REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE AND COMMISSIONER OF CUSTOMS, Petitioners,	**CTA EB No. 1488** (CTA Case No. 7632)
- versus -	
PHILIPPINE AIRLINES, INC., Respondent.	

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COMMISSIONER OF CUSTOMS, Petitioner,	**CTA EB No. 1494** (CTA Case No. 7632)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** and **MANAHAN,** *JJ.*
	Promulgated:
PHILIPPINE AIRLINES, INC., Respondent.	FEB 20 2019 3:15 p.m.

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RESOLUTION

UY, *J.*:

For resolution are the following:

1) **"MOTION FOR RECONSIDERATION"** filed by the Commissioner of Internal Revenue (CIR) on August 14,

2018,[1] with **"COMMENT/OPPOSITION (to Petitioner Commissioner [of] Internal Revenue's Motion for Reconsideration dated August 14, 2018)"** filed by Philippine Airlines Inc. (PAL) on September 25, 2018;[2] and

2) **"MOTION FOR RECONSIDERATION"** filed by Commissioner of Customs (COC) on September 13, 2018,[3] with PAL's "**COMMENT/OPPOSITION (to Petitioner Commissioner of Customs' Motion for Reconsideration dated 12 September 2018)** filed on November 12, 2018.[4]

In both *Motions*, petitioners CIR and COC respectively assail the Court *En Banc*'s Decision promulgated on July 26, 2018, the dispositive portion of which reads:

> "**WHEREFORE,** in light of the foregoing considerations, the consolidated *Petitions for Review* and the *Supplemental Petition for Review* filed by petitioner CIR, are **DENIED** for lack of merit. Accordingly, the Decision dated May 3, 2016 as modified in the Amended Decision dated September 9, 2016, and the Resolutions dated July 12, 2016 and January 9, 2017, all rendered by the Court in Division in CTA Case No. 7632 are **AFFIRMED.**
>
> **SO ORDERED.**"

The CIR's arguments:

In his *Motion for Reconsideration*, petitioner CIR argues that the Court *En Banc* erred in ruling that respondent PAL was able to prove that its importations of Jet A-1 aviation fuel are used for its transport and non-transport operations based on the Authority to Release Imported Goods (ATRIG) submitted; and in relying on the ATO Certifications in ruling that Jet A-1 Aviation Fuel is not locally available in reasonable quantity, quality, or price. Petitioner claims that the presentation of the ATRIGs and the ATO Certifications are not sufficient to verify that Jet A-1 Aviation Fuel were actually used by respondent in its transport and non-transport operations.

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[1] EB Docket (CTA EB No. 1488), pp.354 to 366.
[2] EB Docket (CTA EB No. 1488), pp. 404 to 421.
[3] EB Docket (CTA EB No. 1488), pp. 375 to 396.
[4] EB Docket (CTA EB No. 1488), pp. 438 to 450.

The COC's arguments:

In his *Motion for Reconsideration*, petitioner COC argues that the Court *En Banc* failed to consider the glaring fact that respondent PAL had miserably failed to fully comply with the requisites for excise tax exemption based on the following: that respondent PAL failed to adduce sufficient proof that the imported supplies or materials are to be used for its transport and non-transport operations and other activities incidental thereto; that respondent PAL failed to prove that the imported articles are not locally available in reasonable quantity, quality or price; and that the powers of the ATO and the Civil Aviation Authority of the Philippines (CAAP) under Republic Act (RA) No. 776 and RA No. 9497 do not include the power to issue certifications as to the local availability of aviation fuel, such as Jet A-1 aviation fuel.

PAL's counter-arguments:

In its *Comment/Opposition to the CIR's Motion for Reconsideration*, PAL contends that it was able to prove that the Jet A-1 fuel was actually used for its transport and non-transport operations; that the ATO (now CAAP), had authority to issue the subject Certifications, which were properly given weight by the Court; and that the Court correctly ruled that in determining "locally available supply", importations must be excluded.

On the other hand, in its *Comment/Opposition to the COC's Motion for Reconsideration,* PAL avers that it had complied with the requisites for exemption from all taxes under Sec. 12 of P.D. 1590 and sufficiently proved that it used the imported Jet A-1 fuel in its transport and non-transport operations; and that it had sufficiently proved that there is no local available Jet A-1 fuel in reasonable quantity, quality and price and that the CTA Division properly gave credence to the ATO Certifications.

THE COURT *EN BANC'S* RULING

Both *Motions for Reconsideration* filed by petitioners CIR and COC lack merit.

A careful perusal of the CIR's *Motion for Reconsideration* and the COC's *Motion for Reconsideration* show that the arguments respectively raised therein are mere reiterations of matters which have already been considered, weighed and resolved in the assailed Decision.

Finding no compelling reason to reconsider, modify or reverse Our Decision, We shall no longer belabor in this Resolution, to repeat the disquisitions made therein.

WHEREFORE, in light of the foregoing considerations, the CIR's *Motion for Reconsideration* and the COC's *Motion for Reconsideration* are both **DENIED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

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

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

Catherine T. Manahan
CATHERINE T. MANAHAN
Associate Justice