REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SL HARBOR BULK TERMINAL CORPORATION, *Petitioner,*	**CTA *EB* NO. 2982** (CTA Case No. 10320)
	Present:
-versus-	**RINGPIS-LIBAN**, *P.J.*, **MANAHAN**, **BACORRO-VILLENA**, **MODESTO-SAN PEDRO**, **REYES-FAJARDO**, **CUI-DAVID**, **FERRER-FLORES**, *and* **ANGELES**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: DEC 23 2025 12:30

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DECISION

CUI-DAVID, J.:

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner SL Harbor Bulk Terminal Corporation, assailing the *Decision* dated March 13, 2024 (**assailed *Decision***)[2] and the *Resolution* dated August 8, 2024 (**assailed *Resolution***)[3] of the Court's Special First Division (**Court in Division**). The Court in Division denied petitioner's *Amended Petition for Review*, which sought the issuance of a tax credit certificate (**TCC**) in the amount of ₱9,850,000.00, allegedly representing erroneously paid excise taxes on July 2, 2018, July 4, 2018, August 22, 2018, and August 28, 2018.

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[1] *En Banc (EB)* Docket, pp. 7–23.
[2] *Id.* at 37–55.
[3] *Id.* at 56–59.

THE PARTIES

Petitioner, SL Harbor Bulk Terminal Corporation, is a domestic corporation with principal office at Block 4 Lots 10 and 11, Manila Harbor Center, North Harbor, Barangay 128, Zone 10, Tondo, Manila. It is duly registered with the Bureau of Internal Revenue (**BIR**), Revenue District Office (**RDO**) No. 29. It is engaged in the business of handling, storing, distributing, importing, marketing, buying and selling, at wholesale/retail and to international/domestic customers as may be permitted by law, all kinds of goods, commodities, wares and merchandise of every kind and description such as, but are not limited to fuels, lubricants and other petroleum products, petroleum products mixed with fuel additives, ethanol fuel grade products, and coco methyl ester (**CME**), and of blending and/or manufacturing of blended fuel oil grades.[4]

Respondent, the Commissioner of Internal Revenue (**CIR**), is vested under appropriate laws with the authority to carry out the functions, duties, and responsibilities of his office, including the authority to refund and/or credit taxes under Section 204 of the National Internal Revenue Code (**NIRC**) of 1997, as amended. He holds office at the Office of the CIR, Room 511, BIR National Office Building, BIR Road, Diliman, Quezon City.[5]

THE FACTS AND PROCEEDINGS BEFORE THE COURT

The relevant facts, as found by the Court in Division, are as follows:

> Petitioner claims that it paid the following excise tax on its importations of bunker fuel in the 3rd quarter of 2018:
>
> | Date Paid | Quantity (L) | Rate | Excise Tax |
> |---|---|---|---|
> | July 2, 2018 | 20,775,151.00 | 2.50 | ₱51,937,877.50 |
> | July 4, 2018 | 24,681,137.00 | 2.50 | 61,702,842.50 |
> | August 22, 2018 | 22,267,323.00 | 2.50 | 55,668,307.50 |
> | August 28, 2018 | 24,375,277.00 | 2.50 | 60,938,192.50 |
> | **TOTAL** | **92,098,888.00** | | **₱230,247,220.00** |
>
> Petitioner alleges that it sold a total of 3,940,000 liters of bunker fuel oil (BFO) and special fuel oil (SFO) to tax-exempt entities registered with either the Subic Bay Metropolitan Authority (SBMA) or the Philippine Economic

[4] Exhibit "P-3," Division Docket – Vol. IV, pp. 2084–2119.
[5] Division Docket – Vol. III, pp. 1184–185, JSFI, par. 2 (b).

Zone Authority (PEZA) for the period July to September 2018. By virtue of the exemption under Section 135 (c) of the NIRC, as amended, petitioner allegedly did not pass the excise taxes it paid on the BFO and SFO to said clients.

On August 12, 2020, petitioner filed an administrative claim for issuance of TCC with BIR Revenue District Office No. 29, in the amount of P29,285,082.50, allegedly representing erroneously paid excise taxes on the importation of BFO and SFO.

On August 20, 2020, petitioner filed a Petition for Review alleging inaction on the part of respondent.

On September 29, 2020, petitioner filed a Motion for Leave to Admit Amended Petition for Review, attaching its Amended Petition for Review, which corrects petitioner's measurement of its remaining inventory of imported bunker fuel and diesel as of July 1, 2018, from 88,980.091 liters to 90,461,772 liters.

By Resolution dated October 16, 2020, the Court granted petitioner's Motion for Leave to Admit and admitted petitioner's Amended Petition for Review.

On December 4, 2020, respondent filed his Amended Answer.

On January 22, 2021, respondent transmitted to the Court the BIR Records of the case.

On February 4, 2021, the Pre-Trial Conference was held.

On February 19, 2021, the parties posted their Joint Stipulations of Facts and Issues, which the Court approved through Resolution dated March 9, 2021. On the basis thereof, a Pre-Trial Order dated June 21, 2021, was issued.

Trial ensued during which petitioner presented as its witnesses: (1) Ms. Shiela Mary A. Ahing, petitioner's Finance Manager; (2) Mr. Christian Ivan R. Requinta, petitioner's Trading Head; (3) Ms. Jenny V. Catriz, petitioner's Billing Head; and, (4) Ms. Ma. Alma C. Sese, the Court-commissioned Independent Certified Public Accountant (ICPA Sese).

On November 8, 2021, petitioner posted its Formal Offer of Evidence (with Motion to Re-Mark Exhibits), to which respondent filed his Comment/Opposition [Re: Petitioner's Formal Offer of Evidence dated 08 November 2021] on November 26, 2021.

Under Resolution dated March 21, 2022, the Court granted petitioner's Motion to Re-Mark Exhibits, and admitted petitioner's offered exhibits, except for:

1. Exhibits "P-1," "P-1-1," "P-6," "P-12," "P-12-1," "P-16," "P-16-1," "P-16-2," "P-17," and "P-17-1," for failure to present the original for comparison;

2. Exhibit "P-5," for failure to present the original for comparison, and for failure to correspond with the document actually marked and as identified by the witness;

3. Exhibits "P-25" and "P-26," for not being found in the records; and,

4. Exhibits "P-2," "P-2-1," "P-32-1.4-A," "P-32-2.4-A," "P-36-1," "P-36-2," "P-36-3," "P-36-4," "P-36-5," "P-36-6," "P-36-7," "P-36-8," "P-36-9," "P-36-10," "P-36-11," "P-36-12," "P-36-13," "P-36-14," "P-36-15," "P-36-16," and "P-36-17," for failure to identify.

On May 6, 2022, petitioner posted its Omnibus Motion (Re: Resolution dated 21 March 2022), to which respondent filed his Comment/Opposition [Re: Petitioner's Omnibus Motion dated 06 May 2022] on June 20, 2022.

Through Resolution dated August 5, 2022, the Court admitted Exhibits "P-6," "P-36-1," "P-36-2," "P-36-3," "P-36-4," "P-36-5," "P-36-6," "P-36-7," "P-36-8," "P-36-9," "P-36-10," "P-36-11," "P-36-12," "P-36-13," "P-36-14," "P-36-15," "P-36-16," and "P-36-17," but still denied the admission of Exhibits "P-1," "P-1-1," "P-12," "P-12-1," "P-16," "P-16-1," "P-16-2," "P-17," and "P-17-1," for failure to present the originals for comparison.

Respondent presented Revenue Officer Kim Edmar M. Lintag as his witness.

On October 3, 2022, respondent filed his Formal Offer of Evidence, to which petitioner posted its Comment/Objection (Re: Formal Offer of Evidence dated 30 September 2022) on October 10, 2022.

By Resolution dated December 6, 2022, the pieces of evidence offered by respondent were admitted.

On February 27, 2023, petitioner filed, via accredited courier, a Motion for Additional Time to File Memorandum.

By Resolution dated March 13, 2023, petitioner's Motion was denied, and this case was submitted for decision, considering respondent's Memorandum filed on January 17, 2023.

On March 14, 2023, petitioner filed its Memorandum, which was expunged from the records through Resolution dated March 16, 2023.

On April 4, 2023, petitioner filed its Omnibus Motion (Re: Resolutions dated 13 March 2023 and 16 March 2023), which the Court denied through Resolution dated June 9, 2023.

On March 13, 2024, the Court in Division rendered the assailed *Decision* denying petitioner's claim for refund.[6] The dispositive portion of the *Decision* states:

> **WHEREFORE**, the Amended Petition for Review filed by SL Harbor Bulk Terminal Corporation, is **DENIED**, for lack of merit.
>
> **SO ORDERED**.

On April 3, 2024, petitioner filed a *Motion for Reconsideration (Re: Decision dated 14 March 2024)*[7] [sic] to which respondent filed his *Comment (to Petitioner's Motion for Reconsideration dated April 3, 2024)* on May 3, 2024.[8]

On August 8, 2024, the Court in Division issued the assailed *Resolution* denying petitioner's *Motion for Reconsideration.*[9] The dispositive portion of the *Resolution* reads:

> **WHEREFORE**, petitioner's Motion for Reconsideration (Re: Decision dated 14 [sic] March 2024), filed on April 3, 2024 is **DENIED**, for lack of merit.
>
> **SO ORDERED**.

On August 29, 2024, petitioner filed the present *Petition for Review,*[10] to which respondent filed his *Comment (To Petitioner's Petition for Review dated August 28, 2024)* on November 27, 2024.[11]

The case was submitted for decision on January 3, 2025.

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6 *EB* Docket, pp. 37–55.
7 Division Docket – Vol. V, pp. 2862–2880.
8 *Id.* at 2883–2895.
9 *EB* Docket, pp. 56–59.
10 *Id.* at 7–23.
11 *Id.* at 63–79.

THE ISSUES

Petitioner alleges that the Court in Division committed the following errors:

I.
[THE] HONORABLE COURT IN DIVISION ERRED IN RULING THAT RESPONDENT IS ENTITLED TO ITS CLAIM FOR REFUND. RESPONDENT IS NOT THE [PROPER] PARTY TO SEEK FOR TAX REFUND.

II.
[THE] HONORABLE COURT IN DIVISION ERRED IN RULING THAT RESPONDENT IS ENTITLED TO A REFUND OF THE ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX FOR THE 1ST TO 4TH QUARTERS OF CALENDAR YEAR 2018. RESPONDENT FAILED TO PROVE THAT THE SAME REMAINED UNUTILIZED AND WERE NOT CARRIED OVER TO THE SUCCEEDING PERIODS.

III.
[THE] HONORABLE COURT IN DIVISION ERRED IN RULING THAT RESPONDENT IS ENTITLED TO A REFUND OF THE ALLEGED UNUTILIZED INPUT VALUE-ADDED TAX FOR THE 1ST TO 4TH QUARTERS OF CALENDAR YEAR 2018. RESPONDENT FAILED TO PROVE THAT ITS INPUT TAX IN THE AMOUNT OF PHP4,128,580.59 IS CREDITABLE AND DIRECTLY ATTRIBUTABLE TO ITS ZERO-RATED SALES.

Petitioner's Arguments

Petitioner contends that the Court in Division erred in reckoning the two-year prescriptive period for filing a claim for refund from the time of payment of excise tax, instead of from the time of sale to tax-exempt entities. Petitioner also argues that the Court in Division "failed to consider the plethora of evidence [it] has submitted which sufficiently establish its right to the tax credit claimed."

Respondent's Arguments

In its *Comment*, respondent argues that the Court in Division should have dismissed the Petition for Review for lack of jurisdiction, as the judicial claim for refund was filed beyond the two-year period prescribed under Sections 204 and 229 of the NIRC of 1997, as amended. Respondent also contends that petitioner failed to prove that it is entitled to the tax credit or refund.

THE COURT *EN BANC'S* RULING

The instant *Petition for Review* lacks merit.

The Court En Banc has jurisdiction over the instant case.

Before delving into the merits of the case, the Court *En Banc* must first determine whether the present *Petition for Review* was timely filed and whether it has jurisdiction over the same.

On August 8, 2024, the Court in Division denied petitioner's *Motion for Reconsideration* through the assailed *Resolution*,[12] which petitioner received on August 13, 2024.

Under Section 3(b), Rule 8[13] of the Revised Rules of the Court of Tax Appeals (**RRCTA**), petitioner had fifteen (15) days from receipt of the assailed *Resolution*, or until August 28, 2024, to file a *Petition for Review*.

However, pursuant to Memorandum Circular No. 61 issued by the Office of the President, work in government offices was suspended on August 28, 2024 "in view of the inclement weather brought about by the Southwest Monsoon." Accordingly, petitioner had until August 29, 2024, the next working day, to file the *Petition for Review*.

On August 29, 2024, petitioner timely filed the *Petition for Review*.

Having established the timeliness of the filing, the Court *En Banc* also finds that it has jurisdiction to take cognizance of this case under Section 2(a)(1), Rule 4[14] of the RRCTA.

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[12] *Id.* at 75–79, *Petition for Review*, Annex "B".

[13] SEC. 3. *Who may appeal; period to file petition.* – ....
(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

[14] *Section 2. Cases Within the Jurisdiction of the Court En Banc.* — The Court *En Banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:
(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; xxx.

Under Sections 204 and 229 of the NIRC of 1997, as amended, the two-year period to file a claim for refund shall be reckoned from the date of payment.

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

> 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. (*Emphasis supplied)*
>
> 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. (*Emphasis supplied)*

The afore-quoted provisions expressly state that both the administrative and judicial claims must be filed within two (2) years **from payment of the tax or penalty**, "regardless of any

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supervening cause that may arise after payment."[15] The law admits of no qualification or exception.

In *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*,[16] the Supreme Court counted the two-year period for filing a claim for refund from the time Caltex electronically filed the excise tax returns.

Admittedly, in the later case of *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*[17] ***(Pilipinas Shell)***, the Supreme Court pronounced that "the status of the petroleum products as tax-exempt solidifies upon the sale to any of the entities enumerated under Section 135, any excise taxes which were previously paid thereon would then be considered as 'erroneously or illegally collected,' and therefore, subject to refund." However, such pronouncement was **not** an interpretation of Sections 204 and 229 of the NIRC of 1997, as amended. The statement was part of the discussion of the Supreme Court to "[reconcile] ... the exemption under Section 135 ... with the idea that liability for the tax attaches to the articles as soon as they come into existence or immediately upon importation." Thus, the Supreme Court concluded therein that "the tax exemption under Section 135 must correspondingly benefit the one who actually bears the liability to pay the same (*i.e.*, the importers/manufacturers of petroleum products sold to international carriers, among others), and not the one who simply bears the economic burden thereof (*i.e.*, the purchasers of the products, such as international carriers)."

Petitioner invokes the ruling of the Supreme Court in *Chevron Philippines, Inc. v. Commissioner of Internal Revenue*,[18] where the Supreme Court mentioned that the exemption becomes operative when petroleum products are sold to tax-exempt entities.

However, the Court notes that the statement was part of the discussion of the Supreme Court **in determining the proper party to file a claim for refund of excise taxes** and not an interpretation of the periods to file under Sections 204 and 229 of the NIRC of 1997, as amended.

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15 *Commissioner of Internal Revenue v. San Miguel Corporation, etseq.*, G.R. Nos. 180740 & 180910, November 11, 2019 [Per J. Hernando, Second Division].
16 G.R. No. 198759, July 1, 2013 [Per J. Perlas-Bernabe, Second Division].
17 G.R. No. 211303, June 15, 2021 [Per J. Perlas-Bernabe, *En Banc*].
18 G.R. No. 210836 (Resolution), September 1, 2015 [Per J. Bersamin, *En Banc*].

Sections 204 and 229 of the NIRC of 1997, as amended, explicitly provide that the two-year period must be counted "from the date of **payment** of the tax or penalty regardless of any supervening cause that may arise after payment." It is a well-settled rule in statutory construction that where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[19]

All told, the Court finds **no reversible error** in the ruling of the Court in Division that the two-year period to file a judicial claim for refund is to be reckoned **from the date of payment**.

Petitioner failed to prove its entitlement to a refund of the alleged erroneously paid excise tax.

The Court in Division correctly found that petitioner failed to substantiate its entitlement to a refund of the alleged erroneously paid excise tax. It observed that it could not be determined whether the bunker fuel oil (BFO) and special fuel oil (SFO) sold to tax-exempt entities were the same petroleum products on which petitioner paid excise taxes on August 22 and 28, 2018.

The Court in Division ratiocinated:

> Yet, an examination of these documents will not show the movement of petitioner's inventory of petroleum products using the first-in, first-out method. **Petitioner submitted the Official Registry Books (ORB) only for the months of June and September 2018. Petitioner should have submitted the ORB for the months of July and August 2018 pursuant to Section 41 of the Revenue Regulations (RR) No. 13-77 for the Court to confirm that the BFO and SFO sold to the tax-exempt entities are the same petroleum products which petitioner paid excise taxes on August 22 and 28, 2018.** Petitioner too, should have provided its properly supported fuel oil inventory record and submitted the sales invoices and other pertinent documents of all its sales for at least the 3rd quarter of 2018 for the Court to properly determine that the fuel oil sold to tax-exempt entities came from the imported lot that petitioner paid for excise taxes on August 22 and 28, 2018. In this regard, ICPA Sese reported a

[19] *Philippine Amusement and Gaming Corporation (PAGCOR) v. Philippine Gaming Jurisdiction Inc., et al.*, G.R. No. 177333, April 24, 2009 [Per J. Carpio-Morales, Second Division].

> significant number of missing invoices for the 3rd quarter of 2018.
>
> Therefore, the Court is convinced that petitioner failed to prove a nexus between the imported BFO and SFO on which petitioner paid excise taxes on August 22 and 28, 2018 and the imported BFO and SFO sold to tax-exempt entities. (*Emphasis supplied; Citations omitted)*

Petitioner argues that its submission was in compliance with the additional documentary requirements under Revenue Memorandum Order (**RMO**) No. 19-2006. It argues that the requirement to submit the Official Registry Books (**ORBs**) was only introduced by the BIR in 2024 through the issuance of RMO No. 16-2024.

Petitioner claims to have relied in good faith on its Independent Certified Public Accountant (**ICPA**) and the applicable tax issuances.

Petitioner's argument does not impress.

The Court notes that this is not the first instance where petitioner's claim for refund was denied on the same ground. Prior to the assailed *Decision* denying petitioner's claim for refund on March 13, 2024, the Court had already denied petitioner's similar refund claim in a *Decision* promulgated on November 15, 2023.[20] Its other refund claims also suffered the same infirmity, particularly in *Decisions* rendered on January 17, 2025,[21] and July 15, 2024.[22]

Further, contrary to petitioner's argument, the requirement of presenting the ORB is not new. In *Ginebra San Miguel, Inc. v. Commissioner of Internal Revenue*, the Court utilized the ORBs to examine the transfer of raw alcohol from one place to another.[23] Likewise, in *Air Philippines Corporation v. Commissioner of Internal Revenue* (2018),[24] the Court's ICPA examined and verified the originals of these ORBs.

Petitioner also argues that the ORBs for the entire year of 2018 were submitted to the ICPA during her examination of documents.

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[20] *SL Harbor Bulk Terminal Corp. v. Commissioner of Internal Revenue*, CTA Case No. 10289, November 15, 2023.
[21] *SL Harbor Bulk Terminal Corp. v. Commissioner of Internal Revenue*, CTA Case No. 10715, January 17, 2025.
[22] *SL Harbor Bulk Terminal Corp. v. Commissioner of Internal Revenue*, CTA Case No. 10368, July 15, 2024.
[23] CTA Case No. 9059, February 6, 2020.
[24] CTA Case Nos. 7872, 7883, 7922, 7929 & 7952, November 8, 2018.

It is axiomatic that the findings and conclusions of the ICPA shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.[25] Further, the court shall consider no evidence which has not been formally offered.[26] Submission to the ICPA is not tantamount to a formal offer to the Court, even if the ICPA Report itself is formally offered.

All told, the Court *En Banc* finds no reversible error on the part of the Court in Division. Accordingly, we affirm the Court in Division in its findings that a part of petitioner's claim for refund was not filed within the statutory prescriptive period reckoned from the date of payment and that petitioner failed to substantiate its entitlement to a refund of the alleged erroneously paid excise taxes.

WHEREFORE, premises considered, the instant *Petition for Review* filed by petitioner SL Harbor Bulk Terminal Corporation is hereby **DENIED** for lack of merit.

Accordingly, the *Decision* dated March 13, 2024, and the *Resolution* dated August 8, 2024, of the Court's Special First Division in CTA Case No. 10320 are hereby **AFFIRMED**.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:

With Separate Opinion
MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

With due respect, I join Presiding Justice Liban's Separate Opinion
CATHERINE T. MANAHAN
Associate Justice

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[25] Section 3, Rule 13, RRCTA.
[26] Section 34, Rule 132, Rules of Court.

With Concurring & Dissenting Opinion
JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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

With due respect, I join Presiding Justice Liban's Separate Opinion
CORAZON G. FERRER-FLORES
Associate Justice

With due respect, I join Presiding Justice Liban's Separate Opinion
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SL HARBOR BULK TERMINAL CORPORATION,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 2982
(CTA Case No. 10320)

Present:

Ringpis-Liban, *P.J.*,
Manahan,
Bacorro-Villena,
Modesto-San Pedro,
Reyes-Fajardo,
Cui-David,
Ferrer-Flores, and
Angeles, *JJ.*

Promulgated:
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SEPARATE OPINION

RINGPIS-LIBAN, *P.J.*:

I concur in the result.

While I agree that petitioner failed to prove its entitlement to a refund of the alleged erroneously paid excise tax, I have reservations on the main opinion's construction of Sections 204 and 229 of the National Internal Revenue Code of 1997, as amended (1997 NIRC).

It is a fundamental rule in statutory construction that laws must be interpreted in a sensible manner, giving effect to their purpose and intent while avoiding unjust or absurd conclusions.[1] When ambiguity arises, the construction that prevents absurdity should prevail.

Courts must give effect to the legislative intent as gathered from the statute as a whole, not merely from isolated provisions.[2] Every section, clause, and phrase should be read in relation to one another so that the law may be construed as a coherent and harmonious whole.[3]

Applying these principles, I cannot concur with the manner in which the main opinion construed Sections 204 and 229 of the 1997 NIRC. These provisions should not be read in isolation or applied in a strictly literal sense. Rather, they must be interpreted in harmony with one another and with the rest of the statute, to give effect to legislative intent and to avoid unreasonable or absurd results. In particular, the phrase "*two (2) years from the date of payment*" and the clause "*regardless of any supervening cause that may arise after payment.*" both found in the second paragraph of Section 229 of the 1997 NIRC, must not be interpreted in a manner that elevates technical compliance over substantive fairness.

This harmonious construction is particularly critical in the context of excise taxes on petroleum products sold to tax-exempt entities. Sections 204 and 229 of the 1997 NIRC must be read in conjunction with Section 135 of the same Code when the claim for refund involves excise taxes on petroleum products sold to tax-exempt entities. In this context, excise taxes may be deemed erroneously or illegally collected only upon the sale of the petroleum products to entities exempt under Section 135. It is only upon such sale that the illegality or error in collection can be ascertained. Consequently, the two-year prescriptive period for filing a claim for refund should be reckoned not from the actual payment of the tax but from the occurrence of its erroneous or illegal collection.

The Supreme Court has consistently applied this principle in cases involving similar factual circumstances. In *Chevron Philippines Inc. v. Commissioner of Internal Revenue*[4] and *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*,[5] the Court held that the payment of excise taxes on imported petroleum products becomes erroneous or illegal only upon their sale to entities that are, by law, exempt from both direct and indirect taxes.

Jurisprudence itself demonstrates that the Supreme Court has, in a number of instances, refrained from applying the two-year prescriptive period under Section 229, as well as its earlier statutory counterparts, in a strictly literal manner. Instead, it has adopted a more reasonable and purposive interpretation consistent

[1] *Commissioner of Internal Revenue v. Philippine Airlines, Inc.*, G.R. Nos. 245330-31, April 1, 2024 citing *Bansilan v. People*, G.R. No. 239518 (Resolution), 888 Phil. 832, 845 (2020).
[2] *Philippine Contractors Accreditation Board v. Manila Water Company, Inc.*, G.R. No. 217590, March 10, 2020.
[3] *Philippine International Trading Corporation v. Commission on Audit*, G.R. No. 183517, June 22, 2010.
[4] G.R. No. 210836 (Resolution), September 1, 2015.
[5] G.R. No. 211303, June 15, 2021.

with the context and objective of the law. In these cases, the Court recognized that the prescriptive period must be applied in harmony with the surrounding provisions of the statute and the factual circumstances giving rise to the claim for refund.

In *ACCRA Investments Corporation v. Court of Appeals, et al.*,[6] the Supreme Court adopted a contextual approach in construing the two-year prescriptive period applicable to claims for refund of excess corporate income taxes for taxable year 1981. It ruled that the period should be reckoned from the date when the final adjustment return was filed—April 15, 1982—and not from December 31, 1981, when the excess income taxes were last withheld and remitted by the withholding agents to the Bureau of Internal Revenue. The Court explained that it is only upon the filing of the final adjustment return that the taxpayer's right to claim a refund becomes finally ascertainable.

To reach this conclusion, the Court correlated Section 230 (the statutory counterpart of the present Section 229) with Sections 49, 69, and 70 of the then 1986 Tax Code. The Supreme Court explained:

> "**It bears emphasis at this point that the rationale in computing the two-year prescriptive period with respect to the petitioner corporation's claim for refund from the time it filed its final adjustment return is the fact that <u>it was only then that ACCRAIN could ascertain whether it made profits or incurred losses in its business operations</u>.** The 'date of payment', therefore, in ACCRAIN's case was when its tax liability, if any, fell due upon its filing of its final adjustment return on April 15, 1982." *(Emphasis and underscoring supplied)*

The Supreme Court reiterated this interpretive approach in *Commissioner of Internal Revenue v. TMX Sales, Inc. and the Court of Tax Appeals.*[7] There, the Court rejected a purely literal construction of the two-year prescriptive period, recognizing that such an interpretation would lead to absurd results. Echoing its ruling in *ACCRA Investments*, the Court held that the two-year prescriptive period should be counted from the date of filing of the final adjustment return, rather than from the date when the first quarterly income tax was actually remitted—a date when the taxpayer could not yet determine whether a refund was due. In so ruling, the Court harmonized Section 292 (now Section 229) with other provisions of the then Tax Code, particularly those on quarterly corporate income tax payments and final adjustment returns. The Court observed that quarterly payments are merely installments of the annual tax due. Only upon filing the final adjustment return can the total tax liability or refund entitlement be ascertained after accounting for all income and deductions for the taxable year.

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[6] G.R. No. 96322, December 20, 1991 ("*ACCRA Investments*").
[7] G.R. No. 83736, January 15, 1992 ("*TMX Sales*").

Consistent with *ACCRA Investments* and *TMX Sales*, the Supreme Court reached the same conclusion in *Commissioner of Internal Revenue v. The Philippine American Life Insurance Co., et al.*,[8] holding that the prescriptive period must be reckoned from the point when the taxpayer's right to a refund becomes ascertainable.

It would be unreasonable to construe that the two-year period to file a claim for refund begins to run even before the taxpayer's right to such refund arises. The status of the petroleum products—whether ultimately taxable or exempt—remains uncertain until their actual sale to any of the entities enumerated under Section 135. Prior to such sale, there exists no factual or legal basis to determine that an erroneous or illegal collection of tax has occurred. To require the taxpayer to file a claim for refund at a time when its right thereto has yet to materialize, or remains merely contingent, would be to compel the performance of an impossible act.

The law does not require the impossible.[9] Neither should we.

Ma. Belen

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

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[8] G.R. No. 105208, May 29, 1995.

[9] *Biraogo v. The Philippine Truth Commission of 2010*, G.R. Nos. 192935 & 193036, December 7, 2010; *Dungo v. People*, G.R. No. 209464, July 1, 2015; *Roy III v. Herbosa*, G.R. No. 207246, November 22, 2016.

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

SL HARBOR BULK TERMINAL CORPORATION, Petitioner,	**CTA EB NO. 2982** (CTA Case No. 10320)
	Present:
- versus -	**RINGPIS-LIBAN,** *P.J.*, **MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: DEC 23 2025 12:30 pm

x - x

CONCURRING AND DISSENTING OPINION

BACORRO-VILLENA, J.:

I concur with the *ponencia* of my esteemed colleague, Associate Justice Lanee S. Cui-David, affirming the Special First Division's findings insofar as it denies the Petition for Review of petitioner SL Harbor Bulk Terminal Corporation (**petitioner**).

However, with due respect, I take exception from the *ponencia*'s affirmation of the Special First Division's determination of the reckoning point of the two (2)-year prescriptive period from which petitioner may claim a tax refund of excise taxes in this case.

Earlier, the Special First Division ruled that: (1) a portion of the subject claim for refund relating to excise payments made on 02 and 04 July 2018 had prescribed; and, (2) petitioner failed to prove that the remaining sales of petroleum products relate to the unprescribed excise tax payments made on 22 or 28 August 2018 and came from petitioner's importations.

Sections 204(C) and 229 of the National Internal Revenue Code (**NIRC**) of 1997, as amended, provide that:

> ...
>
> **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.
>
> ...
>
> **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.[1]
>
> ...

In evaluating the timeliness of the subject claim for refund, the Special First Division considered the following pertinent dates:

[1] Emphasis supplied and italics in the original text.

Date of payment of excise tax	**Last day of the two (2) year prescriptive period to file a claim for tax credit**	**Date of filing of an administrative claim for a tax credit**	**Date of filing of a judicial claim for a tax credit**
02 July 2018	02 July 2020	12 August 2020	20 August 2020
04 July 2018	04 July 2020		
22 August 2018	22 August 2020		
28 August 2018	28 August 2020		

The Special First Division reckoned the running of the two (2)-year prescriptive period from the payment of excise taxes *i.e.*, upon importation of the subject petroleum products, and held that petitioner's claim on its 02 and 04 July 2018 payments had already prescribed:

> ...
>
> Here, petitioner paid excise tax due on its importation of BFO and SFO to the Bureau of Customs in the amount of ₱9,850,000.00 on July 2, 2018, July 4, 2018, August 22, 2018, and August 28, 2018. Following *Carrier*, it had two (2) years from July 2, 2018, July 4, 2018, August 22, 2018, and August 28, 2018, or until July 2, 2020, July 4, 2020, August 22, 2020 and August 28, 2020, respectively, to file both its administrative and judicial claims for tax credit. Record shows that petitioner filed its administrative claim for tax credit on August 12, 2020, while the judicial claim for tax credit was filed on August 20, 2020. Therefore, **petitioner's judicial claim pertaining to excise taxes paid on July 2, 2018, and July 4, 2018 is barred by the statute of limitations.**[2]
>
> ...

I, respectfully, disagree on this particular point.

Firstly, in the instant case, petitioner claims that it sold petroleum products to tax-exempt entities registered with the Subic Bay Metropolitan Authority (**SBMA**) and Philippine Economic Zone Authority (**PEZA**), pursuant to Section 135 of the NIRC of 1997, as amended, which states that:

> ...
>
> **SEC. 135.** *Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.* — Petroleum products sold to the following are exempt from excise tax:
>
> (a) International carriers of Philippine or foreign registry on their use or consumption outside the Philippines: *Provided*, That the petroleum products sold to these international carriers shall be

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[2] Assailed Decision in CTA Case No. 10320, *rollo*, p. 45; citations omitted; emphasis supplied and italics in the original text.

stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner;

(b) Exempt entities or agencies covered by tax treaties, conventions and other international agreement for their use or consumption: *Provided, however*, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and

(c) **Entities which are by law exempt from direct and indirect taxes.**[3]

...

In the case of *Chevron Philippines Inc. v. Commissioner of Internal Revenue*[4], the Supreme Court elucidated that the aforecited operates as a condition as to the taxability of the petroleum products, to wit:

...

Pursuant to Section 135(c), *supra*, petroleum products sold to entities that are by law exempt from direct and indirect taxes are exempt from excise tax. The phrase *which are by law exempt from direct and indirect taxes* describes the entities to whom the petroleum products **must be sold in order to render the exemption *operative***. Section 135(c) should thus be construed as an exemption in favor of the petroleum products on which the excise tax was levied in the first place. The exemption cannot be granted to the buyers — that is, the entities that are by law exempt from direct and indirect taxes — because they are not under any legal duty to pay the excise tax.

...

Inasmuch as its liability for the payment of the excise taxes accrued immediately upon importation and prior to the removal of the petroleum products from the customs house, Chevron was bound to pay, and actually paid such taxes. But the status of the petroleum products as exempt from the excise taxes would be confirmed only upon their sale to CDC in 2007 (or, for that matter, to any of the other entities or agencies listed in Section 135 of the NIRC). Before then, Chevron did not have **any legal basis to claim the tax refund or the tax credit as to the petroleum products.**

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3 Emphasis supplied and italics in the original text.
4 G.R. No. 210836 (Resolution), 01 September 2015.

> Consequently, the payment of the excise taxes by Chevron upon its importation of petroleum products was deemed **illegal and erroneous upon the sale of the petroleum products to CDC.**[5]
>
> ...

The same was echoed by the Supreme Court in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*[6], *viz*:

> ...
>
> As may be gleaned from Section 131 as above-cited, although certain articles may be free from excise taxes upon importation, they may subsequently become subject to the same depending on the subsequent buyer. This is essentially the same principle of **subsequent confirmation** espoused by the 2015 *Chevron*, and is also a necessary consequence of excise tax being a property tax, and not a tax on persons.
>
> Considering that the status of the petroleum products as tax-exempt solidifies upon the sale to any of the entities enumerated under Section 135, **any excise taxes which were previously paid thereon would then be considered as "erroneously or illegally collected," and therefore, subject to refund**. In turn, the petroleum products become exempt from excise taxes once it is determined that they are to be sold to, among others, international carriers. This reflects Section 135's wording, *i.e.*, that the petroleum products are considered as tax-exempt once they are "sold to [*inter alia*] x x x [i]nternational carriers."[7]
>
> ...

Clearly from the foregoing, **the refund can only be ascertained**, or **the excise taxes will only be deemed erroneously or illegally collected** *once* the petroleum products are sold to the entities mentioned under Section 135 of the NIRC of 1997, as amended. The phrase "two (2) years from the date of **payment**" of the 2nd paragraph of Section 229 of the NIRC of 1997, as amended, must be read in relation to the title of the same Section, *i.e.*, "Recovery of Tax **<u>Erroneously or Illegally Collected</u>**".

Thus, **the reckoning point of the two (2)-year period must start *not* from the payment of tax *per se* but from the <u>erroneous or illegal payment of tax</u>**. This is the *raison d'etre* of why two (2)-year prescriptive period for excessively collected income taxes reckons from the actual filing of the final adjustment annual income tax return, and not from the payment of

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5 Emphasis and underscoring supplied and italics in the original text.
6 G.R. No. 211303, 15 June 2021.
7 Italics and emphasis in the original text and supplied.

quarterly income tax instead, as held in the case of *Commissioner of Internal Revenue v. Court of Appeals, et al.*[8], to wit:

> ...
>
> Finally, in *Commissioner of Internal Revenue v. Philippine American Life Insurance Co.*, we held:
>
> > **Clearly, the prescriptive period of two years should commence to run only from the time that the refund is ascertained, which can only be determined after a final adjustment return is accomplished**. In the present case, this date is April 16, 1984, and two years from this date would be April 16, 1986. The record shows that the claim for refund was filed on December 10, 1985 and the petition for review was brought before the CTA on January 2, 1986. Both dates are within the two-year reglementary period. Private respondent being a corporation, Section 292 [now Section 230] cannot serve as the sole basis for determining the two-year prescriptive period for refunds. As we have earlier stated in the *TMX Sales* case, Sections 68, 69, and 70 on Quarterly Corporate Income Tax Payment and Section 321 should be construed in conjunction with it.
>
> ...
>
> Thus, it can be deduced from the foregoing that, in the context of §230, which provides for a two-year period of prescription counted "from the date of payment of the tax" for actions for refund of corporate income tax, the two-year period should be computed from the time of actual filing of the Adjustment Return or Annual Income Tax Return. **This is so because at that point, it can already be determined whether there has been an overpayment by the taxpayer.** Moreover, under §49(a) of the NIRC, payment is made at the time the return is filed.[9]
>
> ...

By analogy, the two (2)-year prescriptive period must be reckoned from the time petitioner sold the petroleum products to the tax-exempt entities under Section 135 of the NIRC of 1997, as amended, since **only at that point could one can actually ascertain whether there has been an overpayment**. Simply put, it is upon the sale of the manufactured or imported petroleum products (to the entities enumerated under Section 135 of the NIRC of 1997, as amended) that the excise taxes previously paid thereon become wrongfully or erroneously collected, by operation of law, on which a claim for refund under Section 229 may, in turn, be initiated.

Secondly, it bears noting that the law on prescription, being a remedial measure, should be interpreted in a way conducive in bringing about the

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[8] G.R. No. 117254, 21 January 1999.

[9] Citation omitted, emphasis supplied, italics and underscoring in the original text.

beneficent purpose of balancing the taxpayer's and the government's interests. Here, the government's interest of fiscal adequacy, *i.e.*, availability of funds from the collection of taxes being not left subject to the contingency of refund brought about by certain acts (which are solely within the exclusive control of the private contracting parties[10]), must be balanced with the legislative objectives of Section 135 of the NIRC of 1997, as amended, *i.e.*, (a) in fulfillment of the country's obligation, under the Chicago Convention[11] and various bilateral agreements, not to impose excise tax on aviation fuel purchased by international carriers from domestic manufacturers or suppliers to promote and expand international travel through avoidance of multiple taxation and ensure the viability and safety of international air travel; (b) to prevent the practice of "tankering" and instead encourage international carriers to purchase domestic petroleum or establish refueling depots here in our country; and, (c) to avoid the Government the risk of retaliatory actions from other countries.[12]

Lastly, statutory construction enjoins that laws be construed in a manner that avoids absurdity or unreasonableness.[13] It would be the height of absurdity to deny a claim for refund under Section 135 of the NIRC of 1997, as amended, of excise taxes on manufactured and imported petroleum products only *recently* sold to exempt entities on the ground that the payment of the related excise taxes (which was *legally* or *properly* made by the taxpayer) happened beyond the two (2)-year prescriptive period.

To my mind, the strict nature of tax laws does not call for the abandonment of elementary rules of interpretation. *Lex non cognit ad impossibilia* – "**the law does not require the impossible.**" To reckon petitioner's right to claim a tax refund from a time when the same could not as yet be ascertained or more precisely, when its cause of action (*i.e.*, the sale to tax exempt entities) has yet to exist, renders petitioner legally incapable of complying with the requirements to attain the relief it seeks.

Proceeding from the foregoing, it is of my considered view that prescription must instead be determined based on the **date of sale** of the products in question, on a ***per* invoice basis**. The last day of the two (2)-year prescriptive period to file a claim for refund or tax credit should fall two (2) years from the date of sale.

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10 *Atlanta Land Corporation v. Commission of Internal Revenue*, C.T.A. EB No. 79, 23 May 2006.

11 See International Civil Aviation Organization (ICAO) Publications, Convention on International Civil Aviation <https://www.icao.int/publications/pages/doc7300.aspx> (visited 01 December 2025).

12 See Associate Justice Alfredo Benjamin S. Caguioa's Concurring Opinion in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*, *supra* at note 6, citing *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, 19 February 2014.

13 T*he Bureau of Customs and the Commissioner of Customs v. Jade Bros. Farm and Livestock, Inc.*, G.R. No. 246343, 18 November 2021.

In any case, upon determining the portion of petitioner's claim that had not been barred by prescription, it is incumbent upon petitioner to prove, with preponderant evidence, that the same came from its importation of petroleum products since only at this instance that the tax incidence or the actual liability to pay the tax arises. It is at this point that petitioner acquires a standing to file a claim for refund as opposed to its local purchases of petroleum products (wherein only the tax burden is passed on it, hence no excise tax refund should arise therefrom).[14]

In ultimately denying petitioner's claim, the *ponencia* aptly considered that petitioner did not proffer as evidence its relevant Official Registry Book (**ORB**) for the months of July and August 2018, which would have shown the ***monthly*** movement of the petroleum products pursuant to Section 41 of RR No. 13-77.[15] On this score, I concur with the *ponencia*'s finding that the Special First Division incurred no reversible error in this regard, warranting the denial of the present Petition for Review.

On a final note, I would like to reiterate that actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, **but also the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized** and must be duly proven.[16] The burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit.[17]

All told, I vote to **DENY** the petition.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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14 See *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*, supra at note 6.

15 Petroleum Products Regulations.

16 *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 159490, 18 February 2008.

17 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue*, G.R. No. 222428, 19 February 2018.