REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PETRON CORPORATION,
Petitioner,

CTA Case No. 10702

Members:

- versus -

REYES-FAJARDO, *Chairperson, and*
ANGELES, *J.J.*

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
JUL 1 4 2026
4:15 p.m.

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DECISION

ANGELES, *J.*:

Before this Court is a *Petition for Review* filed on December 10, 2021[1] by Petron Corporation (petitioner), praying for the refund of, or issuance of a tax credit certificate for the total amount of ₱43,621,425.00, representing excise taxes erroneously paid on its importation of alkylate covered by Bureau of Customs (BOC) Single Administrative Document (SAD) No. 6WOA1900400.[2]

PARTIES

Petitioner is a corporation organized and existing under the laws of the Philippines with principal office at San Miguel Corporation Head Office Complex, 40 San Miguel Avenue, 1550 Mandaluyong City.[3]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) empowered to perform the duties of his office, including, among others, the power to deny or grant tax refunds.[4]

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[1] *Petition for Review*, Docket – Vol. I, pp. 7 to 49.
[2] Exhibit "P-6," Docket – Vol. II, pp. 994 to 995.
[3] *Id.*
[4] *Memorandum*, Docket – Vol. II, pp. 1104 to 1115.

FACTS

On December 11, 2019, petitioner imported 4,846,825 liters of alkylate from Singapore, as follows:[5]

Arrival Date	Vessel Name	Quantity[6]	Bill of Lading No.	Invoice No.	BOC SAD No.
December 14, 2019	M/T Sichem Mumbai[7]	4,846,825 liters[8]	3724[9]	1850002839[10]	6WOA1900400[11]

On December 12, 2019, pursuant to its declarations in SAD No. 6WOA1900400, petitioner paid ₱61,703,480.00 to the BOC,[12] broken down as follows: (a) ₱43,621,425.00 in excise taxes; (b) ₱18,078,275.00 in value-added taxes; and (c) ₱3,780.00 in other fees.[13]

On December 17, 2019, the BOC issued an Authority to Release Imported Goods (ATRIG) No. ELTRDOIL162209[14] authorizing the release of the imported alkylate to petitioner's custody, subject to the payment of ₱43,621,425.00 in excise taxes pursuant to Section 148(f) of the National Internal Revenue Code of 1997 (Tax Code), as amended, as well as value-added tax.

On October 19, 2021, petitioner filed a letter dated October 12, 2021[15] with the Bureau of Internal Revenue (BIR) – Excise LT Audit Division II together with its Application for Tax Credits/Refund (BIR Form No. 1914).[16] Petitioner sought the refund of ₱43,621,425.00 and claimed that the excise tax paid on the subject importation of alkylate was erroneously or illegally collected.[17]

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5 Exhibit "P-6," Docket – Vol. II, pp. 994 to 995.
6 In liters at observed temperature.
7 Exhibit "P-17," Docket – Vol. II, pp. 1018 to 1032.
8 Exhibits "P-5," "P-6," and "P-15," Docket – Vol. II, pp. 993 to 995, and p. 1016.
9 Exhibit "P-15," Docket – Vol. II, p. 1016.
10 Exhibit "P-16," Docket – Vol. II, p. 1017.
11 Exhibit "P-6," Docket – Vol. II, pp. 994 to 995.
12 Exhibit "P-8," Docket – Vol. II, p. 997.
13 Exhibit "P-7," Docket – Vol. II, p. 996.
14 Exhibit "P-5," Docket – Vol. II, p. 993.
15 Exhibit "P-10," Docket – Vol. II, pp. 999 to 1006.
16 Exhibit "P-11," Docket – Vol. II, p. 1007.
17 Exhibit "P-10," Docket – Vol. II, pp. 999 to 1006.

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PROCEEDINGS BEFORE THIS COURT

In view of respondent's inaction on petitioner's administrative claim for refund or issuance of tax credit certificate and alleging that the two (2)-year period under Section 229 of the Tax Code, as amended, would expire on December 12, 2021, petitioner filed the instant *Petition for Review* on December 10, 2021.[18]

On April 29, 2022, respondent filed his *Answer*.[19]

On July 04, 2022, respondent elevated the BIR Records consisting of thirty-seven (37) pages.

On July 11, 2022, petitioner and respondent each filed their respective *Pre-Trial Briefs*.[20] On August 10, 2022, the parties attended the pre-trial conference. On November 18, 2022, this Court promulgated the Pre-Trial Order.[21]

On September 08, 2022, petitioner filed before this Court a *Request for Admission* addressed to respondent.[22]

Trial ensued, and petitioner presented and offered its documentary and testimonial evidence. Respondent did not present any evidence.

On September 27, 2022, petitioner presented the testimonies of its first and second witnesses: Atty. Clarissa A. Arguelles (Atty. Arguelles), petitioner's Tax Manager; and Mr. Elgo R. Lagyap (Mr. Lagyap), petitioner's Terminal Manager for its terminal in Limay, Bataan.[23] During the same hearing, petitioner's *Request for Admission* filed on September 08, 2022 was denied in open court.[24]

On October 11, 2022, petitioner filed a *Motion for Summary Judgment*.[25] On November 02, 2022, respondent filed his *Opposition*

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[18] *Petition for Review*, Docket – Vol. I, pp. 7 to 49.
[19] Docket – Vol. I, pp. 291 to 304.
[20] Docket – Vol. I, pp. 314 to 356, with attachments; and Docket – Vol. I, pp. 357 to 361.
[21] Pre-Trial Order, Docket – Vol. II, pp. 790 to 804.
[22] Docket – Vol. I, pp. 393 to 399.
[23] Order dated September 27, 2022, Docket – Vol. II, pp. 692 to 694
[24] *Id.*
[25] Docket – Vol. II, pp. 747 to 772

(Motion for Summary Judgment).[26] On November 03, 2023, petitioner's *Motion for Summary Judgment* was denied.[27]

On April 28, 2023, and July 11, 2024, petitioner filed its *Manifestation (Re: Supreme Court Decision dated 20 March 2023 in GR No. 255961)*[28] and *Manifestation (Re: Supreme Court Resolution dated 24 January 2024 in G.R. 255961),*[29] respectively. Respondent was directed to file his comment thereto,[30] but failed to do so.

On June 06, 2024, petitioner presented the testimonies of its third and fourth witnesses: Engr. Jurrel D. Pumatong (Engr. Pumatong), petitioner's Process Engineering Manager; and Mr. Jake Martin A. Magana (Mr. Magana), petitioner's OIC – Commercial Services Manager.[31]

On November 05, 2024, petitioner presented the testimony of its fifth witness: Mr. Simon Christopher Mulqueen, an expert witness and the Technical Consultant of Innospec Fuel Specialties.[32] Thereafter, petitioner rested its case. On the same day, respondent's counsel manifested in open court that it would not present any evidence.[33]

On November 20, 2024, petitioner filed its *Formal Offer of Evidence.*[34] On November 22, 2024, respondent filed his *Comment (Re: Formal Offer of Evidence).*[35] On March 31, 2025, this Court resolved petitioner's *Formal Offer of Evidence,*[36] admitting all of petitioner's offered exhibits.

On May 07, 2025[37] and May 13, 2025,[38] respondent and petitioner filed their respective memoranda. Thus, on June 30, 2025, the case was submitted for decision.[39]

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[26] Docket – Vol. II, pp. 778 to 788
[27] Docket – Vol. II, pp. 874 to 884.
[28] Docket – Vol. II, pp. 844 to 868.
[29] Docket – Vol. II, pp. 910 to 921
[30] Docket – Vol. II, pp. 874 to 884.
[31] Order dated June 06, 2024, Docket – Vol. II, pp. 903 to 904.
[32] Order dated November 05, 2024, Docket – Vol. II, pp. 935 to 936.
[33] *Id.*
[34] *Formal Offer of Evidence,* Docket – Vol. II, pp. 939 to 1079, with attachments.
[35] *Comment (Re: Formal Offer of Evidence),* Docket – Vol. II, pp. 1081 to 1085.
[36] Resolution Docket – Vol. II, pp. 1101 to 1103
[37] Memorandum, Docket – Vol. II, pp. 1104 to 1115.
[38] Memorandum, Docket – Vol. II, pp. 1118 to 1172, with attachments.
[39] Minute Resolution, Docket – Vol. II, p. 1173.

ISSUES

The issue in the instant case, as stated in the Pre-Trial Order,[40] is as follows:

> Whether or not petitioner is entitled to a refund of, or issuance of tax credit certificate in the amount of ₱43,621,425.00, representing alleged erroneously paid excise taxes for December 2019.

ARGUMENTS OF THE PARTIES

Petitioner's Arguments

Petitioner claims that its importation of alkylate was erroneously assessed for excise taxes under Section 148(f) of the Tax Code, as amended. Petitioner submits that the alkylate may not be considered as "unleaded premium gasoline" covered by Section 148(f) because the former is merely a raw material produced through a chemical process and used as a blending component in order to produce the latter.

Petitioner also submits that alkylate does not fall under the items enumerated under Section 148(e) of the Tax Code, as amended, which pertain to "naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation." Accordingly, alkylate is a product of the process of alkylation, and not the process of distillation. Moreover, petitioner asserts that alkylate is not similar to the items enumerated in the aforementioned provision.

In any case, petitioner claims that the Supreme Court's decision in *Petron Corporation vs. Commissioner of Internal Revenue,*[41] has already settled the question of whether alkylate is excisable under Section 148(e) of the Tax Code, as amended, in the negative.

Lastly, petitioner submits that both the administrative and judicial claims for refund were timely made within the two(2)-year period under Section 229 of the Tax Code, as amended, and that it adequately established its payment of excise tax sought to be refunded.

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[40] Pre-Trial Order, Docket – Vol. II, pp. 790 to 804.
[41] G.R. No. 255961, March 20, 2023 [Per J. Hernando, First Division].

Respondent's Arguments

Respondent relies on the discussion of this Court *En Banc* in its 2022 decision in *Petron Corporation vs. Commissioner of Internal Revenue*,[42] where it was held that petitioner's importation of alkylate is subject to excise tax under Section 148(e) of the Tax Code, as amended.

RULING OF THE COURT

After a careful review of the records and the parties' arguments, this Court finds the *Petition for Review*[43] impressed with merit.

Preliminarily, this Court deems it proper to determine its jurisdiction over the case at bar.

This Court has jurisdiction over the Petition for Review

Section 7(a)(2) of Republic Act (RA) No. 1125,[44] as amended by RA No. 9282,[45] states:

> Section. 7. Jurisdiction. - The CTA shall exercise:
>
> (a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
>
> (1) 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 relation 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 and underscoring supplied)

[42] CTA EB No. 2425, June 21, 2022 [Per. J. Uy, *En Banc*].
[43] *Petition for Review*, Docket – Vol. I, pp. 7 to 49.
[44] Republic Act No. 1125, June 16, 1954.
[45] Republic Act No. 9282, March 30, 2004.

Similarly, Section 3 (a)(2), Rule 4 of the Revised Rules of the Court of Tax Appeals,[46] states:

> Section. 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:
>
> (1) xxx
>
> (2) **<u>Inaction by the Commissioner of Internal Revenue in cases involving</u>** disputed assessments, **<u>refunds of internal revenue taxes,</u>** 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, where the National Internal Revenue Code or other applicable law provides a specific period for action: *Provided*, that in case of disputed assessments, [...]; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code; (Emphasis and underscoring supplied)

Meanwhile, Sections 204(C) and 229 of the Tax Code, as amended, govern administrative and judicial claims for refund of erroneously or illegally collected taxes. Thus:

> Section. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes*. – The Commissioner may –
>
> (A) xxx
>
> (B) 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 refund within two (2) years after the payment of the tax or penalty: *Provided,* however, That a refund filed showing an overpayment shall be considered as a written claim for credit or refund: *Provided,* further, That in proper cases, the Commissioner shall grant a refund for taxes or penalties within ninety (90) days from the date of complete submission of the documents in support of the application filed: *Provided,* furthermore, That should the Commissioner find that the grant of refund is not proper, the

[46] A.M. No. 05-11-07-CTA, September 16, 2008.

> Commissioner must state in writing the legal and factual basis for the denial: *Provided,* finally, That in case of full or partial denial of the claim for tax refund, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim, appeal the decision with the Court of Tax Appeals.
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> xxx xxx xxx
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> Section 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.

Moreover, the administrative claim must be filed before the judicial claim, and both claims must be filed within two (2) years from payment of the tax.[47] The timeliness of the claim is mandatory and jurisdictional. Thus, this Court cannot take cognizance of a judicial claim filed beyond the two (2)-year prescriptive period.[48]

Here, records show that petitioner paid the excise tax in the amount of ₱43,621,425.00 on December 12, 2019,[49] in connection with its importation of alkylate covered by BOC SAD No. 6WOA1900400.[50] Counting two (2) years therefrom, petitioner had until **December 12, 2021** within which to file both its administrative and judicial claims.

Petitioner filed its administrative claim for refund with the BIR – Excise LT Audit Division II on **October 19, 2021**.[51] Thereafter, petitioner filed the instant *Petition for Review* on **December 10, 2021**. Evidently, both claims were filed within the two-year prescriptive period.

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[47] *Melco Resorts Leisure (PHP) Corporation vs. Commissioner of Internal Revenue*, G.R. No. 271261, April 02, 2025 [Per J. Hernando, First Division].
[48] *Commissioner of Internal Revenue vs. San Miguel Corporation*, G.R. No. 180740, November 11, 2019 [Per J. Hernando, Second Division].
[49] Exhibit "P-8," Docket – Vol. II, p. 997.
[50] Exhibit "P-6," Docket – Vol. II, pp. 994 to 995.
[51] Exhibits "P-10" and "P-11," Docket – Vol. II, pp. 999 to 1007.

Accordingly, the Court finds that petitioner complied with the mandatory jurisdictional requirements under Sections 204(C) and 229 of the Tax Code, as amended.

The Excise Tax Paid on Petitioner's Importation of Alkylate Was Erroneously or Illegally Collected

Under Sections 204(C) and 229 of the Tax Code, as amended, the taxpayer must establish the following requisites for a successful claim for refund of taxes erroneously or illegally collected:

1. There must be an erroneous or illegal collection of tax, or a penalty collected without authority, or sum excessively or wrongfully collected;

2. The administrative claim for refund has been duly filed with the Commissioner, within two (2) years after the payment of tax or penalty; and

3. The suit or proceeding is instituted with this Court within two (2) years from the date of payment of the tax or penalty.

As established in the preceding discussion, petitioner complied with the second and third requisites. The Court now proceeds to determine whether petitioner sufficiently proved that the excise tax sought to be refunded was erroneously or illegally collected.

An "erroneous or illegal tax" is 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, in other similar respects, is illegal.[52]

In this case, petitioner paid ₱43,621,425.00 pursuant to the BOC's assessment of excise taxes under Section 148(f) of the Tax Code, as amended.[53]

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[52] *Commissioner of Internal Revenue vs. Toledo Power Company*, G.R. No. 188497, April 25, 2012 [Per J. Lazaro-Javier, Second Division].
[53] Exhibits "P-5" and "P-6," Docket – Vol. II, pp. 993 and 994 to 995.

Petitioner argues, however, that alkylate is not "unleaded premium gasoline" under Section 148(f). Petitioner further submits that alkylate is likewise not covered by Section 148(e), which imposes excise tax on naphtha, regular gasoline, pyrolysis gasoline, and other similar products of distillation.

Respondent, on the other hand, maintains that petitioner's importation of alkylate is subject to excise tax. Respondent invokes this Court *En Banc*'s 2022 ruling in CTA EB No. 2425,[54] where alkylate was held subject to excise tax under Section 148(e) of the Tax Code, as amended. However, this ruling is not applicable in light of more recent jurisprudence[55] to the contrary, as will be discussed below.

The Court finds for petitioner.

Section 129 of the Tax Code, as amended, provides that excise taxes are imposed on two kinds of goods: (a) goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition; and (b) things imported.[56] Thus:

> Section. 129. Goods and Services Subject to Excise Taxes. - Excise taxes apply to goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to **<u>things imported</u>** as well as services performed in the Philippines. The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.
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> For purposes of this Title, **<u>excise taxes herein imposed and based on weight or volume capacity or any other physical unit of measurement shall be referred to as 'specific tax'</u>** and an excise tax herein imposed and based on selling price or other specified value of the good or service performed shall be referred to as 'ad valorem tax.' (Emphases and underscoring supplied)

However, the mere fact of importation does not, by itself, subject an article to excise tax. In *Avon Products Manufacturing, Inc. vs. Commissioner of Internal Revenue*,[57] the Supreme Court explained that "the current definition of an excise tax is that of a tax levied on a specific article, rather than one 'upon the performance, carrying on, or the exercise of an activity.'" Thus, the article must still fall within the

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[54] *Petron Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 2425, June 21, 2022 [Per. J. Uy, *En Banc*].
[55] *Petron Corporation vs. Commissioner of Internal Revenue*, G.R. No. 255961, March 20, 2023 [Per J. Hernando, First Division].
[56] *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 198759, July 01, 2013 [Per J. Perlas-Bernabe, Second Division].
[57] *Avon Products Manufacturing, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222480, November 07, 2018 [Per J. Tijam, First Division].

goods specifically made subject to excise tax under Title VI of the Tax Code, as amended.

In *Exxonmobil Petroleum and Chemical Holdings, Inc. – Philippine Branch vs. Commissioner of Internal Revenue*,[58] the Supreme Court explained that excise tax is imposed only when two conditions concur: first, the article belongs to any of the categories of goods enumerated in Title VI of the Tax Code; and second, the article is for domestic sale or consumption, unless actually exported.

Thus, the first inquiry is whether alkylate is among the articles made subject to excise tax under Section 148 of the Tax Code, as amended, which enumerates specific articles of manufactured oils and other fuels subject to excise tax, as follows:

> Section. 148. *Manufactured Oils and Other Fuels.* - There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:
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> (a) xxx
> (b) xxx
> (c) xxx
> (d) xxx
> (e) **<u>Naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation</u>**, per liter of volume capacity, Nine pesos (P9.00): Provided, however, That naphtha and pyrolysis gasoline, when used as a raw material in the reproduction of petrochemical products or in refining of petroleum products, or as replacement fuel for natural-gas-fired-combined cycle power plant in lieu of locally-extracted natural gas during the non-availability thereof, subject to the rules and regulations to be promulgated by the Secretary of Finance, per liter of volume capacity, zero (P0.00): Provided, further, That the production of petroleum products, whether or not they are classified as products of distillation and for use solely for the production of gasoline shall be exempt from excise tax: Provided, finally, That the by-product including fuel oil, diesel fuel, kerosene, pyrolysis gasoline, liquefied petroleum gases and similar oils having more or less the same generating power, which are produced in the processing of naphtha into petrochemical products shall be subject to the applicable excise tax specified in this Section, except when such by-products are transferred to any of the local oil refineries through sale, barter or exchange, for the purpose of further processing or blending into finished products which are subject to excise tax under this Section;

[58] G.R. No. 180909, January 19, 2011 [Per J. Mendoza, Second Division].

> (f) **Unleaded premium gasoline**, per liter of volume capacity, Nine pesos (P9.00); (Emphases and underscoring supplied)

Alkylate falls under neither subsection (e) or (f) of Section 148 of the Tax Code, as amended.

Alkylate may not be considered as falling under "Naphtha, regular gasoline, pyrolysis gasoline and other similar products of distillation" under Section 148(e) of the Tax Code, as amended

In *Petron Corporation vs. Commissioner of Internal Revenue*,[59] the Supreme Court categorically stated that, "alkylate is not among the articles covered by Sec. 148 (e) of the 1997 NIRC, as amended." It explained thus:

> 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.
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> xxx xxx xxx
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> At this juncture, it should be clarified that between the two raw materials of alkylate, only isobutane is produced by distillation. In the Judicial Affidavit submitted by petitioner's witness, Simon Christopher Mulqueen (Mulqueen), Light C3-C5 Olefins are typically produced from a fluid catalytic cracker (FCC) and/or coker unit. Isobutane, on the other hand, can be a product of crude oil distillation or may be recovered from other petroleum refinery streams that result from catalytic cracking, catalytic reforming.
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> Thus, it is incorrect to say that both raw materials utilized to produce alkylate are products of distillation, much more to declare alkylate as

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[59] G.R. No. 255961, March 20, 2023 [Per J. Hernando, First Division].

a product of distillation simply because its raw materials are produced through distillation. To be sure, **Sec. 148 (e) of the 1997 NIRC, as amended, imposes excise tax on naphtha, regular gasoline, and other similar products of distillation only, and not on the raw materials or ingredients used for their production.**

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[A]lkylate is a mere component which can be blended into finished gasoline to help meet the specification requirements, particularly those related to octane quality and volatility. As aptly pointed out by petitioner, **alkylate is exclusively intended for use solely as a raw material or blending component in the manufacture of unleaded premium gasoline.** Alkylate has no use as a product by itself as it does not possess the necessary volatility to run a vehicle's engine. This position has been maintained by the experts presented by petitioner during trial and affirmed by DOE OIC Director Obillo. Considering the intended purpose and nature of alkylate, it certainly cannot be placed under the same category as naphtha and regular gasoline.

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).

Corollary to the above rule, the absence of a distinction in Sec. 148 (e) of the 1997 NIRC, as amended, between primary and secondary or direct and indirect products of distillation should work in petitioner's favor.

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Therefore, in construing the phrase "other similar products of distillation" as stated in Sec. 148 (e) of the 1997 NIRC, as amended, the same must only include or be restricted to things or cases akin to, resembling, or of the same kind or class as those specifically mentioned, (*i.e.*, naphtha and regular gasoline). In light of the Court's determination that alkylate does not belong to the same category as naphtha and regular gasoline, the same should not be subjected to excise tax.

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As previously pointed out, **alkylate is not among the excisable articles enumerated in Sec. 148 (e) of the 1997 NIRC, as amended**. Neither can it be categorized as "other similar products of distillation" precisely because it is not a direct product of distillation. Given this, the CTA's reliance on the CIR's administrative interpretation on the matter is utterly misplaced. To reiterate, administrative interpretations cannot go beyond or be inconsistent

> with the terms and provisions of the law it seeks to interpret or implement. (Emphases supplied)

The foregoing ruling squarely applies here.

While respondent invokes this Court *En Banc's* earlier ruling in CTA EB No. 2425,[60] said ruling can no longer prevail over the subsequent pronouncement of the Supreme Court.

Under Article 8 of the Civil Code, judicial decisions applying or interpreting the laws or the Constitution form part of the legal system of the Philippines. This Court is bound to apply the Supreme Court's interpretation of Section 148(e) of the Tax Code, as amended.

Lastly, petitioner presented Mr. Mulqueen's expert testimony explaining that alkylate may not be considered the same as naphtha or gasoline, nor may it be considered as a product of distillation.[61]

Accordingly, alkylate cannot be subjected to excise tax under Section 148(e) of the Tax Code, as amended.

Alkylate may not be considered as falling under "premium unleaded gasoline" under Section 148(f) of the Tax Code, as amended

Neither may alkylate be subjected to excise tax under Section 148(f) of the Tax Code, as amended. Section 148(f) imposes excise tax only on unleaded premium gasoline. Unlike Section 148(e), it does not contain any phrase covering "similar products." Thus, this Court cannot read into Section 148(f) a broader coverage than what its text provides. To this end, the Supreme Court's pronouncement in *Fisher vs. Trinidad*,[62] is instructive:

> The Philippine Legislature has no power to provide a tax upon "automobiles" only, and under that law collect a tax upon a *carreton* or bull cart. Constitutional limitations, that is to say, a statute expressly

[60] *Petron Corporation vs. Commissioner of Internal Revenue*, CTA EB No. 2425, June 21, 2022 [Per. J. Uy, *En Banc*].
[61] Exhibit "P-30," Docket – Vol. II, p.1065.
[62] *Frederick C. Fisher vs. Wenceslao Trinidad, Collector of Internal Revenue*, G.R. No. 17518, October 30, 1922 [Per J. Johnson, *En Banc*].

> adopted for one purpose cannot, without amendment, be applied to another purpose which is entirely distinct and different.

It bears noting that not all claims for tax refund partake of the nature of a tax exemption warranting strict interpretation against the taxpayer.[63] The instant claim for refund is premised not on petitioner's invocation of an exemption from tax, but on the absence of a law supporting the excise tax levied on alkylate. Thus, the doctrine of strict construction of laws in favor of the petitioner applies.[64]

Petitioner's evidence also establishes that alkylate is not unleaded premium gasoline. Alkylate is imported by petitioner solely as a raw material or blending component in the production of gasoline.[65] Petitioner's terminal manager also testified that alkylate is not one of the fuel products sold by petitioner.[66]

The Court is not persuaded that alkylate may be taxed as unleaded premium gasoline merely because it is blended into finished gasoline. A tax cannot be imposed by implication. The taxing statute must clearly, expressly, and unambiguously impose the burden.[67]

Accordingly, absent a specific provision of law imposing excise tax on alkylate, the excise tax collected from petitioner under Section 148(f) of the Tax Code, as amended, was erroneous or illegal.

Petitioner proved its payment of excise taxes sought to be refunded

The Court likewise finds that petitioner sufficiently proved payment of the amount sought to be refunded.

Petitioner presented the BOC SAD covering the subject importation,[68] the ATRIG issued in connection therewith,[69] the BOC Certification confirming the collection of duties and taxes,[70] and the

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[63] *Petron Corporation vs. Commissioner of Internal Revenue*, G.R. No. 255961, March 20, 2023 [Per J. Hernando, First Division].
[64] *Id.*
[65] Exhibit "P-25," Q&A Nos. 25 to 28, Docket – Vol. I, p. 208.
[66] Exhibit "P-26," Docket Vol. II, pp. 1047 to 1057.
[67] *Medicard Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 222743, April 05, 2017 [Per J. Reyes, Third Division]; and *Commissioner of Internal Revenue vs. The Court of Appeals, The Court of tax Appeals and Ateneo De Manila University*, G.R. No. 115349, April 18, 1997 [Per J. Panganiban, Third Division].
[68] Exhibit "P-6," Docket – Vol. II, pp. 994 to 995.
[69] Exhibit "P-5," Docket – Vol. II, p. 993.
[70] Exhibit "P-7," Docket – Vol. II, p. 996.

corresponding Customs Payment Receipts.[71] These documents establish that petitioner imported 4,846,825 liters of alkylate and that the BOC collected excise tax thereon in the amount of ₱43,621,425.00, computed at ₱9.00 per liter.

Petitioner offered testimonial evidence corroborating its documentary evidence. Atty. Arguelles testified that petitioner paid the assessed excise tax to facilitate the release of the imported alkylate, notwithstanding its position that the assessment had no legal basis.[72]

Accordingly, the Court finds that petitioner established by competent evidence that it paid ₱43,621,425.00 as excise tax on the subject importation of alkylate.

Considering that alkylate is not subject to excise tax under Section 148(e) or Section 148(f) of the Tax Code, as amended, the amount collected from petitioner was not legally due. It was therefore erroneously or illegally collected under Sections 204(C) and 229 of the Tax Code, as amended.

In sum, petitioner timely filed its administrative and judicial claims, established payment of the amount sought to be refunded, and proved that the excise tax collected on its importation of alkylate was erroneous or illegal.

Evidently, petitioner sufficiently established its entitlement to the refund of, or the issuance of a tax credit certificate in the amount of ₱43,621,425.00 representing excise taxes erroneously or illegally collected on its importation of alkylate.

WHEREFORE, premises considered, the *Petition for Review* is hereby **GRANTED.** Accordingly, respondent is **ORDERED** to refund or issue a tax credit certificate in favor of petitioner in the amount of ₱43,621,425.00, representing excise taxes paid on December 12, 2019 on its importation of alkylate covered by BOC SAD No. 6WOA1900400.

SO ORDERED.

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[71] Exhibits "P-8" and "P-9," Docket – Vol. II, pp. 997 to 998.
[72] Exhibit "P-25," Docket – Vol. I, pp. 203 to 218.

Marian Ivy F. Reyes-Fajardo

HENRY S. ANGELES
Associate Justice

I CONCUR:

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

Marian Ivy F. Reyes - Fajardo
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.

Ma. Belen S. L.
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice