REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

PILIPINAS SHELL PETROLEUM CORPORATION,
Respondent.

CTA EB No. 1952
(CTA Case No. 9104)

Present:

Del Rosario, *PJ*,
Castañeda, Jr.,
Uy,
Fabon-Victorino,
Ringpis-Liban,
Manahan,
Bacorro-Villena, and
Modesto-San Pedro, *JJ.*

Promulgated:

JUN 29 2020
3:56 p.m.

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DECISION

CASTAÑEDA, JR., *J.*:

Before this Court is a Petition for Review filed by the Commissioner of Internal Revenue (CIR) on November 5, 2018 assailing the Decision[1] and Resolution[2] promulgated on July 27, 2018 and on October 2, 2018, respectively, by the then CTA Third Division/ Special Third Division ("CTA Division", for brevity) in the case *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue,* docketed as CTA Case No. 9104. The

[1] *Rollo*, pp. 22-44; Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred in by Associate Justice (now Retired) Lovell R. Bautista and by Associate Justice Ma. Belen M. Ringpis-Liban; CTA Third Division.
[2] *Id.*, pp. 45-47; Penned by Associate Justice Esperanza R. Fabon-Victorino and concurred in by Associate Justice Ma. Belen M. Ringpis-Liban; CTA Special Third Division.

CTA Division partially granted the Petition for Review filed by Pilipinas Shell Petroleum Corporation (PSPC), and ordered CIR to refund or issue a tax credit certificate (TCC) in favor of PSPC in the amount of ₱56,762,554.12, representing excise taxes erroneously collected on its imported Jet A-1 fuel sold to international carriers for the period August 12, 2013 to December 31, 2013.

The dispositive portion of the July 27, 2018 Decision ("Assailed Decision") reads:

> **WHEREFORE,** the Petition for Review filed by Pilipinas Shell Petroleum Corporation on July 24, 2015, is hereby **PARTIALLY GRANTED.** Accordingly, respondent[3] is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of Pilipinas Shell Petroleum Corporation the amount of ₱56,762,554.12, representing excise taxes erroneously collected on its imported Jet A-1 fuel sold to international carriers for the period August 12, 2013 to December 31, 2013.
>
> **SO ORDERED.**

The dispositive portion of the October 2, 2018 Resolution ("Assailed Resolution") reads:

> **WHEREFORE,** respondent's *Motion for Partial Reconsideration (Re: Decision dated 27 July 2018)* filed on August 17, 2018 is hereby **DENIED,** for lack of merit.
>
> **SO ORDERED.**

THE FACTS

The facts of this case as stated by the then CTA Third Division in the assailed Decision,[4] are as follows:

> Petitioner is a domestic corporation, xxx xxx xxx. It is engaged, among others, in the business of manufacturing, processing, treating and refining petroleum for the purpose of producing marketable petroleum products and by-products and

[3] Now, Petitioner in this CTA *En Banc* case.
[4] *Rollo*, pp. 22-32 ; The petitioner and the respondent in the CTA Division case are now the respondent and the petitioner, respectively, in this CTA *En Banc* case.

the subsequent sale thereof. Petitioner manufactures aviation turbo jet fuel (Jet A-1 fuel) primarily for sale and delivery to foreign and domestic air carriers and other customers. In certain instances, petitioner also imports finished Jet A-1 fuel through its refinery in Tabangao, Batangas, where it has a commingling permit for its imported and locally-manufactured Jet A-1 fuel.

xxx xxx xxx

In August and November 2013, petitioner imported Jet A-1 fuel through its refinery in Tabangao, Batangas. It paid excise taxes for the said importations to the Bureau of Customs (BOC) in Batangas at the rate of P3.67 per liter in accordance with Section 148 of the NIRC of 1997, as amended. The details of the said importation and payment of excise taxes are as follows:

Arrival Date	**IEIRD No.**	**Date**	**Volume in Liters**	**Amount of Excise Taxes Paid**	**Date of Payment**
August 6, 2013	C1782	August 6, 2013	6,543,923	₱24,016,197.41	August 6, 2013
November 21, 2013	C2824	November 21, 2013	8,068,512	29,611,439.04	November 21, 2013
November 25, 2013	C2896	November 27, 2013	8,444,641	30,991,832.47	November 27, 2013
TOTAL			**23,057,076**	**₱84,619,468.92**	

From Tabangao, Batangas, the said imported Jet A-1 fuel were subsequently stored in petitioner's Pandacan installation and thereafter transferred to storage tanks at the Joint Oil Company Aviation Storage Plant (JOCASP) at the Ninoy Aquino International Airport, and to the Clark Aviation Services, Inc. (CASI) located at the Diosdado Macapagal International Airport, for sale and delivery to international and domestic air carriers.

During the period August 12, 2013 to December 31, 2013, petitioner sold Jet A-1 fuel to various international airlines for their use or consumption outside the Philippines, net of excise taxes, as follows:

CUSTOMERS	TOTAL VOLUME IN LITERS
Air Asia, Inc.	10,912
Air China Ltd.	233,056

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All Nippon Airways Company Ltd.	430,912
Asiana Airlines, Inc.	850,665
Capiteq Ltd.	8,728
Cebu Air, Inc.	3,563,397
China Airlines Ltd.	458,801
China Southern Airlines Co. Ltd.	295,949
Dragon Air	3,326
Japan Airlines Int'l Co. Ltd.	881,926
Jetstar Airways Pty. Ltd.	253,767
Jetstar Asia Airways Pte. Ltd.	628,043
Jin Air Co. Ltd.	48,396
Korean Airlines Co. Ltd.	1,349,547
Philippine Airlines, Inc.	5,222,355
Qantas Airways Ltd.	646,473
Singapore Airlines Ltd.	1,601,885
Southeast Asian Airlines	226,655
Starflyer	34,279
TOTAL AVIATION SALES	**16,749,072**
Excise Tax Rate	P3.67
TOTAL EXCISE TAX	**₱61,469,094.24**

On August 18, 2014, petitioner filed a claim for refund or tax credit with the Large Taxpayers Audit and Investigation Division II of the BIR, to recover the excise taxes paid on the sale of petroleum products to international air carriers for the period August 12 to December 31, 2013, in the aggregate amount of P61,469,094.24.

Due to inaction of respondent, petitioner filed the instant Petition for Review with the Court on July 24, 2015.

In his Answer filed on October 9, 2015, respondent submits that petitioner's claim for refund lacks merit. According to respondent, Section 135 of the NIRC of 1997, as amended, does not automatically exempt from excise tax petroleum products sold to international carriers and exempt entities and agencies. Petitioner must first establish that it has complied with the provision of the law granting tax exemption, for which petitioner failed.

Further, petitioner's reliance on Section 135 of the NIRC of 1997, as amended, to support its claim for refund or issuance of tax credit certificate is misplaced. The invoked provision merely states that petroleum products sold to international carriers of Philippine or foreign registry for their use or consumption outside the Philippines are exempt from excise taxes. There is nothing in the said law stating that petitioner is entitled to a refund or the issuance of tax credit certificate for the excise taxes it paid on its imported Jet A-1 fuel.

Lastly, respondent invokes the principle that taxes paid and collected are presumed to have been made in accordance with laws and regulations, and failure on the part of the claimant to present clear and convincing evidence showing that taxes were erroneously or illegally collected is fatal to its claim for refund.

After the pre-trial conference, a Pre-Trial Order was issued on March 22, 2016 based on the parties' Joint Stipulation of Facts and Issues (JSFI) filed with the Court.

To prove its case, petitioner presented (1) its Tax Reporting Manager Maycel Barata; (2) its Import and Export Scheduler for Trading and Supply James Gonzales; (3) its Operations Manager Damaso Pastrana; (4) its Country Tax Manager Nimfa Dimailig; (5) the Head Librarian at the Carlos P. Romulo Library of the Department of Foreign Affairs — Foreign Service Institute Maria Luz Salting-Verdejo; and (6) the Court-commissioned Independent Certified Public Accountant (ICPA) Edward D. Roguel.

Witness **Maycel Barata,** testified that she is familiar with the present case as she has been working with petitioner since March 2007. The instant case involves petitioner's claim for refund or tax credit under Section 135 of the NIRC of 1997, as amended, in the aggregate amount of P61,469,094.24, representing excise taxes it paid on aviation turbo jet fuel (Jet A-1 fuel) it sold to international carriers exempt from excise taxes for the period August 12 to December 31, 2013.

She reviewed the documents required for the filing of the present claim for refund such as those pertaining to the subject importation of Jet A-1 fuel, withdrawal and release of Jet A-1 fuel from the Tabangao refinery, payment of taxes and duties on the importation, and eventual sale of Jet A-1 fuel to international carriers. She was the signatory in letter application for refund or tax credit of excise taxes filed with the BIR.

The general procedure of petitioner's withdrawal of imported Jet A-1 fuel for sale and delivery to tax-exempt international carriers are as follows: Upon arrival of the imported Jet A-1 fuel at the Tabangao refinery, it shall be commingled with the locally-manufactured Jet A-1 fuel as authorized under a commingling permit issued by the BIR and then stored in a product tank at the Tabangao refinery from where it shall be withdrawn either for direct delivery to JOCASP or CASI, or for intermediate storage at the Pandacan installation. The arrival and withdrawal of Jet A-1 fuel at Tabangao refinery are recorded in a Daily Product Movement Report (DPMR) which shows the delivery ticket number and volume of the imported Jet A-1 fuel at the refinery, the Product Transfer Advice (PTA) number, destination, and volume of the Jet A-1 fuel withdrawn from Tabangao refinery. Before the removal of the imported Jet A-1 fuel from the Tabangao refinery, a Withdrawal Certificate (WC) is prepared and signed by the Revenue Officer on Premises (ROOP) and a representative of petitioner. The WC shows the source of the Jet A-1 fuel, its destination, the date of withdrawal, and the volume withdrawn. When the Jet A-1 fuel withdrawn from the Tabangao refinery is imported, the WC will indicate that it is "tax-paid" because it was withdrawn from imported stock and the excise tax thereof has already been paid to the BOC.

As regards locally produced Jet A-1 fuel commingled with imported Jet A-1 in the storage tanks in Tabangao refinery, petitioner maintains an Official Register Book (ORB) which records the receipts and withdrawals of Jet A-1 fuel from the storage tanks. The ORB indicates, among others, the source of the Jet A-1 fuel. Petitioner uses the ORB maintained in Tabangao refinery to determine whether the withdrawal from the storage tanks pertains to imported or locally produced Jet A-1 fuel.

On the other hand, sales and deliveries of imported Jet A-1 fuel to international air carriers are supported by Aviation Service Returns (ASRs) and petitioner's Invoices. The customer air carrier acknowledges receipt from petitioner of a particular volume of Jet A-1 fuel in the ASR. The petitioner's Invoice indicates the quantity, unit price, any other charges, and the total amount due for the Jet A-1 fuel sold and delivered to the customer. If the imported Jet A-1 fuel is sold and delivered to a domestic air carrier, the sale price includes the excise and duty components of the Jet A-1 fuel which is for the account of the domestic air carrier. In contrast, if the imported Jet A-1 fuel is sold and delivered to an international air carrier, the sale price excludes the excise and duty components of the Jet A-1 fuel.

In conclusion, the witness declared that petitioner filed a claim for refund of the excise taxes paid on its imported Jet A-1 fuel sold to tax-exempt international air carriers during the period August 12 to December 31, 2013 on August 18, 2014, with the BIR through the Excise Large Taxpayers Audit Division II.

Petitioner's Import and Export Scheduler for Trading and Supply **James Gonzales** testified that he is familiar with the present petition as he was asked to supply relevant information and documents pertaining to the importation, payment of duties, excise tax and fees on the importation, and release from customs custody of the imported Jet A-1 fuel received through petitioner's Tabangao refinery in August and November 2013.

According to him, petitioner follows specific process and document flows with respect to the importation of Jet A-1 fuel, particularly in the following stages: (1) requisition of goods and importation, (2) arrival and discharge of imported goods, and (3) payment of taxes and import duties.

The importation of Jet A-1 fuel by petitioner starts when its Trading and Supply Department, after determining the need and requirements for importation, contacts its regular suppliers and gives the volume requirements for the Jet A-1 fuel it intends to import. If the prospective supplier expresses interest in meeting petitioner's volume requirements, the Trading and Supply Department shall commence negotiations as to price of Jet A-1 fuel. As soon as petitioner and the supplier agree on the price, petitioner places an order for the purchase of Jet A-1 fuel.

To facilitate the shipment of the imported Jet A-1 fuel, the shipper prepares a Bill of Lading furnishing petitioner and the supplier with a copy thereof together with other documents such as cargo manifest, certificate of origin, and certificate of quantity received. Petitioner will also receive the Tax Invoice indicating the quantity of Jet A-1 fuel purchased. Following the shipment of imported Jet A-1 fuel, petitioner applies for a Special Permit to Discharge (SPD) with the District Collector of Customs, and an Authority to release Imported Goods (ATRIG) with the BIR. 9e

The Statement of Settlement of Duties and Taxes (SSDT) is issued by the BOC to petitioner proves the payment of taxes and duties on the importation. The SSDT names petitioner as the company which settled the taxes and duties, and provides, among others, the assessment reference number, the receipt number and date, the mode of payment, and the total amount of taxes and duties paid. The assessment reference number and total amount paid appearing in the SSDT corresponds to the assessment reference number and total assessed amount in the Temporary Assessment Notice. Since the payment of taxes and duties is based on a Temporary Assessment Notice, such payment has to be finalized by way of payment of the taxes and duties on the price differential, which is usually minimal, if there is any. The final payment of taxes and duties for the importation is evidenced by the machine validation of the amount paid on the right portion of the Import Entry and Internal Revenue Declaration (IEIRD) itself and by the Invoice issued by the BOC. The official receipts (ORs) are likewise issued to corroborate the final payment of duties and taxes.

Witness Gonzales also declared that after the imported Jet A-1 fuel are unloaded and stored in petitioner's Tabangao refinery, they are subsequently withdrawn and delivered either to the JOCASP or CASI, or to the Pandacan installation for immediate storage.

Witness **Damaso Pastrana**, petitioner's Operations Manager centered his testimony on the receipts and withdrawals of imported Jet A-1 fuel at the JOCASP and CASI, their eventual sale and delivery to petitioner's customers and payments thereto.

He explains that upon receipt of imported Jet A-1 fuel either from Tabangao refinery or the Pandacan installation, JOCASP or CASI records the transaction in the DPMR indicating such receipt and its volume. The withdrawal of the imported Jet A-1 fuel from JOCASP or CASI is likewise recorded in the DPMR as well as its volume and destination.

Upon delivery of the Jet A-1 fuel to the international or domestic air carrier, petitioner presents to the authorized representative of the customer air carrier the Aviation Service Return (ASR) in which the customer air carrier acknowledges receipt of the delivery. The ASR also bears the flight number and the destination of the aircraft to show that the fuel received is for international flight consumption.

Ms. Nimfa Dimailig, on the other hand, testified that she caused the filing of petitioner's claim for refund and took active part in the preparation of the documents that will prove petitioner's entitlement to the refund.

Witness Dimailig stated that the basis of petitioner's present claim is Section 135 of the NIRC of 1997, as amended, in relation to Sections 204 and 229 of the same Code. However, for purposes of determining which sale of Jet A-1 fuel by petitioner to international carrier is exempt from excise tax, the witness claimed that petitioner relied on the provision of Section 135 of the NIRC of 1997, as amended, which provides the conditions for such exemption as follows: (1) the international air carrier is registered in a country which grants a reciprocal tax exemption to a Philippine-registered air carrier; and (2) the Jet A-1 fuel sold is used or consumed outside the Philippines. In the case of Philippine Airlines, its exemption from excise tax is based on its legislative franchise, *i.e.,* Presidential Decree No. 1590, specifically Section 13 thereof.

The witness further testified that upon its request, petitioner was furnished by the Department of Foreign Affairs (DFA) with a list of countries granting reciprocal tax exemptions to Philippine-Registered/Designated Air Carriers based on the air transport agreements executed by the Philippines with those countries. The said list indicates that the countries to which petitioner sold its imported Jet A-1 fuel grant tax exemptions to Philippine registered air carriers based on Air Transport Agreements they executed during the relevant period. As to whether the Jet A-1 fuel sold is used or consumed outside the Philippines, petitioner requires its international airline customer to present a Foreign Air Carrier's Permit (FACP) to fly international route. The price indicated in the sales invoice of the Jet A-1 fuel sold and delivered to the tax exempt international air carrier is net of excise tax.

Witness **Maria Luz Salting-Verdejo** is the Head Librarian at the Carlos P. Romulo Library of the Department of Foreign Affairs — Foreign Service Institute (Romulo Library), and the custodian of the agreements entered into by the Philippine Government.

She testified that she informed petitioner that she could not provide it with the formally requested certified true copy of the Air Services Agreement between the Governments of Japan and the Philippines (RP-Japan Agreement) as the Romulo Library was not in possession of the original document. Nevertheless, she provided petitioner with a photo-copy of the said RP-Japan Agreement that was available in Romulo Library. Upon further request, she issued in favor of petitioner a Certification dated February 18, 2016 to the effect that Romulo Library is the repository of the originals of bilateral agreements entered into by the Philippine Government, however, it is not in possession of the original of the RP-Japan Agreement.

The last witness for petitioner **ICPA Edward Roguel** testified that out of the total claim of ₱61,469,094.24, representing excise taxes it paid on petroleum products sold and delivered to international carriers of Philippine or foreign registry for their use or consumption outside the Philippines for the period August 12 to December 31, 2013, only the amount of ₱54,95,113.61*[sic]* was properly supported by relevant documents.

In the Resolutions dated March 21, 2017 and June 23, 2017, all the documents formally offered by petitioner were admitted.

With respondent's manifestation that he would not present evidence for his defense as no report of investigation was submitted by the assigned revenue officer, followed by the submission of the parties' respective memoranda, the case was deemed submitted for decision in the Resolution dated August 31, 2017.

On July 27, 2018, the CTA Division partially granted PSPC's Petition for Review. The CTA Division ordered CIR to refund or issue a TCC in favor of PSPC in the amount of ₱56,762,554.12, representing excise taxes erroneously collected on its imported Jet A-1 fuel sold to international carriers for the period August 12, 2013 to December 31, 2013.

On October 2, 2018, the CTA Division denied CIR's Motion for Partial Reconsideration (Re: Decision dated 27 July 2018) filed on August 17, 2018.

On October 22, 2018, the CTA *En Banc* granted CIR's Motion for Extension of Time to File Petition for Review filed on October 18, 2018. CIR was granted a final and non-extendible period of fifteen (15) days from October 20, 2018 or until November 4, 2018,[5] within which to file his Petition for Review.

On November 5, 2018, CIR timely filed the Petition for Review.

On January 3, 2019, the Court *En Banc* ordered PSPC to file its Comment. PSPC filed its Comment/Opposition [To Petitioner's Petition for Review dated October 31, 2018] on January 31, 2019.

On March 8, 2019, this Court gave due course to the Petition for Review and required the parties to submit their Memoranda within a period of thirty (30) days from receipt of the Resolution.

On April 17, 2019, CIR filed a Manifestation that he is adopting the arguments raised in his Petition for Review filed before this Court as his Memorandum.

On April 26, 2019, PSPC filed its Memorandum.

On May 22, 2019, this case was submitted for Decision.

ISSUE

RESPONDENT IS NOT ENTITLED TO REFUND THE ENTIRE AMOUNT OF ₱61,469,094.24 ALLEGEDLY REPRESENTING EXCISE TAXES IT PAID ON JET A-1 FUEL SOLD TO TAX-EXEMPT INTERNATIONAL AIR CARRIERS FOR THE PERIOD AUGUST 12 TO DECEMBER 13, 2013.

THIS COURT'S RULING

The petition is denied.

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[5] November 4, 2018 fell on a Sunday, thus, the next working day is Monday (November 5, 2018).

In this petition, the CIR raises the following arguments: [6]

I. Section 135 of the NIRC of 1997, as amended, does not automatically exempt from excise tax petroleum products sold to international carriers and exempt entities and agencies.[7]

II. There is no provision in the NIRC of 1997 which provides that respondent is entitled to a refund or the issuance of tax credit certificate for excise taxes paid on imported Jet A-1 fuel sold to international air carriers.[8]

III. Respondent is clearly asking for a refund or issuance of a tax credit certificate which the law itself does not clearly provide.[9]

On the other hand, PSPC argues that the Petition for Review raises no new arguments that have not yet been thoroughly considered and extensively passed upon by the CTA Division; and that CIR continues to assert the rehashed arguments in his Answer dated October 9, 2015, Memorandum dated August 18, 2017, and Motion for Partial Reconsideration dated August 17, 2018 in the instant Petition for Review.

After a careful review of CIR's arguments in this petition, this Court finds that these arguments are the same arguments raised and considered before the CTA Division.

In *Chevron Philippines, Inc. v. Commissioner of Internal Revenue,*[10] the Supreme Court sitting on *En Banc* held that, "Excise tax on petroleum products is essentially a tax on property, the direct liability for which pertains to the statutory taxpayer (*i.e.,* manufacturer, producer or importer). **Any excise tax paid by the statutory taxpayer on petroleum products sold to any of the entities or agencies named in Section 135 of the National Internal Revenue Code (NIRC) exempt from excise tax is deemed illegal or erroneous, and should be credited or refunded to the payor pursuant to Section 204 of the NIRC.** This is because the exemption granted under Section 135 of the NIRC must be construed in favor of the property itself, that is, the petroleum products." *(Emphases Supplied)*

Section 135 of the National Internal Revenue Code (NIRC) of 1997, as amended, states that:

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[6] *Rollo,* pp. 7-15.
[7] *Id.*, p. 9.
[8] *Id.*, p. 10.
[9] *Id.*, p. 12.
[10] G.R. No. 210836, Resolution, September 1, 2015.

> 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 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 agreements 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.

Applicable to this case is Section 135(a) of the NIRC which pertains to the exemption from excise tax of the petroleum products sold to international carriers, whether of Philippine or foreign registry, on their use or consumption outside the Philippines of the petroleum products. Under the said provision of law, these petroleum products sold are required to be 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.

With respect to Section 135(a) of the NIRC of the 1997, jurisprudence is clear on this matter that petroleum products to international carriers are exempt from the payment of the excise tax. It is basic that, "Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines."[11]

The Supreme Court in the case of *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation,*[12]citing the case of *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*[13] *(Pilipinas Shell, for brevity),* categorically states that: ge

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[11] Article 8, Civil Code of the Philippines.
[12] G.R. No. 180402, February 10, 2016
[13] G.R. No. 188497, Resolution, February19, 2014.

Under the **doctrine of *stare decisis***, the Court must adhere to the principle of law laid down in *Pilipinas Shell* and apply the same in the present case, especially since the facts, issues, and even the parties involved are exactly identical. Thus, the Court hereby holds that Pilipinas Shell's claim for refund/tax credit must be granted pursuant to *Pilipinas Shell*, as **its petroleum products sold to international carriers for the period of November 2000 to March 2001 are exempt from excise tax, these international carriers being exempt from payment of excise tax under Section 135(a) of the NIRC.** *(Emphases Supplied)*

In *Pilipinas Shell*, the Supreme Court held that "respondent [PSPC], as the statutory taxpayer who is directly liable to pay the excise tax on its petroleum products, is entitled to a refund or credit of the excise taxes it paid for petroleum products sold to international carriers, the latter having been granted exemption from the payment of said excise tax under Sec. 135(a) of the NIRC."[14]

Applying the foregoing jurisprudence, We find that the CTA Division correctly granted the petition in the amount of ₱56,762,554.12, essentially adopting the ICPA reports, as follows:[15]

	Exhibit	**Volume in Liters**	**Specific Tax @ P3.67 per Liter**
a. Without exceptions noted			
a.1. From the original report	P-112	14,972,783	₱ 54,950,113.61
a.2. From this supplemental report	P-112-1	493,853	1,812,440.51
Total without exceptions		**15,466,636**	**₱ 56,762,554.12**
b. With exceptions noted			
b.1. Sale to international carriers but the source cannot be determined whether imported or locally produced Jet A-1 (not supported by complete relevant documents)	P-113	1,195,332	₱ 4,386,868.44
b.2. Aircraft registration not found in CAAP list	P-114-1	87,104	319,671.68
Total with exceptions		**1,282,436**	**₱ 4,706,540.12**
TOTAL		**16,749,072**	**₱ 61,469,094.24**

In this case, "[a]s ascertained by the ICPA and further verified by the Court, out of the total claim of ₱61,469,094.24, only the amount of P56,762,554.12 were properly substantiated by relevant documents xxx xxx xxx."[16]

[14] *Id.*
[15] Exhibit P-72, p. 3; The entire row "**Total with exceptions**" was added for clarity. Out of the ₱61,469,094.24 claim, the amount of ₱ 4,706,540.12 was with exceptions noted.
[16] *Rollo*, pp. 41-42.

In *Republic of the Philippines, represented by the Commissioner of Internal Revenue v. Team (Phils.) Energy Corporation (formerly Mirant (Phils.) Energy Corporation),*[17] the Supreme Court ruled that "it is fundamental that the findings of fact by the CTA in Division are not to be disturbed without any showing of grave abuse of discretion considering that the members of the Division are in the best position to analyze the documents presented by the parties."

We reiterate with approval the findings of the CTA Division as stated in the assailed Decision,[18] as follows:

> Plain from the foregoing that within the period of August 12, 2013 to December 31, 2013, petitioner [PSPC] imported then sold and delivered Jet A-1 fuel to international carriers, for which the corresponding excise taxes were paid upon importation.
>
> Thus, petitioner [PSPC] proved its entitlement to a refund or issuance of tax credit certificate but in the reduced amount of ₱56,762,554.12, representing excise taxes paid on petroleum products sold to international carriers from August 12, 2013 to December 31, 2013, xxx xxx xxx.

Based on the foregoing discussions, We find no reversible error to disturb the assailed Decision and Resolution of the then CTA Third Division.

WHEREFORE, premises considered, the present Petition for Review filed by the Commissioner of Internal Revenue is **DENIED.** Accordingly, the July 27, 2018 Decision and the October 2, 2018 Resolution of the then CTA Third Division/Special Third Division in CTA Case No. 9104 are **AFFIRMED.**

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

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[17] G.R. No. 188016, January 14, 2015 citing *Sea-Land Service Inc. v. Court of Appeals*, G.R. No. 122605, April 30, 2001, 357 SCRA 441, 445-446.
[18] *Id.*, p. 42.

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice