REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Third Division

PHILIPPINE AIRLINES, INC.,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE and COMMISSIONER OF CUSTOMS,
Respondents.

CTA Case No. 8143

Members:
BAUTISTA, Chairperson
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:

NOV 20 2017
3:41 p.m.

X---X

RESOLUTION

RINGPIS-LIBAN, *J.*:

Before this Court are the following:

1. respondent Commissioner of Internal Revenue's (CIR's) **Motion for Partial Reconsideration**[1], filed on August 3, 2017, with petitioner's **Comment/Opposition**[2], filed on September 15, 2017; and

2. respondent Commissioner of Customs' (COC's) **Motion for Reconsideration**[3] filed by registered mail on August 3, 2017 which the Court received on August 10, 2017, with petitioner's **Comment/Opposition**[4], filed on September 8, 2017.

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[1] *Docket*, pp. 1520-1540.
[2] *Id.*, unpaginated.
[3] *Id.*, pp. 1543-1556.
[4] *Id.*, unpaginated.

Both the Motion for Partial Reconsideration by the CIR and the Motion for Reconsideration of the COC seek the re-evaluation of the Court's Decision[5] dated July 17, 2017, the dispositive portion of which reads as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is **GRANTED**. Accordingly, co-respondents Commissioner of Internal Revenue and Commissioner of Customs are **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Philippine Airlines, Inc. in the amount of **₱302,012,195.86**, representing excise taxes paid for petitioner's importations of Jet A-1 fuel for its domestic operations for the period August 2008 to October 2008.
>
> **SO ORDERED.**"

As grounds for the CIR's Motion for Partial Reconsideration the CIR claims that: 1) the Court has no jurisdiction to declare the assailed DOE Certification and BIR Ruling No. 001-2003 as invalid; 2) petitioner did not present any certification from the BIR's Revenue Accounting Division and, hence, was unable to prove actual remittance of the alleged payment; 3) the presentation of the Authority to Release Imported Goods (ATRIGS) is insufficient to verify that the Jet A-1 Fuel were actually used by petitioner in its transport and non-transport operations; 4) the Court erred in relying on the CAAP Certifications in ruling that the Jet A-1 Fuel was not locally available in reasonably quantity, quality, or price; 5) local available supply is that which is locally available to the market and should include local productions and importations; and 6) a reasonable price is not necessarily the lowest price.

In its Comment/Opposition, petitioner states that the CIR's contentions in its motion are misplaced because 1) the Court has jurisdiction over the subject matter of the petition as the primary issue to be resolved is its entitlement to refund; 2) petitioner sufficiently proved that it paid its corresponding income tax and VAT liabilities; 3) petitioner was able to prove that the Jet A-1 Fuel was actually used for its transport and non-transport operations; 4) the CAAP had authority to issue the subject Certifications which were properly given weight by the Court; and 5) the Court correctly determined that determining locally available supplies exclude importations.

On the other hand, the COC's Motion for Reconsideration is based on the following grounds: 1) there is no sufficient proof which would show that petitioner used the imported Jet A-1 fuel in its transport and non-transport operations; 2) tax refunds are in the nature of tax exemptions and, as such, are

[5] Docket, pp. 1479-1518.

regarded as derogation of sovereign authority and to be construed *strictissimi juris* against the claimant; 3) petitioner was not able to prove that there is no locally available Jet A-1 fuel in reasonable quantity, quality or price at the time of the subject importations; 4) the term "locally available supply" should include importations already in the Philippines; 5) credence should not have been given to the certifications issued by the Air Transportation Office (ATO), now the CAAP, the DOE is the only government instrumentality in charge with administration of programs dealing with energy resources of all forms; and 6) petitioner has not shown its right to exemption from payment of specific taxes on the subject importations.

In its Comment/Opposition, petitioner states that the COC's contentions in its motion are misplaced because: 1) the Authority to Release Imported Goods (ATRIG) and the testimony of Mr. Elvis A. Yao (Mr. Yao) sufficiently prove that petitioner used the imported Jet A-1 fuel in its transport and non-transport operations; 2) petitioner sufficiently proved that there is no locally available Jet A-1 fuel in reasonable quantity, quality or price; 3) the ATO/CAAP had authority to issue the subject certifications which were properly given weight by this Court; 4) the ICPA's findings clearly established that the cost of importing Jet A-1 fuel is reasonably lower than the cost of purchasing the same fuel locally.

After considering the arguments of the parties, it is apparent to this Court that, indeed, the arguments raised by the CIR and the COC in their respective Motions for Reconsideration are not new. They have been previously discussed and considered prior to rendering our Decision promulgated on July 17, 2017.

Considering that no new matters have been raised, the CIR's Motion for Partial Reconsideration and the COC's Motion for Reconsideration are **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen S

MA. BELEN M. RINGPIS-LIBAN
Associate Justice