REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

CTA EB No. 2834
(CTA Case No. 10223)

Present:

- versus -

DEL ROSARIO, *P.J.,*
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

SAN MIGUEL BREWERY, INC.
Respondent.

Promulgated:
FEB 28 2025 3:10 pm

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DECISION

REYES-FAJARDO, *J.*:

For action is the Petition for Review filed by the Commissioner of Internal Revenue (CIR), challenging the Decision[1] dated July 5, 2023 and the Resolution[2] dated October 9, 2023 in CTA Case No. 10223, whereby the Special Second Division of the Court (Court in Division) partially granted San Miguel Brewery, Inc.'s claim for refund of erroneously paid or illegally collected excise taxes on the removal of its beer products from its brewery plants for the period covering January 1, 2018 to December 31, 2018, to the extent of ₱146,874,555.07.

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1 *Rollo*, pp. 46-75.
2 *Id.* at pp. 77-80.

PARTIES

Petitioner heads the Bureau of Internal Revenue (BIR), with office address at the BIR National Office Building, Agham Road, Diliman, Quezon City, Metro Manila.[3]

On the other hand, respondent is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal address at 40 San Miguel Avenue, Mandaluyong City, Metro Manila.[4] It is engaged in the business of, among others, manufacture, sale, and distribution of fermented and malt-based beverages.[5]

FACTS

On December 21, 2012, Republic Act (RA) No. 10351,[6] took effect. Section 3 of said law, amended, among others, Section 143 of the National Internal Revenue Code of 1997 (NIRC), as amended, to read:

> SEC. 3. Section 143 of the National Internal Revenue Code of 1997, as amended by Republic Act No. 9334, is hereby further amended to read as follows:
>
> > SEC. 143. *Fermented Liquors.* — **There shall be levied, assessed, and collected an excise tax on beer,** lager beer, ale, porter and other fermented liquors except *tuba, basi, tapuy* and similar fermented liquors **in accordance with the following schedule:**
> >
> > **Effective on January 1, 2013**
> >
> > (a) **If the net retail price** (excluding the excise tax and the value-added tax) **per liter of volume capacity** is Fifty pesos and sixty centavos **(P50.60) or less, the tax shall be** Fifteen pesos **(P15.00) per liter;** and

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3 Par. 2, Stipulation of Facts, Pre-Trial Order dated January 11, 2021, Docket, p. 273.

4 Par. 1, Stipulation of Facts, Pre-Trial Order dated January 11, 2021, Docket, p. 272.

5 Par. 4, Stipulation of Facts, Pre-Trial Order dated January 11, 2021, Docket, p. 273.

6 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. Approved On December 19, 2012.

(b) **If the net retail price** (excluding the excise tax and the value-added tax) **per liter of volume capacity is more than** Fifty pesos and sixty centavos **(P50.60), the tax shall be** Twenty pesos **(P20.00) per liter**.

Effective on January 1, 2014

(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (PhP50.60) or less, the tax shall be Seventeen pesos (PhP17.00) per liter; and

(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (PhP50.60), the tax shall be Twenty-one pesos (PhP21.00) per liter.

Effective on January 1, 2015

(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (PhP50.60) or less, the tax shall be Nineteen pesos (PhP19.00) per liter; and

(b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (PhP50.60), the tax shall be Twenty-two pesos (PhP22.00) per liter.

Effective on January 1, 2016

(a) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is Fifty pesos and sixty centavos (PhP50.60) or less, the tax shall be Twenty-one pesos (PhP21.00) per liter; and (b) If the net retail price (excluding the excise tax and the value-added tax) per liter of volume capacity is more than Fifty pesos and sixty centavos (PhP50.60), the tax shall be Twenty-three pesos (PhP23.00) per liter.

Effective on January 1, 2017, the tax on all fermented liquors shall be Twenty-three pesos and fifty centavos **(P23.50) per liter.**

The rates of tax imposed under this Section **shall be increased by** four percent **(4%) every year thereafter effective on January 1, 2018**, through

ℳ

> revenue regulations issued by the Secretary of Finance. However, in case of fermented liquors affected by the 'no downward reclassification' provision prescribed under this Section, the **four percent (4%) increase** shall apply to their respective applicable tax rates.
>
> ...
>
> Any downward reclassification of present categories, for tax purposes, of fermented liquors duly registered at the time of the effectivity of this Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited.
>
> The proper tax classification of fermented liquors, whether registered before or after the effectivity of this Act, shall be determined every two (2) years from the date of effectivity of this Act.
>
> **All fermented liquors existing in the market at the time of the effectivity of this Act shall be classified according to the net retail prices and the tax rates provided above based on the latest price survey of the fermented liquors** conducted by the Bureau of Internal Revenue. ... [7]

To implement the provisions of RA No. 10351, then Secretary of Finance (SOF) Cesar V. Purisima, upon recommendation of then CIR Kim S. Jacinto-Henares, issued Revenue Regulations (RR) No. 17-12.[8] Section 5 thereof provides:

> SEC. 5. *Downward Reclassification of Fermented Liquors*. — Any downward reclassification of any fermented liquor product that is duly registered with the BIR at the time of effectivity of the Act which will reduce the tax imposed herein, or the payment thereof, shall be prohibited. **Starting January 1, 2014, the applicable tax rate shall be increase[d] by four percent (4%) annually**: *Provided, however*, it shall not be lower than the rates prescribed under Section 3 of these Regulations.[9]

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[7] Boldfacing supplied.

[8] SUBJECT: Prescribing the Implementing Guidelines on the Revised Tax Rates on Alcohol and Tobacco Products Pursuant to the Provisions of Republic Act No. 10351 and to Clarify Certain Provisions of Existing Revenue Regulations, December 21, 2012.

[9] Boldfacing supplied.

On December 27, 2012, Revenue Memorandum Circular (RMC) No. 90-2012[10] was issued to provide the initial classifications of alcohol products, among others, effective January 1, 2013.[11]

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[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] Annex "A-1" of RMC No. 90-2012 provides:

LIST OF BRANDS OF LOCALLY MANUFACTURED FERMENTED LIQUORS
As of December 2012

I. List of Brands Based on 2010 BIR Price Survey

	BRAND NAME/Product Description	TYPE OF PACKAGING	CONTENT PER TYPE OF PACKAGING (in milliliter)	NET RETAIL PRICE (Based on 2010 BIR Price Survey) Per Liter	Applicable Excise Tax Rate Per Liter (Effective January 1, 2013)
	A. NRP is P50.60 per liter and below				
	...				
18	San Miguel Pale Pilsen	bottle	1000	32.73	**15.49**
19	San Miguel Pale Pilsen (embossed label marking)	bottle	320	45.48	**15.49**
20	Coors Light Beer	bottle	330	43.18	**20.57**
21	San Mig Light	bottle	330	47.99	**20.57**
22	The Original Coors	bottle	330	32.36	**20.57**
23	The Silver Bullet Coorslight	bottle	330	45.21	**20.57**
	B. NRP is more than P50.60				
	...				
36	Colt Ice	bottle	330	60.37	**20.57**
37	Coors Light Beer	can	330	56.03	**20.57**
38	Red Horse	can	330	56.61	**20.57**
39	San Mig Cerveza Negra	bottle	320	66.39	**20.57**
40	San Mig Light	can	330	61.51	**20.57**
41	San Mig Strong Ice	bottle	330	62.66	**20.57**
42	San Mig Strong Ice	non-returnable bottle	330	65.10	**20.57**
43	San Mig Strong Ice	can	330	70.36	**20.57**
44	San Miguel Oktoberfest Beer	bottle	330	74.75	**20.57**
45	San Miguel Pale Pilsen	can	330	60.05	**20.57**
46	San Miguel Premium All Malt Beer	bottle	330	91.73	**20.57**
47	San Miguel Premium All Malt Beer	can	330	100.30	**20.57**

In the implementation of Annex "A-1" of RMC No. 90-2012, and Section 5 of RR No. 17-2012, for the period from January 1, 2018 to December 31, 2018, the Bureau of Internal Revenue (BIR) required respondent to pay excise taxes on its beer products upon removal thereof from its brewery plants at the rate of ₱25.03 per liter.

On October 17, 2019, respondent filed with the BIR Excise Large Taxpayers Audit Division I, an Application for Tax Credits/Refunds (BIR Form No. 1914), and a letter dated October 14, 2019,[12] claiming for the refund or credit in the amount of ₱146,874,562.00, representing

48	San Miguel Premium All Malt Beer	non-returnable bottle	330	104.73	**20.57**
49	Super Dry	can	330	69.90	**20.57**
50	The Original Coors	can	330	54.00	**20.57**
51	The Silver Bullet Coorslight	can	330	57.05	**20.57**

II. List of Brands (not included in 2010 BIR Price Survey and introduced in the market before effectivity of R.A. No. 10351) Based on Latest Suggested Net Retail Price Per Sworn Statement Submitted by the Manufacturer or Importer

	BRAND NAME/Product Description	TYPE OF PACKAGING	CONTENT PER TYPE OF PACKAGING (in milliliter)	NET RETAIL PRICE (Based on Latest Suggested Net Retail Price Per Sworn Statement) Per Liter	Applicable Excise Tax Rate Per Liter (Effective January 1, 2013)
	A. NRP is P50.60 per liter and below				
	...				
7	Beer Pale Pilsen	can	330	48.48	20.57
	B. NRP is more than P50.60				
	...				
14	Carlsberg	can	330	78.79	20.57
15	San Mig Zero	bottle	330	60.58	20.57
16	San Miguel Flavored Beer-Apple	bottle	330	75.76	20.57
17	San Miguel Flavored Beer-Lemon	bottle	330	75.76	20.57
18	San Miguel Magnum Beer Strong Lager	bottle	330	55.18	20.57
19	Stag	can	330	68.18	20.57
20	The Original Coors	bottle	1000	55.00	20.57

12 Exhibit "P-3" (Annex "C," Petition for Review), Docket, pp. 71 to 80.

excise taxes erroneously or illegally collected on the removal of its various beer products[13] from January 1, 2018 to December 31, 2018, or the difference in the tax rates per liter under RA No. 10351.

On December 11, 2019, respondent filed a Petition for Review before the Court in Division. It sought the refund in the amount of ₱146,874,562.00, representing its alleged erroneously paid excise taxes for the period of January 1, 2018 to December 31, 2018.

On July 5, 2023, the Court in Division rendered the challenged Decision, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* is **PARTIALLY GRANTED**.
>
> For being contrary to Section 143 of the NIRC of 1997, as amended by RA No. 10351, the following portions of Annex "A-1" of RMC No. 90-2012, prescribing the applicable excise tax rates per liter of fermented liquors, are declared invalid, and have no force and effect, *viz.*:

Annex "A-1"

LIST OF BRANDS OF LOCALLY MANUFACTURED FERMENTED LIQUORS
As of December 2012

I. List of Brands Based on 2010 BIR Price Survey

	BRAND NAME/ Product Description	TYPE OF PACKAGING	CONTENT PER TYPE OF PACKAGING (in milliliter)	NET RETAIL PRICE (Based on 2010 BIR Price Survey) Per Liter	Applicable Excise Tax Rate Per Liter (Effective January 1, 2013)
	A. NRP is P50.60 per liter and below				
	...	...	...		
18	San Miguel Pale Pilsen	bottle	1000	32.73	15.49
19	San Miguel Pale Pilsen (embossed label marking)	bottle	320	45.48	15.49
20	Coors Light Beer	bottle	330	43.18	20.57

[13] Among its products are "San Mig Light" in bottle, in can, and in kegs, and its "Other Beer Products", namely, "Pale Pilsen" in can, "San Mig Zero" in bottle, San Mig Zero" in carton, "Premium All-Malt" in bottle, "Premium All-Malt" in carton, "Super Dry" in can, "Red Horse" in can, "San Miguel Flavored Beer-Apple" in bottle, and "San Miguel Flavored Beer-Lemon" in bottle. (Par. 6), Petition for Review, Docket, p.12.

21	San Mig Light	bottle	330	47.99	20.57
22	The Original Coors	bottle	330	32.36	20.57
23	The Silver Bullet Coors light	bottle	330	45.21	20.57
B. NRP is more than P50.60					
	...	...	...		
36	Colt Ice	bottle	330	60.37	20.57
37	Coors Light Beer	can	330	56.03	20.57
38	Red Horse	can	330	56.61	20.57
39	San Mig Cerveza Negra	bottle	320	66.39	20.57
40	San Mig Light	can	330	61.51	20.57
41	San Mig Strong Ice	bottle	330	62.66	20.57
42	San Mig Strong Ice	non-returnable bottle	330	65.10	20.57
43	San Mig Strong Ice	can	330	70.36	20.57
44	San Miguel Oktoberfest Beer	bottle	330	74.75	20.57
45	San Miguel Pale Pilsen	can	330	60.05	20.57
46	San Miguel Premium All Malt Beer	bottle	330	91.73	20.57
47	San Miguel Premium All Malt Beer	can	330	100.30	20.57
48	San Miguel Premium All Malt Beer	non-returnable bottle	330	104.73	20.57
49	Super Dry	can	330	69.90	20.57
50	The Original Coors	can	330	54.00	20.57
51	The Silver Bullet Coorslight	can	330	57.05	20.57

II. List of Brands (not included in the 2010 BIR Price Survey and introduced in the market before the effectivity of R.A. No. 10351) Based on the Latest Suggested Net Retail Price Per Sworn Statement Submitted by the Manufacturer or Importer

	BRAND NAME/ Product Description	TYPE OF PACKAGING	CONTENT PER TYPE OF PACKAGING (in milliliter)	NET RETAIL PRICE (Based on Latest Suggested Net Retail Price Per Sworn Statement) Per Liter	Applicable Excise Tax Rate Per Liter (Effective January 1, 2013)
	A. NRP is P50.60 per liter and below				
	...	...	...		
7	Beer Pale Pilsen	Can	330	48.48	20.57

B. NRP is more than P50.60					
	...	...	...		
14	Carlsberg	can	330	78.79	20.57
15	San Mig Zero	bottle	330	60.58	20.57
16	San Miguel Flavored Beer-Apple	bottle	330	75.76	20.57
17	San Miguel Flavored Beer-Lemon	bottle	330	75.76	20.57
18	San Miguel Magnum Beer Strong Lager	bottle	330	55.18	20.57
19	Stag	can	330	68.18	20.57
20	The Original Coors	bottle	1000	55.00	20.57

Also, the proviso in Section 5 of RR No. 17-2012, which states that "[s]tarting January 1, 2014, the applicable tax rate shall be increase[d] by four percent (4%) annually" is likewise declared as invalid and has no force and effect of law.

Lastly, respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **₱146,874,555.07**, without legal interest, representing erroneously, excessively, and/or illegally collected excise taxes due on the removals of "San Mig Light" in can, in bottle and kegs, "San Miguel Premium All Malt Beer," in bottle and in can, "San Miguel Pale Pilsen" in can, "Super Dry" in can, "Red Horse" in can, "San Mig Zero" in bottle, "San Miguel Flavored Beer-Apple" in bottle, and "San Miguel Flavored-Lemon" in bottle for the period covering January 1, 2018 to December 31, 2018.

SO ORDERED.

On July 25, 2023, petitioner filed a Motion for Reconsideration (Re: Decision dated July 5, 2023)[14] with the Court in Division.

On October 9, 2023, the Court in Division rendered the challenged Resolution, denying petitioner's Motion for Reconsideration, the dispositive portion of which reads:

WHEREFORE, respondent's Motion for Reconsideration [Decision dated 5 July 2023] is **DENIED** for lack of merit.

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[14] Docket, pp. 534-565.

SO ORDERED.[15]

On December 14, 2023, petitioner, within the extended period granted,[16] filed a Petition for Review with the Court *En Banc*,[17] to which respondent filed its comment on February 1, 2024.[18]

Under Resolution dated February 28, 2024, CTA EB No. 2834 was submitted for decision.[19]

ISSUES

I. Did the Court in Division correctly exercise jurisdiction over respondent's judicial claim?

II. Did the Court in Division err in ruling that respondent is entitled to a refund or credit of the overpayment of excise taxes erroneously or illegally collected on its beer products upon removal thereof from its brewery plants for the period from January 1, 2018 to December 31, 2018 in the amount of ₱146,874,555.07?

ARGUMENTS

Petitioner argues that the Court in Division erred in assuming jurisdiction over the case because the ultimate relief sought by respondent was the nullification of RMC No. 90-2012 and RR No. 17-2012.

He explains that under Section 1, Article VIII of the 1987 Philippine Constitution, it is the courts of general jurisdiction and not the Court of Tax Appeals (CTA) which have the authority to determine the validity of BIR issuances.

15 *Rollo*, pp. 77-80.
16 *Rollo*, p. 6.
17 *Id.* at pp. 7-45.
18 *Id.* at pp. 82-111.
19 *Id.* at p. 112.

Petitioner also asserts that respondent in seeking the nullification of said BIR issuances failed to exhaust administrative remedies pursuant to Section 4 of the NIRC, as amended.

Petitioner further maintains that respondent is not entitled to a refund, on the following basis: (1) he was deprived the opportunity to review respondent's claim before seeking judicial relief; and (2) there was no reclassification of San Miguel Light (SML) because it has always been classified as a variant of an existing brand.

In sum, petitioner concludes that the Court in Division erred in partially granting respondent's claim for refund of the excise taxes paid on its beer products upon removal from its brewery plants for the year 2018.

On the other hand, respondent echoes the conclusion reached by the Court in Division that it has jurisdiction to rule on the validity of administrative issuances of the CIR, *i.e.*, the provisions of RMC No. 90-2012 and RR No. 17-2912, both as a direct challenge and in connection with respondent's claim for refund or credit.

Respondent counters that the rule on exhaustion of administrative remedies is not applicable in this case because there is an urgent need for judicial intervention.

To conclude, respondent states that the Court in Division did not err in partially granting its claim for refund because: (1) both its administrative and judicial claims were filed within the two-year prescriptive period in accordance with Section 204 (C) and 229 of the NIRC, as amended; and (2) respondent did not challenge the findings and recommendation of the Independent Certified Public Accountant (ICPA) commissioned by the Court in Division to conduct an audit, examination and verification on the documents supporting respondent's claim for refund.

RULING

The Petition for Review is denied.

The Court *En Banc* finds that the arguments put forward by petitioner in his Petition for Review are the very same flawed contentions he advanced in his Motion for Reconsideration (Re: Decision dated 5 July 2023), all of which have already been passed upon, and found wanting by the Court in Division in the challenged Decision and Resolution. In any event, the Court *En Banc* shall again discuss the salient points in the challenged Decision and Resolution.

Respondent complied with the two-year period prescribed for the filing of a claim for refund or tax credit under Section 204 (C) and 229 in relation to Section 130 (A) (2) of the NIRC, as amended.

Section 7(a)(2) of Republic Act (RA) No. 1125,[20] as amended by RA No. 9282, in relation to Section 3(a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA)[21] clothes the Court with jurisdiction over the inaction of respondent involving refund of internal revenue taxes, among others. Internal revenue taxes

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20 Sec. 7. Jurisdiction. - The CTA shall exercise:

a. **Exclusive appellate jurisdiction to review by appeal**, as herein provided:

...

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; (Boldfacing supplied)

21 **SEC. 3.** *Cases within the jurisdiction of the Court in Division.* - The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

...

(2) **Inaction by 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 Code or other laws, administered by the Bureau of Internal Revenue ... (Boldfacing supplied)

erroneously or illegally collected, may be subject of refund as recognized in Sections 204[22] and 229[23] of the NIRC, as amended.

For excise tax on domestic products in general, the return is filed and the excise tax is paid by the manufacturer or producer before removal of the products from the place of production. Hence, the date of payment of excise tax on domestic products depends on the date of actual removal of the taxable domestic products from the place of production.[24]

Relevantly, *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*[25] explained that the law merely provides two years for a taxpayer to file both the administrative and judicial claims, with the former required to be filed first:

> Consequently, from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the Commissioner of Internal Revenue was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.

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22 **SEC. 204.** *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

...

(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. (Boldfacing supplied)

23 **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.

24 *Commissioner of Internal Revenue v. San Miguel Corp.,* G.R. Nos. 180740 and 180910, November 11,2019.

25 G.R. No. 226592, July 27, 2021.

Here, the reckoning point for the two (2)-year period is January 2, 2018, the earliest date of the removal of the beer products from their place of production. In turn, respondent had until January 2, 2020 to file its administrative and judicial claims. Thus, the Court *En Banc* affirms the Court in Division's ruling that respondent's filing of its administrative claim on October 17, 2019 and judicial claim on December 11, 2019, was timely filed.

The CTA has jurisdiction to rule on the validity of BIR issuances, such as RMC No. 90-2012 and RR No. 17-2012.

The Court *En Banc* is one with the Court in Division that it had jurisdiction over respondent's judicial claim for refund, which included a challenge on the validity RMC No. 90-2012 and RR No. 17-2012.

Banco De Oro, et al. v. Republic of the Phils., et al., (Banco De Oro)[26] definitely settled the previous conflicting jurisprudence on the jurisdiction of the CTA to pass upon the validity of a tax law or regulation. *Banco De Oro* overturned the doctrine in *British American Tobacco v. Camacho, et al.*[27] that jurisdiction over challenges to the validity of tax law or regulation lies with the regional trial court. *Banco De Oro* categorically declared that the CTA has undoubted jurisdiction to pass upon the constitutionality or validity of a tax law or regulation through a direct challenge or when raised by the taxpayer as a defense in disputing or contesting an assessment or claiming a refund, to wit:

> **Section 7, as amended, grants the Court of Tax Appeals the exclusive jurisdiction to resolve all tax-related issues:**
>
> ...
>
> **The Court of Tax Appeals 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**

[26] G.R. No. 198756 (Resolution), August 16, 2016

[27] G.R. No. 163583, August 20, 2008.

contesting an assessment or claiming a refund. It is only in the lawful exercise of its power to pass upon all matters brought before it, as sanctioned by Section 7 of Republic Act No. 1125, as amended.

This Court, however, declares that the Court of Tax Appeals 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).

Section 7 of Republic Act No. 1125, as amended, is explicit that, except for local taxes, appeals from the decisions of quasi-judicial agencies (Commissioner of Internal Revenue, Commissioner of Customs, Secretary of Finance, Central Board of Assessment Appeals, Secretary of Trade and Industry) on tax-related problems must be brought exclusively to the Court of Tax Appeals.

In other words, within the judicial system, the law intends the Court of Tax Appeals to have exclusive jurisdiction to resolve all tax problems. Petitions for writs of *certiorari* against the acts and omissions of the said quasi-judicial agencies should, thus, be filed before the Court of Tax Appeals.

Republic Act No. 9282, a special and later law than Batas Pambansa Blg. 129 provides an exception to the original jurisdiction of the Regional Trial Courts over actions questioning the constitutionality or validity of tax laws or regulations. Except for local tax cases, actions directly challenging the constitutionality or validity of a tax law or regulation or administrative issuance may be filed directly before the Court of Tax Appeals. ...[28]

The pronouncement in *Banco De Oro* that it is the CTA, and not the regional trial courts, that has the jurisdiction to rule on the validity of revenue issuances by the CIR was reiterated in succeeding cases,[29] and most recently in *Manila Peninsula Hotel, Inc. v. Commissioner of Internal Revenue, (Manila Peninsula).*[30]

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28 Boldfacing supplied.

29 *Commissioner of Internal Revenue v. Court of Tax Appeals (First Division),* G.R. Nos. 210501, 211294 & 212490, March 15, 2021; St. Mary's Academy of Caloocan City. Inc. v. *Hon. Kim Jacinto S. Henares,* G.R. No. 230138, January 13, 2021; *Bureau of Internal Revenue v. First E-Bank Tower Condominium Corp.,* G.R. Nos. 215801 & 218924, January 15, 2020; and *Steel Corporation of the Philippines, v. Bureau of Customs (BOC), et al.,* G.R. No. 220502, February 12,2018.

30 G.R. No. 229338, April 17, 2024.

Consistent with *Banco De Oro*, the Court in Division has the authority to pass upon the validity of RMC No. 90-2012 and RR No. 17-2012 in connection with respondent's claim for refund or credit premised on Sections 204[31] and 229[32] of the NIRC, as amended.

The collection of excise taxes at the rate of ₱25.03 per liter on respondent's beer products is contrary to Section 143 of the NIRC, as amended.

Section 5 of RR No. 17-2012 increased the excise tax rate by 4% annually starting January 1, 2014. This contravenes Section 143 of the NIRC, as amended by RA No. 10351, which states that the increase by 4% shall be effective only on January 1, 2018.

Annex "A-1" of RMC No. 90-2012 also imposed excise tax rates of either ₱15.49 or ₱20.57 per liter effective January 1, 2013, regardless of whether the net retail price per liter of volume capacity of the fermented liquor is below or more than ₱50.60 per liter.

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31 SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* – The Commissioner may –

...

(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. (Boldfacing supplied)

32 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.

The Court *En Banc* agrees with the Court in Division that the imposition of excise taxes at the rate of ₱25.03 per liter on petitioner's beer products during the period from January 1, 2018 to December 31, 2018 based on RR No. 17-2012 and RMC No. 90-2012 is contrary to law. Consider the following presentation:

Period	**Excise Tax Rate per liter on locally manufactured fermented liquors under Section 143 of the NIRC, as amended by RA No. 10351**	**Excise Tax Rate per liter on locally manufactured fermented liquors under RR No. 17-2012 and RMC No. 90-2012 that was collected**
January 1, 2013 to December 31, 2013	₱15.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is ₱50.60 or less; or ₱20.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is more than ₱50.60	₱20.57
January 1, 2014 to December 31, 2014	₱17.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is ₱50.60 or less; or ₱21.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is more than ₱50.60.	₱21.39
January 1, 2015 to December 31, 2015	₱19.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is ₱50.60 or less; or ₱22.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is more than ₱50.60.	₱22.25

January 1, 2016 to December 31, 2016	₱21.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is ₱50.60 or less; or ₱23.00 per liter in case the net retail price per liter of volume capacity of the fermented liquor is more than ₱50.60.	₱23.14
January 1, 2017 to December 31, 2017	₱23.50 per liter regardless of the net retail price per liter of volume capacity of the fermented liquor	₱24.07
January 1, 2018 to December 31, 2018	₱24.44 (the excise tax shall be increased by 4% every year thereafter)	₱25.03

In *Manila Peninsula*,[33] the Supreme Court declared as invalid item 11 of RMC No. 46-2008 and RMC No. 31-2011 for expanding and adding requirements not found in the plain language of Section 108(B)(4) of the NIRC, as amended by Republic Act No. 9337:

> It is a well-settled doctrine that the rule-making power of administrative agencies cannot be extended to amend or expand statutory requirements or to embrace matters not originally encompassed by the law. As the Court held in *Secretary of Finance Purisima, et al. v. Rep. Lazatin, et al.*:
>
> *RR 2-2012 is unconstitutional.*
>
> According to the respondents, the power to enact, amend, or repeal laws belong exclusively to Congress. In passing RR 2-2012, petitioners illegally amended the law — a power solely vested on the Legislature.
>
> We agree with the respondents.
>
> **The power of the petitioners to interpret tax laws is not absolute. The rule is that regulations may not enlarge, alter, restrict, or otherwise go beyond the provisions of the law they administer;**

[33] G.R. No. 229338, April 17, 2024.

administrators and implementors cannot engraft additional requirements not contemplated by the legislature.[34]

Similar to *Manila Peninsula,* the SOF and petitioner engaged in law-making when they imposed excise tax rates contrary to Section 143 of the NIRC, as amended. For this reason, the Court *En Banc* holds that the Court in Division was correct in declaring portions of Annex "A-1" of RMC No. 90-2012 and the proviso in Section 5 of RR No. 17-2012 which states that "[s]tarting January 1, 2014, the applicable tax rate shall be increase[d] by four percent (4%) annually" null and void for being contrary to and inconsistent with Section 143 of the NIRC, as amended by RA No. 10351.

The Court in Division correctly ruled that respondent is entitled to a partial refund of the erroneously paid excise taxes.

Based on the findings and conclusions of Mr. George V. Villaruz, the Court-commissioned ICPA complemented by the Court in Division's own determination, the Court in Division correctly found that the removal of 248,939,935.60 liters of respondent's beer products for the year 2018 should have been subjected to an excise tax rate of only ₱24.44 per liter as prescribed under Section 143 of the NIRC, as amended by RA No. 10351, instead of ₱25.03 per liter.

This ₱0.59 discrepancy per liter resulted in an erroneous overpayment of excise taxes in the amount of ₱146,874,555.07.[35]

[34] Boldfacing supplied. Citations omitted.

[35]

	Tax Rate Per Liter	Subject Beer Removals (In Liters)	Amount
Excise Tax Paid per Return	₱25.03	248,939,935.60	₱6,230,966,581.13
Less: Excise Tax Due under Section 143 of the NIRC of 1997, as amended by RA No. 10351	₱24.44		₱6,084,092,026.06
Erroneously, excessively and/or illegally collected Excise Tax	₱0.59		₱146,874,555.07

Precisely, the Court in Division is correct in partially granting respondent's refund or tax credit representing erroneously, excessively, and/ or illegally collected excise taxes due on the removals of "San Mig Light" in can, in bottle and kegs, "San Miguel Premium All Malt Beer," in bottle and in can, "San Miguel Pale Pilsen" in can, "Super Dry" in can, "Red Horse" in can, "San Mig Zero" in bottle, "San Miguel Flavored Beer-Apple" in bottle, and "San Miguel Flavored-Lemon" in bottle for the period covering January 1, 2018 to December 31, 2018, to the extent of ₱146,874,555.97.

To conclude, "[a]lthough the burden of proof to establish entitlement to a refund is on the taxpayer-claimant, the Court has consistently held that once the minimum statutory requirements have been complied with, the claimant should be considered to have successfully discharged their burden to prove its entitlement to the refund. After the claimant has successfully established a *prima facie* right to the refund by complying with the requirements laid down by law, the burden is shifted to the opposing party, *i.e.*, the BIR, to disprove such claim."[36]

WHEREFORE, the Petition for Review, filed by the Commissioner of Internal Revenue on December 14, 2023 in CTA EB No. 2834, is **DENIED**, for lack of merit. The Decision dated July 5, 2023 and the Resolution dated October 9, 2023 in CTA Case No. 10223 are **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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36 *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*, G.R. No. 215159, July 5, 2022. Citations omitted.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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.

ROMAN G. DEL ROSARIO
Presiding Justice