CTA Form No. 8

22-000552-0063

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CTA CASE NO. 11028

JT INTERNATIONAL (PHILIPPINES), INC.,
Petitioner,

- versus -

NOTICE OF DECISION

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. DOROTHY JOY A. CAY-AN
ATTY. ANGELINA RAYANNA O. MAPAGU
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

LEAGOGO LAW OFFICE
Unit 1908, 19th Floor, Tower 2
High Street, South Corporate Plaza
26th Street corner 11th Avenue, Bonifacio Global City
1634 Taguig City

GREETINGS:

You are hereby notified by these presents that on **June 23, 2026,** a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **June 25, 2026.**

Atty. Maria ~~Johoanna~~ F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

JT INTERNATIONAL (PHILIPPINES), INC., *Petitioner,*	**CTA CASE NO. 11028**
	Members:
- versus -	**BACORRO-VILLENA**, *Acting Chairperson, and* **CUI-DAVID**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 23 2026 11:00 AM

x -x

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review* filed on November 11, 2022, by petitioner JT International (Philippines), Inc. (**petitioner**), against respondent Commissioner of Internal Revenue (**respondent** or **CIR**), seeking the refund or issuance of a tax credit certificate for erroneously paid excise taxes in the total amount of ₱33,127,290.00.[1]

THE PARTIES

Petitioner is a domestic corporation duly organized under Philippine law.[2] It is registered with the Bureau of Internal Revenue (**BIR**)-Revenue District Office No. 124-Excise LT Audit Division II, under Taxpayer Identification Number (TIN) 005-519-158-00000, with address at 11th and 12th Floor, Ore Central Tower, 9th Avenue Corner 31st Street, Bonifacio Global City 1635, Taguig City, NCR, Fourth District, Philippines.[3]

[1] Docket – Vol. I, p. 32, *Petition for Review*, Prayer.
[2] Docket – Vol. II, pp. 696–707, Exhibit "P-1".
[3] Exhibit "P-20", USB (Exhibit "P-44").

Respondent is the duly mandated person authorized to implement the National Internal Revenue Code (**NIRC**), including, among others, the power to 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, subject to rules and issuances of the BIR, or other matters arising under the NIRC or other laws administered by the BIR.[4] He may be served with summons, pleadings and other court processes at Room 703 Litigation Division, BIR National Office Building, Senator Miriam P. Defensor-Santiago Avenue. Diliman, Quezon City.[5]

THE FACTS AND PROCEEDINGS BEFORE THE COURT

On September 7, 2022, petitioner filed with the BIR an administrative claim for refund or issuance of a tax credit certificate in the total amount of ₱33,127,290.00, representing the alleged erroneously paid excise taxes attributable to internal revenue stamps that were allegedly damaged during the flood brought about by Typhoon Ulysses on November 12, 2020.[6]

On November 11, 2022, petitioner filed the present *Petition for Review*.[7]

On February 7, 2023, respondent filed his *Answer*.[8] Thereafter, on July 17, 2023, respondent filed an *Amended Answer*,[9] raising the following special and affirmative defenses: (1) the Court has no jurisdiction over the case; (2) a refund of excise tax is available only in cases of erroneous or illegal payment, but in the instant case, the payment of the excise tax was proper; and (3) refund of excise tax was a convenient way for petitioner to recover its losses, considering that it could no longer be recoverable as a loss nor be entitled to replacement since there has been laches on the part of petitioner.

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[4] Docket – Vol. I, p. 563, *Joint Stipulation of Facts and Issues* (JSFI), Facts Stipulated by Both Parties, par. 1.
[5] *Id.*
[6] Docket – Vol. I, pp. 563–564, JSFI, Facts Stipulated by Both Parties, par. 2; Exhibits "P-11" to "P-11-1", Docket – Vol. II, pp. 753–776.
[7] Docket – Vol. I, pp. 7–37.
[8] *Id.* at 91–105.
[9] Docket – Vol. I, pp. 145–158, attached to Docket – Vol. I, pp. 126–129, *Respondent's Pre-Trial Brief*; Refer to Docket – Vol. I, pp. 164–165, Notice of Resolution dated July 27, 2023.

On July 19, 2023, respondent transmitted to the Court the *BIR Records* pertaining to this case, consisting of three (3) folders.[10]

The Pre-Trial Conference was initially set on July 20, 2023;[11] but was eventually reset and held on November 7, 2023.[12] Prior thereto, petitioner's *Pre-Trial Brief* was filed on July 14, 2023,[13] while *Respondent's Pre-Trial Brief* was submitted on July 17, 2023.[14]

On November 29, 2023, the parties submitted their *Joint Stipulation of Facts and Issues*,[15] which the Court approved in its Resolution dated January 9, 2024,[16] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated February 20, 2024 was thereafter issued.[17]

Trial then ensued, during which both parties presented and formally offered their respective testimonial and documentary evidence.

Petitioner presented the testimonies of the following witnesses: (1) Mr. Roald Johann Lee Yap (**Mr. Yap**),[18] petitioner's Market Supply Chain Director; (2) Mr. Khris P. Quindoza,[19] then petitioner's Tax Manager and presently its Tax Director; and (3) Ms. Carla A. Bawa,[20] the Court-commissioned Independent Certified Public Accountant (**ICPA**).[21]

The *Report* and *Supplemental Report* of the ICPA were submitted on April 8, 2024,[22] and June 2, 2024,[23] respectively.

[10] *Id.* at 160–162, *Compliance* dated July 19, 2023.
[11] *Id.* at 108–109, Notice of Pre-Trial Conference dated February 15, 2023.
[12] Docket – Vol. I, p. 125, Resolution dated July 17, 2023; Docket – Vol. I, p. 172, Notice of Resetting dated October 4, 2023; Docket – Vol. I, pp. 174–174-C and 175–177, Minutes of hearing held on, and Order dated, November 7, 2023, respectively.
[13] Docket – Vol. I, pp. 112–121.
[14] *Id.* at 126–129.
[15] *Id.* at 563–573.
[16] *Id.* at 577–578.
[17] *Id.* at 590–602.
[18] Exhibit "P-12", Docket – Vol. I, pp. 38–51; Docket – Vol. I, pp. 603–603-D, and 604–607, Minutes of the hearing held on, and Order dated, February 21, 2024, respectively.
[19] Exhibit "P-14", Docket – Vol. I, pp. 183–190; Docket – Vol. I, pp. 603–603-D, and 604–607, ; Minutes of the hearing held on, and Order dated, February 21, 2024, respectively.
[20] Exhibit "P-43"; Docket – Vol. I, pp. 649–662; Docket – Vol. II, pp. 668-A–670, Minutes of the hearing held on, and Order dated, July 2, 2024.
[21] Docket – Vol. I, p. 603-E, *Oath of Commission* dated February 21, 2024; Docket – Vol. I, pp. 603–603-D, and 604–607, Minutes of the hearing held on, and Order dated, February 21, 2024, respectively.
[22] Exhibit "P-15", Docket – Vol. I, pp. 609–642.
[23] Exhibit "P-35", Docket – Vol. I, pp. 645-F–645-GG.

On July 12, 2024, petitioner filed its *Formal Offer of Evidence*,[24] to which respondent filed his *Comment (on Petitioner's Formal Offer of Evidence)* on July 16, 2024.[25] In the Resolution dated October 3, 2024,[26] the Court admitted all of petitioner's offered exhibits.

For his part, respondent presented the testimony of Revenue Officer Leonila DC. Manuel.[27]

On November 12, 2024, *Respondent's Formal Offer of Evidence* was filed,[28] to which petitioner filed its *Comment (to Respondent's Formal Offer of Evidence)* on November 15, 2024.[29] In the Resolution dated January 27, 2025,[30] the Court admitted all of respondent's offered exhibits.

Subsequently, on February 17, 2025, respondent filed his *Memorandum*,[31] while petitioner's *Memorandum* was submitted on March 3, 2025.[32]

On March 3, 2025, petitioner filed a *Motion for Leave (to dispose of the flooded goods which are all in bad state/condition subject matter of this case)* ***[Motion for Leave]***,[33] to which respondent submitted his *Opposition [Re: Petitioner's Motion for Leave (to dispose of the flooded goods which are all in bad state/condition subject matter of this case)]* on April 2, 2025.[34] In the Resolution dated May 29, 2025,[35] the Court noted without action petitioner's *Motion for Leave* due to petitioner's failure to establish that the subject flooded goods are under *custodia legis*, a condition that would warrant the exercise of the Court's discretion due to its exclusive jurisdiction over the property.

The present case was submitted for decision on June 30, 2025.[36]

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24 Docket – Vol. II, pp. 672–687.
25 *Id.* at 919–921.
26 *Id.* at 929–930.
27 Docket – Vol. I, pp. 135–140, Exhibit "R-5"; Docket – Vol. II, pp. 931–932, Order dated November 7, 2024.
28 Docket – Vol. II, pp. 935–938.
29 *Id.* at 942–944.
30 *Id.* at 952–953.
31 *Id.* at 956–970.
32 *Id.* at 974–1004.
33 *Id.* at 1008–1111.
34 *Id.* at 1029–1036.
35 *Id.* at 1047–1051.
36 *Id.* at 1052, Notice of Resolution dated June 30, 2025.

THE ISSUE

The parties submit the following issue for this Court's resolution:

> WHETHER PETITIONER IS ENTITLED TO A REFUND OR ISSUANCE OF A TAX CREDIT CERTIFICATE IN THE AMOUNT OF ₱33,127,290.00, REPRESENTING THE ALLEGED ERRONEOUSLY PAID EXCISE TAXES ON ACCOUNT OF DAMAGED INTERNAL REVENUE STAMPS DURING THE FLOOD THAT TOOK PLACE ON 12 NOVEMBER 2020, CAUSED BY TYPHOON ULYSSES.[37]

Petitioner's Arguments

Petitioner argues that it is not guilty of laches because Revenue Regulations (**RR**) No. 7-2014 does not apply to its case and, there is no way to file for a replacement of damaged stamps already affixed to finished goods. Petitioner likewise maintains that this Court validly acquired jurisdiction over the present case. It further contends that *Avon Products Manufacturing, Inc. v. Commissioner of Internal Revenue*,[38] cited by the BIR in its denial letter dated March 30, 2023, is not applicable to its claim and, therefore, could not validly serve as the basis for the denial thereof. Finally, petitioner asserts that it is entitled to a refund or tax credit of the excise taxes component of the flooded goods destroyed by Typhoon Ulysses.

Respondent's Counter-arguments

Respondent, on the other hand, contends that the Court has no jurisdiction over the present case. He argues that a refund of excise taxes is proper only in instances of erroneous or illegal payment and that, in this case, the payment of the excise taxes was valid and proper. Respondent further posits that refund of excise tax was a convenient way for petitioner to recover its losses that may no longer be recoverable as losses or be the subject of replacement due to petitioner's alleged laches. Finally, respondent maintains that claims for tax refund are strictly construed against the taxpayer and in favor of the government.

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[37] Docket – Vol. I, p. 590–602, Pre-Trial Order, IV. Issue to be Tried or Resolved.
[38] G.R. No. 222480, November 7, 2018 [Per J. Tijam, First Division].

THE COURT'S RULING

After a careful and thorough examination of the parties' submissions and the records of the case, the Court finds that it has no jurisdiction over the present *Petition for Review*. Accordingly, the case must be **dismissed**.

Petitioner's administrative claim for refund need not have been filed through the Internal Revenue Stamp Integrated System (IRSIS).

As a preliminary matter, and in relation to the issue of jurisdiction, the Court shall first address respondent's insistence that petitioner's administrative claim should have been filed through the IRSIS within two years from the payment of the subject excise taxes.

Respondent, invoking the First-In-First-Out method for accounting for internal revenue stamps under RR No. 7-2014,[39] avers that petitioner failed to timely file its administrative claim through IRSIS within the two-year period prescribed from the payment of the excise taxes.[40]

The Court is not persuaded.

For one, none of the provisions of RR No. 7-2014 requires the filing of an administrative claim for refund through IRSIS. The regulation merely prescribes the affixture of new internal revenue stamps on imported and locally manufactured cigarettes, whether intended for domestic sale or export, and provides for the use of IRSIS in the ordering, distribution, and monitoring of such stamps under Section 1 thereof.

Moreover, Section 8 of RR No. 7-2014 merely provides for the replacement of internal revenue stamps already in the possession of local manufacturers of cigarettes when such stamps have become spoiled, damaged, rendered unfit for affixture to cigarette products, or are otherwise found to be bad orders.

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39 SUBJECT: Prescribing the Affixture of Internal Revenue Stamps on Imported and Locally Manufactured Cigarettes and the Use of the Internal Revenue Stamp Integrated System (IRSIS) for the Ordering, Distribution and Monitoring Thereof.

40 Docket – Vol. II, p. 960, Respondent's *Memorandum*.

Second, it is Revenue Memorandum Circular (**RMC**) No. 17-2018,[41] and not RR No. 7-2014, that governs the processing of claims for the issuance of tax refunds or tax credit certificates involving taxes erroneously or illegally collected under Section 229 of the NIRC of 1997, as amended, to wit:

> **II. Claims for issuance of tax refund/TCC on income tax, erroneous payment of taxes under Section 204 (C) and recovery of tax erroneously or illegally collected under Section 229 of the Tax Code, as amended, and other taxes, except VAT under Section 112**
>
> A. Issuance of eLA
>
> 1. An eLA shall be issued to cover the audit/verification of claims for issuance of tax refund/TCC other than VAT through the Electronic Letter of Authority Monitoring System (eLAMS) or Case Management System (CMS) of the electronic Tax Information System (eTIS).
>
> 2. The existing procedures in the request, issuance, approval, as well as in the updating of the status of the eLA, through eLAMS/CMS-eTIS, shall be observed by all concerned offices.
>
> B. Claims of taxpayers registered with the RDO
>
> 1. The RDO shall process all claims for tax refund/TCC filed by their registered taxpayers-claimants which shall be reviewed by the Assessment Division prior to transmittal to the Regional Director.
>
> 2. The Regional Director shall be the authorized approving official for claims amounting to Ten Million (10M) Pesos and below. For claims exceeding 10M Pesos, the reports on the said claims shall be signed by the Regional Director, who shall recommend the approval/issuance of the tax refund/TCC.
>
> 3. The docket for claims exceeding 10M shall be transmitted to the TARD for further review prior to approval of the revenue officials in accordance with the thresholds set in item no. I.B.3 hereof.

[41] SUBJECT: Amending Revenue Memorandum Circular (RMC) No. 89-2017 and Certain Provisions of RMC No. 54-2014 Regarding the Processing of Claims for Issuance of Tax Refund/Tax Credit Certificate (TCC) in Relation to Amendments Made in the National Internal Revenue Code of 1997, as Amended by Republic Act No. 10963, Known as the Tax Reform for Acceleration and Inclusion (TRAIN).

4. All memorandum reports recommending claims within the applicable thresholds in item I.B.3 hereof shall be signed by the ACIR – AS prior to final approval by the DCIR – OG/CIR.

C. Claims of taxpayers registered with the LTS

All claims filed with and processed by the Divisions under the LTS shall be reviewed by the HREA prior to approval by the ACIR - LTS. (Emphasis supplied)

As earlier noted, petitioner is a taxpayer registered with BIR-Revenue District Office No. 124 - Excise LT Audit Division II.[42] Thus, under item II.C of RMC No. 17-2018, its claim for refund under Sections 204(C) and 229 of the NIRC of 1997, as amended, should be filed with and processed by the appropriate Division under the Large Taxpayers Service (LTS), subject to review by the Head Revenue Executive Assistant (HREA) prior to approval by the Assistant Commissioner of Internal Revenue for the LTS.

Moreover, despite the non-filing of the present administrative claim for refund through IRSIS, the records show that petitioner's administrative claim was in fact acted upon by then OIC-Assistant Commissioner Mr. Jethro M. Sabariaga through his letter dated March 30, 2023,[43] as mandated under RMC No. 17-2018.

Thus, there is no basis for respondent's assertion that the filing of an administrative claim for refund through IRSIS, within two years from the payment of the excise tax, is a requirement for the validity of petitioner's administrative claim.

Having settled the foregoing matter, the Court now proceeds to determine the issue of jurisdiction.

Governing provisions for refund claims

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

[42] Exhibit "P-20", USB (Exhibit "P-44").
[43] BIR Records – Folder 3 of 3 (Exhibit "R-4"), pp. 98–99, Exhibit "R-3".

> 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. (Emphasis supplied)

The foregoing provisions are unequivocal. A taxpayer seeking a refund or tax credit must first file an administrative claim with the Commissioner within two years from the date of payment of the tax before instituting a judicial claim. **The administrative and judicial claims must both be filed within the same two-year prescriptive period.**

Timeliness of the filing of the claim is <u>mandatory and jurisdictional</u>. Consequently, the Court cannot take cognizance of a judicial claim for refund that is filed either prematurely or beyond the period prescribed by law. It is worthy to stress that with respect to the judicial claim, tax law explicitly provides that it be filed within two years from payment of the tax "regardless of any supervening cause that may arise after payment."[44]

Moreover, the foregoing provisions allow the recovery only of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[45] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[46]

Therefore, for the present claim for refund or tax credit to prosper, petitioner must establish not only the timely filing of both its administrative and judicial claims, but also that the excise taxes sought to be refunded were erroneously, illegally, excessively, or otherwise wrongfully collected.

Petitioner failed to establish that its administrative and judicial claims for refund were timely filed.

In the present case, the Court, upon verification of the submitted Summary of Excise Tax Payments,[47] together with the corresponding *Excise Tax Returns for Tobacco Products* (BIR Form No. 2200-T) and *eFPS Payment Details*, confirmed that the subject excise taxes were paid on various dates from November 27, 2019 to September 23, 2020, as reflected in the table below:

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[44] *Commissioner of Internal Revenue v. San Miguel Corporation*, G.R. Nos. 180740 & 180910, November 11, 2019 [Per J. Hernando, Second Division].

[45] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012[Per J. Villarama, Jr., First Division], citing the definition provided in Black's Law Dictionary, Fifth Edition, p. 486.

[46] *Commissioner of Internal Revenue v. San Roque Power Corporation*, G.R. Nos. 187485 *et al.*, February 12, 2013 [Per J. Carpio, *En Banc*].

[47] Docket – Vol. II, pp. 729–730, Exhibit "P-4".

	Excise/ TIF	Payment/ Removal	Raw Mat/ FG	Import/ CMA	Date of Payment	Amount
A	Excise	Payment	FG	CMA	**Nov. 27, 2019**[48]	3,200,000,000.00
B	Excise	Payment	FG	CMA	Dec. 5, 2019[49]	600,000,000.00
1	Excise	Payment	FG	CMA	Jan. 7, 2020[50]	194,248,550.00
2	Excise	Payment	FG	CMA	Jan. 24, 2020[51]	36,176,250.00
3	Excise	Payment	FG	IMP	Jan. 24, 2020[52]	39,200,000.00
4	Excise	Payment	FG	CMA	Jan. 24, 2020[53]	700,000,000.00
5	Excise	Payment	FG	CMA	Jan. 31, 2020[54]	625,000,000.00
6	Excise	Payment	FG	IMP	Jan. 30, 2020[55]	34,315,000.00
7	Excise	Payment	FG	IMP	Jan. 31, 2020[56]	50,705,000.00
8	Excise	Payment	FG	IMP	Feb. 4, 2020[57]	47,550,000.00
9	Excise	Payment	FG	IMP	Feb. 7, 2020[58]	63,120,000.00
10	Excise	Payment	FG	CMA	Feb. 7, 2020[59]	1,000,000,000.00
11	Excise	Payment	FG	IMP	Feb. 12, 2020[60]	24,610,540.00
12	Excise	Payment	FG	IMP	Feb. 13, 2020[61]	21,943,850.00
13	Excise	Payment	FG	CMA	Feb. 14, 2020[62]	400,000,000.00
14	Excise	Payment	FG	IMP	Feb. 17, 2020[63]	1,870,000.00
15	Excise	Payment	FG	CMA	Feb. 18, 2020[64]	400,000,000.00
16	Excise	Payment	FG	CMA	Feb. 20, 2020[65]	400,000,000.00
17	Excise	Payment	FG	CMA	Feb. 26, 2020[66]	440,905,610.00
18	Excise	Payment	FG	IMP	Mar. 2, 2020[67]	803,175.00
19	Excise	Payment	FG	CMA	Mar. 9, 2020[68]	825,000,000.00
20	Excise	Payment	FG	CMA	Mar. 11, 2020[69]	1,650,000,000.00
21	Excise	Payment	FG	IMP	Mar. 12, 2020[70]	825,000,000.00
22	Excise	Payment	FG	CMA	Apr. 1, 2020[71]	500,000,000.00
23	Excise	Payment	FG	CMA	Apr. 2, 2020[72]	410,000,000.00
24	Excise	Payment	FG	IMP	Apr. 2, 2020[73]	307,500,000.00
25	Excise	Payment	FG	IMP	Apr. 8, 2020[74]	1,217,500,000.00
26	Excise	Payment	FG	IMP	May 11, 2020[75]	1,505,000,000.00
27	Excise	Payment	FG	IMP	May 18, 2020[76]	2,000,000,000.00

48 Exhibit "P-24-17", USB (Exhibit "P-44"); Exhibit "P-4-1", USB (submitted on July 12, 2024).
49 Exhibit "P-24-22", USB (Exhibit "P-44"); Exhibit "P-4-2", USB (submitted on July 12, 2024).
50 Exhibit "P-24-31", USB (Exhibit "P-44"); Exhibit "P-4-3", USB (submitted on July 12, 2024).
51 Exhibit "P-24-36", USB (Exhibit "P-44"); Exhibit "P-4-4", USB (submitted on July 12, 2024).
52 Exhibit "P-24-37", USB (Exhibit "P-44"); Exhibit "P-4-5", USB (submitted on July 12, 2024).
53 Exhibit "P-24-38", USB (Exhibit "P-44"); Exhibit "P-4-6", USB (submitted on July 12, 2024).
54 Exhibit "P-24-40", USB (Exhibit "P-44"); Exhibit "P-4-7", USB (submitted on July 12, 2024).
55 Exhibit "P-24-41", USB (Exhibit "P-44"); Exhibit "P-4-8", USB (submitted on July 12, 2024).
56 Exhibit "P-24-43", USB (Exhibit "P-44"); Exhibit "P-4-9", USB (submitted on July 12, 2024).
57 Exhibit "P-24-45", USB (Exhibit "P-44"); Exhibit "P-4-10", USB (submitted on July 12, 2024).
58 Exhibit "P-24-47", USB (Exhibit "P-44"); Exhibit "P-4-11", USB (submitted on July 12, 2024).
59 Exhibit "P-24-49", USB (Exhibit "P-44"); Exhibit "P-4-12", USB (submitted on July 12, 2024).
60 Exhibit "P-24-52", USB (Exhibit "P-44"); Exhibit "P-4-13", USB (submitted on July 12, 2024).
61 Exhibit "P-24-54", USB (Exhibit "P-44"); Exhibit "P-4-14", USB (submitted on July 12, 2024).
62 Exhibit "P-24-55", USB (Exhibit "P-44"); Exhibit "P-4-15", USB (submitted on July 12, 2024).
63 Exhibit "P-24-58", USB (Exhibit "P-44"); Exhibit "P-4-16", USB (submitted on July 12, 2024).
64 Exhibit "P-24-60", USB (Exhibit "P-44"); Exhibit "P-4-17", USB (submitted on July 12, 2024).
65 Exhibit "P-24-62", USB (Exhibit "P-44"); Exhibit "P-4-18", USB (submitted on July 12, 2024).
66 Exhibit "P-24-65", USB (Exhibit "P-44"); Exhibit "P-4-19", USB (submitted on July 12, 2024).
67 Exhibit "P-24-69", USB (Exhibit "P-44"); Exhibit "P-4-20", USB (submitted on July 12, 2024).
68 Exhibit "P-24-73", USB (Exhibit "P-44"); Exhibit "P-4-21", USB (submitted on July 12, 2024).
69 Exhibit "P-24-78", USB (Exhibit "P-44"); Exhibit "P-4-22", USB (submitted on July 12, 2024).
70 Exhibit "P-24-79", USB (Exhibit "P-44"); Exhibit "P-4-23", USB (submitted on July 12, 2024).
71 Exhibit "P-24-83", USB (Exhibit "P-44"); Exhibit "P-4-24", USB (submitted on July 12, 2024).
72 Exhibit "P-24-84", USB (Exhibit "P-44"); Exhibit "P-4-25", USB (submitted on July 12, 2024).
73 Exhibit "P-24-85", USB (Exhibit "P-44"); Exhibit "P-4-26", USB (submitted on July 12, 2024).
74 Exhibit "P-24-88", USB (Exhibit "P-44"); Exhibit "P-4-27", USB (submitted on July 12, 2024).
75 Exhibit "P-24-99", USB (Exhibit "P-44"); Exhibit "P-4-28", USB (submitted on July 12, 2024).
76 Exhibit "P-24-109", USB (Exhibit "P-44"); Exhibit "P-4-29", USB (submitted on July 12, 2024).

	Excise/ TIF	Payment/ Removal	Raw Mat/ FG	Import/ CMA	Date of Payment	Amount
28	Excise	Payment	FG	IMP	May 22, 2020[77]	1,000,000,000.00
29	Excise	Payment	FG	CMA	May 29, 2020[78]	51,975,000.00
30	Excise	Payment	FG	IMP	May 29, 2020[79]	948,025,000.00
31	Excise	Payment	FG	CMA	June 5, 2020[80]	94,500,000.00
32	Excise	Payment	FG	IMP	June 8, 2020[81]	3,405,500,000.00
33	Excise	Payment	FG	CMA	June 11, 2020[82]	70,875,000.00
34	Excise	Payment	FG	IMP	June 11, 2020[83]	429,125,000.00
35	Excise	Payment	FG	CMA	June 19, 2020[84]	245,025,000.00
36	Excise	Payment	FG	IMP	June 19, 2020[85]	754,975,000.00
37	Excise	Payment	FG	IMP	June 25, 2020[86]	1,000,000,000.00
38	Excise	Payment	FG	IMP	July 3, 2020[87]	1,500,000,000.00
39	Excise	Payment	FG	IMP	July 8, 2020[88]	1,500,000,000.00
40	Excise	Payment	FG	IMP	July 15, 2020[89]	481,600,000.00
41	Excise	Payment	FG	CMA	July 15, 2020[90]	518,400,000.00
42	Excise	Payment	FG	IMP	July 23, 2020[91]	500,000,000.00
43	Excise	Payment	FG	IMP	July 29, 2020[92]	500,000,000.00
44	Excise	Payment	FG	IMP	Aug. 7, 2020[93]	3,391,150,000.00
45	Excise	Payment	FG	CMA	Aug. 10, 2020[94]	608,850,000.00
46	Excise	Payment	FG	IMP	Aug. 12, 2020[95]	2,500,000,000.00
47	Excise	Payment	FG	IMP	Aug. 20, 2020[96]	500,000,000.00
48	Excise	Payment	FG	IMP	Aug. 25, 2020[97]	500,000,000.00
49	Excise	Payment	FG	CMA	Sept. 4, 2020[98]	71,550,000.00
50	Excise	Payment	FG	IMP	Sept. 4, 2020[99]	304,425,000.00
51	Excise	Payment	FG	IMP	Sept. 4, 2020[100]	1,624,025,000.00
52	Excise	Payment	FG	CMA	Sept. 9, 2020[101]	297,000,000.00
53	Excise	Payment	FG	IMP	Sept. 9, 2020[102]	1,703,000,000.00
54	Excise	Payment	FG	IMP	Sept. 18, 2020[103]	200,475,000.00
55	Excise	Payment	FG	IMP	Sept. 18, 2020[104]	1,299,525,000.00
56	Excise	Payment	FG	CMA	Sept. 23, 2020[105]	44,550,000.00

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77 Exhibit "P-24-116", USB (Exhibit "P-44"); Exhibit "P-4-30", USB (submitted on July 12, 2024).
78 Exhibit "P-24-117", USB (Exhibit "P-44"); Exhibit "P-4-31", USB (submitted on July 12, 2024).
79 Exhibit "P-24-118", USB (Exhibit "P-44"); Exhibit "P-4-32", USB (submitted on July 12, 2024).
80 Exhibit "P-24-126", USB (Exhibit "P-44"); Exhibit "P-4-33", USB (submitted on July 12, 2024).
81 Exhibit "P-24-127", USB (Exhibit "P-44"); Exhibit "P-4-34", USB (submitted on July 12, 2024).
82 Exhibit "P-24-134", USB (Exhibit "P-44"); Exhibit "P-4-35", USB (submitted on July 12, 2024).
83 Exhibit "P-24-135", USB (Exhibit "P-44"); Exhibit "P-4-36", USB (submitted on July 12, 2024).
84 Exhibit "P-24-151", USB (Exhibit "P-44"); Exhibit "P-4-37", USB (submitted on July 12, 2024).
85 Exhibit "P-24-152", USB (Exhibit "P-44"); Exhibit "P-4-38", USB (submitted on July 12, 2024).
86 Exhibit "P-24-159", USB (Exhibit "P-44"); Exhibit "P-4-39", USB (submitted on July 12, 2024).
87 Exhibit "P-24-169", USB (Exhibit "P-44"); Exhibit "P-4-40", USB (submitted on July 12, 2024).
88 Exhibit "P-24-175", USB (Exhibit "P-44"); Exhibit "P-4-41", USB (submitted on July 12, 2024).
89 Exhibit "P-24-193", USB (Exhibit "P-44"); Exhibit "P-4-42", USB (submitted on July 12, 2024).
90 Exhibit "P-24-194", USB (Exhibit "P-44"); Exhibit "P-4-43", USB (submitted on July 12, 2024).
91 Exhibit "P-24-200", USB (Exhibit "P-44"); Exhibit "P-4-44", USB (submitted on July 12, 2024).
92 Exhibit "P-24-209", USB (Exhibit "P-44"); Exhibit "P-4-45", USB (submitted on July 12, 2024).
93 Exhibit "P-24-220", USB (Exhibit "P-44"); Exhibit "P-4-46", USB (submitted on July 12, 2024).
94 Exhibit "P-24-221", USB (Exhibit "P-44"); Exhibit "P-4-47", USB (submitted on July 12, 2024).
95 Exhibit "P-24-224", USB (Exhibit "P-44"); Exhibit "P-4-48", USB (submitted on July 12, 2024).
96 Exhibit "P-24-235", USB (Exhibit "P-44"); Exhibit "P-4-49", USB (submitted on July 12, 2024).
97 Exhibit "P-24-238", USB (Exhibit "P-44"); Exhibit "P-4-50", USB (submitted on July 12, 2024).
98 Exhibit "P-24-255", USB (Exhibit "P-44"); Exhibit "P-4-51", USB (submitted on July 12, 2024).
99 Exhibit "P-24-256", USB (Exhibit "P-44"); Exhibit "P-4-52", USB (submitted on July 12, 2024).
100 Exhibit "P-24-257", USB (Exhibit "P-44"); Exhibit "P-4-53", USB (submitted on July 12, 2024).
101 Exhibit "P-24-260", USB (Exhibit "P-44"); Exhibit "P-4-54", USB (submitted on July 12, 2024).
102 Exhibit "P-24-261", USB (Exhibit "P-44"); Exhibit "P-4-55", USB (submitted on July 12, 2024).
103 Exhibit "P-24-267", USB (Exhibit "P-44"); Exhibit "P-4-56", USB (submitted on July 12, 2024).
104 Exhibit "P-24-268", USB (Exhibit "P-44"); Exhibit "P-4-57", USB (submitted on July 12, 2024).
105 Exhibit "P-24-276", USB (Exhibit "P-44"); Exhibit "P-4-58", USB (submitted on July 12, 2024).

	Excise/ TIF	Payment/ Removal	Raw Mat/ FG	Import/ CMA	Date of Payment	Amount
57	Excise	Payment	FG	IMP	Sept. 23, 2020[106]	200,475,000.00
58	Excise	Payment	FG	IMP	**Sept. 23, 2020**[107]	1,254,975,000.00

Based on the foregoing, the two-year prescriptive period for filing both the administrative and judicial claims commenced from the respective dates of payment of the subject excise taxes. Accordingly, the earliest deadline for filing the claims expired on **November 27, 2021**, while the latest deadline fell on **September 23, 2022**.

Records show that petitioner filed its administrative claim only on **September 7, 2022**.[108] Consequently, only those excise tax payments made on or after September 7, 2020 were covered by a timely administrative claim. As to the excise tax payments made from November 27, 2019 to September 4, 2020, petitioner's administrative claim had already prescribed.

Even assuming that petitioner's administrative claim was timely filed with respect to the excise tax payments made from September 9, 2020 to September 23, 2020, its judicial claim was nevertheless filed **out of time**. The present *Petition for Review* was instituted only on **November 11, 2022**,[109] beyond the two-year prescriptive period reckoned from the dates of payment of the corresponding excise taxes. In particular, with respect to the latest payment made on September 23, 2020, petitioner had only until **September 23, 2022** within which to file its judicial claim.

Accordingly, petitioner failed to comply with the mandatory and jurisdictional requirement that both the administrative and judicial claims be filed within two (2) years from the date of payment of the tax. As a consequence, this Court has no jurisdiction to entertain, or take cognizance of, the present *Petition for Review*.

Hence, the *Petition for Review* must be **dismissed** for lack of jurisdiction.

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[106] Exhibit "P-24-277", USB (Exhibit "P-44"); Exhibit "P-4-59", USB (submitted on July 12, 2024).
[107] Exhibit "P-24-278", USB (Exhibit "P-44"); Exhibit "P-4-60", USB (submitted on July 12, 2024).
[108] Docket – Vol. II, pp. 753–776, Exhibits "P-11" to "P-11-1".
[109] Docket – Vol. I, pp. 7–37, Petitioner's *Petition for Review*.

Even assuming arguendo that this Court has jurisdiction over the instant case, petitioner's claim for refund must nevertheless fail for failure to establish that the excise taxes were erroneously or illegally paid or collected.

Be that as it may, even assuming that this Court may validly take cognizance of the present *Petition for Review*, petitioner's claim for refund must still fail for lack of merit.

Petitioner posits that the two-year period under Sections 204(C) and 229 of the NIRC of 1997, as amended, may be reckoned from a date subsequent to the payment of the tax. According to petitioner, although the excise taxes were initially paid validly, the payments may later become erroneous, thereby causing the two-year prescriptive period to commence from the occurrence of such subsequent event.

Petitioner claims that while the flooding caused by Typhoon Ulysses may be considered a "supervening cause," jurisprudence recognizes circumstances where a supervening event may serve as the reckoning point for a claim for refund (*i.e.*, November 12, 2020, the date when petitioner's warehouse were inundated by Typhoon Ulysses). In support of this position, petitioner cites *Chevron Philippines, Inc. v. Commissioner of Internal Revenue* (**Chevron**)[110] and *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue* (***Pilipinas Shell***).[111] According to petitioner, in these cases, petroleum products became exempt from excise taxes after the taxes had already been paid.[112] Thus, by analogy, petitioner argues that the government initially validly collected the excise taxes upon prepayment, up to the point when the products to which the excise tax stamps were affixed were stored in its Marikina warehouses, at which time it allegedly had no basis to claim a refund.[113] However, when its warehouses were inundated by Typhoon Ulysses on November 12, 2020, rendering the flooded goods unfit for sale, the excise tax payments effectively became erroneous.[114]

Mr

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[110] G.R. No. 210836, September 1, 2015 [Per J. Bersamin, *En Banc*].
[111] G.R. No. 211303, June 15, 2021 [Per J. Perlas-Bernabe *En Banc*].
[112] Docket – Vol. II, pp. 984–985, petitioner's *Memorandum*, pars. 47–50.
[113] *Id.* at 985, par. 51.
[114] *Id.* at 986, par. 52.

The Court finds petitioner's contentions untenable.

The Court cannot rely on the Supreme Court's rulings in *Chevron* and *Pilipinas Shell*, for the simple reason that petitioner's claim is fundamentally different from those advanced in said cases.

Unlike in *Chevron* and *Pilipinas Shell*, petitioner does not seek exemption from the payment of excise taxes on the ground that no law authorizes such exaction. In both *Chevron* and *Pilipinas Shell*, the claimants asserted that they are entitled to a refund or tax credit of excise taxes paid on the importation of, or on locally purchased, petroleum products which were subsequently sold to tax-exempt entities under Section 135 of the NIRC of 1997, as amended.

In contrast, petitioner anchors its claim on the belief that the imposition of excise tax under Section 129 of the NIRC of 1997, as amended, requires the concurrence of the following: (1) that the goods are manufactured or produced in the Philippines; and (2) that these goods are for domestic sale, or consumption, or any other disposition.[115] For petitioner, the local sale component for the imposition of excise tax was not satisfied because the flooding in Marikina had prevented it from selling the finished goods stored in its warehouses and delivery vans.[116] Accordingly, without the ability to sell the goods, the excise taxes should not be imposed, and if prepaid, as in this case, must be refunded.[117]

This fundamental distinction highlights the inapplicability of *Chevron* and *Pilipinas Shell* to the present case. Consequently, petitioner cannot validly invoke these rulings as jurisprudential support for its claim for refund or tax credit.

Moreover, the Court disagrees with petitioner's position that there must be both "(1) manufacture, or production, [and] (2) domestic sale or consumption" for excise tax to be collectible.[118]

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[115] *Id.* at 991, par. 72.
[116] *Id.* at 992, par. 76.
[117] *Id.* at 992, par. 75.
[118] *Id.* at 993, par. 77.

In *La Suerte Cigar & Cigarette Factory v. Court of Appeals* (***La Suerte Cigar***),[119] the Supreme Court explained the nature of excise taxes in this wise:

Nature of excise tax

> Excise tax is a tax on the production, sale, or consumption of a specific commodity in a country. Section 110 of the 1986 Tax Code explicitly provides that the "**excise taxes on domestic products shall be paid by the manufacturer or producer before [the] removal [of those products] from the place of production." "It does not matter to what use the article[s] subject to tax is put; <u>the excise taxes are still due, even though the articles are removed merely for storage in some other place and are not actually sold or consumed.</u>"** The excise tax based on weight, volume capacity or any other physical unit of measurement is referred to as "specific tax." If based on selling price or other specified value, it is referred to as "ad valorem" tax. (Emphasis supplied, citation omitted)

While the Supreme Court explained the nature of excise taxes under Section 110 of the 1986 Tax Code, the same still holds true under the present law. Notably, the requirement that "excise taxes on domestic products shall be paid by the manufacturer or producer before [the] removal [of those products] from the place of production", is substantially carried over in Section 130 of the NIRC of 1997, as amended. Likewise, the distinction between the "specific tax" and "ad valorem tax", was retained in Section 129 of the NIRC of 1997, as amended, to wit:

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

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[119] G.R. Nos. 125346 *et al.*, November 11, 2014 [Per J. Leonen, *En Banc*].

Applying the ruling in *La Suerte Cigar* case and Section 130, in relation to Section 129 of the NIRC of 1997, as amended, it is evident that excise taxes on domestic products must be paid by the manufacturer or producer before the removal of such products from the place of production, **even though the subject articles are not actually sold or consumed**.

Lastly, Section 7 of RR No. 7-2014 explicitly states that:

> Upon receipt of the internal revenue stamps by the said authorized representatives, the ownership and responsibility thereon shall be transferred in favor of the importer or local manufacturer of cigarettes. Any damage to or loss of internal revenue stamps after release thereof shall be for the account of the importer or local manufacturer of cigarettes.

Thus, considering that the manufactured and imported cigarette products to which the internal revenue stamps had been affixed had long been in the possession of petitioner from the time they were removed from petitioner's place of production, the latter must necessarily bear the loss or damage resulting from the flood caused by Typhoon Ulysses.

Moreover, it is significant to note that Section 204(C) of the NIRC of 1997, as amended, authorizes respondent to "**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." In this case, the subject internal revenue stamps had already been affixed to the cigarette products, as admitted by petitioner's witness, Mr. Yap.[120] Hence, the circumstances contemplated under Section 204(C) do not obtain.

In light of petitioner's failure to timely file its *Petition for Review*, thereby depriving this Court of jurisdiction over the case, the Court finds it unnecessary to further discuss the remaining issues raised by the parties.

WHEREFORE, premises considered, the present *Petition for Review* is **DISMISSED** for lack of jurisdiction and lack of merit.

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[120] Docket – Vol. I, p. 42, Exhibit "P-12", Q&A No. 21.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
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's Division.

JEAN MARIE A. BACORRO-VILLENA
Acting Presiding Justice