates) that are pre-packaged and sealed in accordance with the Food and Drug Administration standards, that contain caloric and/or non-caloric sweeteners added by the manufacturers]</u> – under Section 150-B, Chapter VI; *and*,
11) <u>Mineral Products</u> – under Section 151, Chapter VII.

To prove the erroneous or illegal collection of the excise tax on the subject importation, petitioner presented the following documents to show that Saridon TABL BLI 10 PH is an analgesic product and is not among the articles covered by excise tax under Title VI of the NIRC of 1997, as amended, to wit:

Exhibit No.	Description
"P-4" and "P-4-1"[53]	Certification dated May 7, 2021 issued by the CIR addressed to petitioner stating, among others, that "SARIDON TABL BLI 10 PH which is an analgesic drug in tablet form, is not among the articles covered by excise tax under the Title VI of the 1997 National Internal Revenue Code, as amended."
"P-5"[54]	Certificate of Product Registration No. DR-XY36639 issued by the Food and Drug Administration of the Philippines, with the following pertinent information: Generic Name : Paracetamol + Propyhenazone + Caffeine Brand Name : Saridon Triple Action Dosage Strength & Form : 250mg/ 150mg/ 50 mg Tablet Pharmacologic Category : Analgesic/Antipyretic Classification : Over-the-Counter Drug (OTC)
"P-6"[55]	Product Release Specification for Caffeine + Paracetamol + Propyphenazone tablet 50 mg + 0.25 g + 0.15 g (1600229)
"P-7"[56]	Chemical and Pharmaceutical Documentation for Saridon Tablets 11 -6655 / 002
"P-8"[57]	Safety Data Sheet for Saridon Acetaminophen Tablets
"P-9"[58]	Certificate of Analysis of SARIDON TABL BLI 10 PH

Based on the foregoing documents, the Court finds that Saridon TABL BLI 10 PH is indeed an analgesic/antipyretic product in tablet form, and *not* among the articles enumerated above that are subject to excise tax under Title VI of the NIRC of 1997, as amended. Hence, the collection from, or payment by, petitioner of excise tax upon its importation of Saridon TABL BLI 10 PH is deemed illegal and erroneous.

The amount of ₱37,620,000.00 represents erroneous or illegal excise tax collected from / paid by petitioner.

In this case, petitioner's witness, Mr. Ambrocio B. Alfonso, testified, among others, that he handled the importation of the pharmaceutical product which is the subject matter of this case; that he received documents covering the subject importation from Ms. Gina Gutierrez, petitioner's Import Coordinator at that time; that he computed the duties and taxes due thereon by first filling out and generating a "Pre-Single Administrative Document" (Pre-SAD) in the BOC's Electronic to Mobile (E2M) Customs System; that in the box labelled "33 HS Code" in the Pre-SAD, he encoded "30049049000", which under the Harmonized System (HS) and ASEAN Harmonized Tariff Nomenclature

[53] BIR Records, p. 8.
[54] Docket – Vol. I, p. 400.
[55] Docket – Vol. I, pp. 401 to 402.
[56] Docket – Vol. I, pp. 403 to 406.
[57] Docket – Vol. I, pp. 407 to 423.
[58] Docket – Vol. I, pp. 424 to 426.

(AHTN) System, refers to other pharmaceutical products, including analgesic; that after encoding the required information, a Temporary Assessment Notice was generated showing the total taxes and duties payable on the subject importation amounted to ₱376,740.84, and the item "EXC" amounts to zero; that after generating the Pre-SAD and Temporary Assessment Notice, confident that everything is in order, he re-encoded all the relevant information to a SAD in the BOC's E2M Customs System and then electronically lodged the SAD with the BOC; that on April 13, 2021, the subject importation was released from the custody of the customs; that he received a call from Ms. Gutierrez asking him if he handled any importation which may have resulted to a debit from petitioner's enrolled Citibank deposit account in the amount of ₱42,512,390.83; that he was surprised as the only shipment of petitioner that was due to be released from the custody of the BOC was the subject importation, the total taxes and duties payable should have amounted to ₱376,740.84 only, not ₱42,512,390.83; that he realized his mistake that had he checked the SAD and Final Assessment Notice against the Pre-SAD and Temporary Assessment Notice before lodging the SAD with the BOC, he would have noticed that the total duties and taxes assessed on the subject importation increased from the estimate ₱376,740.84 to ₱42,512,390.83, which is the amount reflected in the SAD, Final Assessment Notice and Statement of Settlement of Duties and Taxes (SSDT); that he also discovered that he erroneously used the HS Code "30049049000" instead of the correct HS Code "30049099000", which he used to declare previous shipments of the same article;[59] and that petitioner has been previously importing Saridon TABL BLI 10 PH, the importations of which were not subjected to excise tax and the subject importation was the only instance when it was subjected to excise tax.[60]

To prove that excise tax was paid on the subject importation, petitioner presented the following documents, to wit:

Exhibit No.	Description
"P-10"[61]	Invoice No. 812A090941 dated April 9, 2021 issued by Bayer Consumer Care AG
"P-10-1" to "P-10-2"[62]	Weight Note No. 812A090941 and Packing List[63]
"P-11"[64]	Air Waybill No. 4831219798 issued by PT. Expeditors Indonesia showing that "12 PALLETS = 125,400 BXS OF SARIDON TABL BLI 10 PH" arrived on board Aircraft NH869 at the Ninoy Aquino International Airport on April 10, 2021

[59] Exhibit "P-25" (Q&A Nos. 7, 11, 14, 17 to 19, 23 to 28), Docket – Vol. I, pp. 122 to 128.
[60] Transcript of Stenographic Notes dated February 15, 2024, pp 7 to 8.
[61] BIR Records, pp. 1b to 1c.
[62] BIR Records, pp. 1 to 1a.
[63] The Packing List is actually marked as Exhibit "P-10-2", but offered in evidence as part of Exhibit "P-10-1", Refer to petitioner's *Formal Offer of Documentary Evidence*, Docket – Vol. I, p. 367.
[64] Docket – Vol. I, p. 431.

"P-12"[65]	Air Waybill No. 205-80477342 issued by All Nippon Airways Co., Ltd.
"P-13" and "P-13-1"[66]	Temporary SAD dated April 12, 2021 with Reference No. 6OSA2100085 with "33 HS Code" of "30049049000"
"P-14" and "P-14-1"[67]	Temporary Assessment Notice dated April 12, 2021 with Reference No. 6OSA2100085, with line item "EXC" with the corresponding amount of "0.00"
"P-15"[68]	BOC SAD dated April 12, 2021 with Customs Reference No. C-44655
"P-16" and "P-16-1"[69]	Assessment Notice dated April 12, 2021 with Customs Reference No. C-44655, with line item "EXC" with the corresponding amount of "37,620,000.00"
"P-17" and "P-17-1"[70]	SSDT dated April 13, 2021, with Line item "EXC" with the corresponding amount of "37620000.00"
"P-18"[71]	Certification dated April 26, 2021 issued by Citibank stating that the total amount of "PHP 42,512,390.83" was remitted to the BOC on April 14, 2021 under Serial No. "2021P03 C044655"
"P-19" to "P-19-1"[72]	Certification dated November 23, 2021 issued by the BOC Revenue Accounting Division stating that the amount of "37,620,000.00" excise tax was collected on April 13, 2021 for Entry No. "2021 P03 C 44655", with Cover Letter dated November 23, 2021 attaching the said Certification

The foregoing documents sufficiently proves that excise tax was erroneously collected from, or paid by, petitioner in the amount of ₱37,620,000.00 on the subject importation of Saridon TABL BLI 10 PH on April 13, 2021, and thus, the said amount is refundable under Sections 204(C) and 229 of the NIRC of 1997, as amended.

The rule that tax exemptions should be construed strictly against the taxpayer presupposes that the taxpayer is clearly subject to the tax being levied against him. The reason is obvious: it is both illogical and impractical to determine who are exempted without first determining who are covered by the provision. Thus, unless a statute imposes a tax clearly, expressly and unambiguously, what applies is the equally well-settled rule that the imposition of a tax *cannot be presumed.* In fact, in case of doubt, tax laws must be construed strictly against the government and in favor of the taxpayer.[73] Taxes are burdens on the taxpayer, and should *not* be unduly imposed or presumed beyond what the statutes expressly and clearly import.[74]

[65] Docket – Vol. I, p. 432.
[66] Docket – Vol. I, p. 433 to 435.
[67] Docket – Vol. I, p. 436.
[68] Docket – Vol. I, pp. 437 to 438.
[69] BIR Records, p. 3.
[70] BIR Records, p. 2a
[71] BIR Records, p. 23.
[72] BIR Records, pp. 6 to 7.
[73] *Commissioner of Internal Revenue vs. SM Prime Holdings, Inc., et al.,* G.R. No. 183505, February 26, 2010.
[74] *Commissioner of Internal Revenue vs. The Philippine American Accident Insurance Company, Inc., et al.,* G.R. No. 141658, March 18, 2005.

That no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with evenhandedness. Hence, under the principle of *solutio indebiti*, the Government has to restore to petitioner the sums representing erroneous payments of taxes.[75]

In sum, Saridon TABL BLI 10 PH is *not* among the articles covered by Title VI of the NIRC of 1997, as amended, subject to excise tax. Thus, in the absence of a law expressly and unambiguously imposing excise tax on Saridon TABL BLI 10 PH, an analgesic tablet, the payment of excise tax by petitioner upon its importation is deemed illegal and erroneous. Because petitioner has complied with the requirements for a tax refund, the grant of the same is warranted.

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

Respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱37,620,000.00**, representing excise taxes which the BIR, through the BOC, erroneously assessed and wrongfully collected on April 13, 2021 on the importation of 12 pallets containing 125,400 boxes of Saridon TABL BLI 10 PH.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

[75] *Filinvest Development Corporation vs. Commissioner of Internal Revenue, et al.*, G.R. No. 146941, August 9, 2007.

CORAZON G. FERRER-FLORES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice