REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

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COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**CTA EB No. 2527** *(CTA Case Nos. 9327 & 9460)*
	Present:
- versus -	**DEL ROSARIO,** *PJ,* **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
PETRON CORPORATION, *Respondent.*	**Promulgated:** NOV 08 2023 4:08 pm

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RESOLUTION

REYES-FAJARDO, J.:

For the Court's resolution is the Commissioner of Internal Revenue (CIR)'s Motion for Reconsideration [1] of the Decision promulgated on April 20, 2023. In the Assailed Decision, the Court upheld the ruling of the Second Division of the Court (Court in Division) granting Petron Corporation (Petron)'s claim for refund or issuance of tax credit certificate, representing erroneously paid excise taxes on its importation of alkylate, *viz*:

> WHEREFORE, in light of the foregoing considerations, the Petition for Review is DENIED for lack of merit. Accordingly, the assailed Amended Decision dated February 15, 2021 and Resolution dated September 17, 2021, both rendered by the Second Division of this Court in CTA Case Nos. 9327 and 9460 are AFFIRMED.

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[1] *Rollo*, pp. 1295-1305.

Aggrieved, the CIR filed a Motion for Reconsideration dated April 25, 2023, insisting that alkalyte is subject to excise tax under Section 148(e) of the National Internal Revenue Code, as amended (Tax Code).

On the other hand, Petron counters[2] that the instant motion must be denied for being *pro forma*. It emphasizes that alkalyte is not a product of distillation, nor is it similar to naphtha or regular gasoline. Further, it cites the recent case of *Petron Corporation v. Commissioner of Internal Revenue*[3] where the Supreme Court held that alkalyte does not fall under the category of "other similar products of distillation subject to excise tax" as referred to in Section 148(e).

On July 10, 2023, the CIR's Motion for Reconsideration, with Petron's Opposition and Manifestation,[4] was submitted for resolution.

After a careful review of the records of the present case, the Court finds no compelling reason to reverse or modify the Assailed Decision. The instant motion raises the same argument already passed upon and discussed at length by the Court. The CIR has not adduced any substantial argument to warrant reconsideration or modification of the Assailed Decision. It is already settled that if the issues raised in the motion for reconsideration are mere reiterations of those which have already been passed upon and, in fact, adjudged as unmeritorious by the Court, these cannot be regarded as substantial and no longer require another full-blown discussion. Any further discourse will only be unnecessary and repetitive.[5]

At any rate, Petron's argument relative to *Petron Corporation v. Commissioner of Internal Revenue* is well-taken. In the cited case, the Supreme Court declared that Petron was likewise entitled to the refund of erroneously paid excise taxes on its importation of alkylate, because "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*." The Supreme Court explained:

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[2] In its Opposition (to Motion for Reconsideration dated April 25, 2023), *rollo*, pp. 1322-1342.
[3] G.R. No. 255961, March 20, 2023.
[4] *Rollo*, pp. 1270-1277.
[5] *Social Justice Society (S JS) Officers, et al. v. Lim*, G.R Nos. 187836 & 187916, March 10,2015.

> x x x [I]t should be clarified that between the two raw materials of alkylate, only isobutane is produced by distillation x x x
>
> Thus, it is incorrect to say that both raw materials utilized to produce alkylate are products of distillation, much more to declare alkylate as a product of distillation simply because its raw materials are produced by distillation.
>
> x x x it is clear that alkylate 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 x x x 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. (Emphasis supplied)

The above-cited pronouncement bolsters Our ruling in the Assailed Decision. Thus, We are more convinced that there is no compelling reason to reconsider the same.

WHEREFORE, in light of the foregoing considerations, the Commissioner of Internal Revenue's Motion for Reconsideration of the Decision promulgated on April 20, 2023 is **DENIED** for lack of merit.

SO ORDERED.

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

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(Inhibited)
CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice