REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PHILIPPINE AIRLINES, INC., *Petitioner,*	**CTA CASE NO. 7632**
-versus-	Members: **CASTAÑEDA, JR.,** *Chairperson* **CASANOVA,** and **COTANGCO-MANALASTAS,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE AND COMMISSIONER OF CUSTOMS, *Respondents.*	**Promulgated:** SEP 09 2016 11:05 a.m.

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AMENDED DECISION

For resolution is the *Motion for Partial Reconsideration of Decision*[1] filed by petitioner Philippine Airlines, Inc., (PAL) on May 13, 2016.

Relevant antecedents:

On May 3, 2016, the Court rendered a *Decision*[2] partially granting PAL's claim for refund or issuance of tax credit certificate (TCC) in the amount of P88,542,854.00 representing the specific taxes paid for the importation of Jet A-1 aviation fuel for its domestic flight operations for the period of April to June 2005.

The respondents, Commissioner of Internal Revenue (CIR) and Commissioner of Customs (COC), filed their separate Motion for Partial Reconsideration on May 11, 2016 and June 2, 2016, respectively.

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[1] Rollo, pp. 1946-1967.
[2] Rollo, pp. 1903-1931.

On the other hand, PAL filed a *Motion for Partial Reconsideration of Decision and/or to Reopen the Case for Presentation of Evidence*[3] on May 13, 2016.

On July 12, 2016, the Court resolved to deny the respondents' Motion for Partial Reconsideration and granted petitioner's Motion to Reopen the Case for Presentation of Evidence. The case was set for hearing for the presentation of additional evidence. Consequently, the resolution of PAL's *Motion for Partial Reconsideration of Decision* was held in abeyance.

On August 8, 2016, a hearing was held for the presentation of petitioner's additional evidence. Petitioner presented Mr. Emilio L. Jacinto, Chief Accountant, Revenue Accounting Division of the Bureau of Customs, Port Area, Manila, who identified his Judicial Affidavit [Exhibit "D8"], Letter dated June 6, 2016 from Zambrano & Gruba Law Offices requesting BOC for issuance of a certificate of payment [Exhibit "B8"], and Certification dated June 17, 2016 issued by Emilio L. Jacinto [Exhibit "C8"]. Afterwhich, petitioner offered the following exhibits:

"B8"	Letter from Zambrano & Gruba Law Offices requesting BOC Revenue Accounting Division for the verification and issuance of a certificate of payment.
"C8"	Certification dated June 17, 2016 issued by Emilio L. Jacinto
"D8" "D8-1"	Judicial Affidavit of Mr. Emilio L. Jacinto; signature of Mr. Jacinto

Considering that respondent interposed no objection to petitioner's offer of evidence, an Order[4] was issued by the Court admitting the above-mentioned exhibits. Hence, petitioner's pending *Motion for Partial Reconsideration of Decision*[5] was declared submitted for resolution.

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[3] Rollo, pp. 1946-1967.
[4] Rollo, pp. 2106-2108.
[5] Rollo, pp. 1946-1967.

After weighing the pieces of evidence submitted by petitioner, the Court is convinced that a re-computation of the amount of specific taxes to be refunded to petitioner is in order.

The Court stands by its ruling in the challenged Decision that based on the pieces of evidence on record, PAL complied with the three (3) requisites to be exempt from all taxes under Section 13 of PD No. 1590. However, in light of the testimony and additional pieces of evidence presented by petitioner, the Court shall touch upon the issue of the amount of specific taxes paid by petitioner and determine the amount that may be given as refund.

Petitioner seeks the refund or the issuance of tax credit certificate in the total amount of P258,629,496.00, allegedly representing specific taxes imposed on its importations of Jet A-1 aviation fuel for domestic flight operations during the period of April to June 2005.

In order to prove that the said specific taxes have been duly paid and remitted, petitioner presented official receipts (OR) issued by the Bureau of Customs (BOC) or the Authorized Agent Banks (ABB) of the BOC. The specific taxes as shown in the ORs amount to P258,629,496.00, *viz*:

Official Receipts (ORs)	**Date of ORs**	**Import Entry and Internal Revenue Declaration (IERD) Nos.**	**Specific Taxes per ORs issued by the AABs of the BOC**
Exhibit "F-5"	May 06, 2005	SN 62553215	P58,951,504.00
Exhibit "H-5"	May 13, 2005	SN 62554186	57,767,575.00
Exhibit "I-4"	June 29, 2005	SN 63265282	29,591,350.00
Exhibit "J-5"	June 22, 2005	SN 63819892	53,274,605.00
Exhibit "K-4"	June 28, 2005	SN 63819901	59,044,462.00
			P258,629,496.00

In the assailed *Decision*[6], it is the ORs marked as Exhibits "F-5" and "I-4" which were given credence, thus, only the amount of P88,542,854.00 was ordered to be refunded to PAL.

To substantiate its claim that it paid the amount of specific taxes reflected in the ORs marked as Exhibits "H-5", "J-5" and "K-4", petitioner presented Mr. Emilio L. Jacinto, Chief Accountant, Revenue Accounting Division of the BOC, who identified and affirmed the truthfulness and veracity of the contents of his Judicial Affidavit [Exhibit "D8"] and the two documents attached thereto, [i.e., Exhibit "B8", Letter dated June 6, 2016 from Zambrano & Gruba Law Offices requesting BOC for issuance of a certificate of payment; and Exhibit "C8", Certification dated June 17, 2016 issued by Emilio L. Jacinto]. Mr. Jacinto testified that he issued the certification pursuant to the request of PAL's counsel. In the said certificate, Mr. Jacinto certified that the following IERDs "*were verified issued to **PHILIPPINE AIRLINES, INC.,** and the corresponding customs duties, taxes and other charges found collected and remitted to the Bureau of Treasury*":

Official Receipts	**IERD Nos.**	**Amount**
Exhibit "H-5"	SN 62554186	57,767,575.00
Exhibit "J-5"	SN 63819892	53,274,604.00
Exhibit "K-4"	SN 63819901	59,044,461.00
		P170,086,640.00

The testimony of Mr. Jacinto and the documents attached to his Judicial Affidavit, taken together with all the pieces of evidence on record, persuades this Court that petitioner indeed paid the amount of specific taxes reflected in the ORs marked as Exhibits "H-5", "J-5" and "K-4".

Thus, the amount of 170,086,640.00 shall be added to the amount which was granted by this Court to be refunded to petitioner in the *Decision*[7] dated May 3, 2016, to wit:

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[6] Supra, Note 2.
[7] Supra, Note 2.

Refund of specific taxes granted to petitioner in Decision dated May 3, 2016		88,542,854.00
ADD: Specific Taxes supported by Judicial Affidavit and Certification issued by Mr. Emilio L. Jacinto:		
SN 62554186	57,767,575.00	
SN 63819892	53,274,604.00	
SN 63819901	59,044,461.00	170,086,640.00
		258,629,494.00

Hence, considering the evidence presented by petitioner, it has proven and substantiated its entitlement to a tax refund or issuance of tax credit certificate in the amount of P258,629,494.00.

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration of Decision*[8] is **GRANTED**.

Accordingly, the *Decision*[9] dated May 3, 2016 is **MODIFIED** with respect to the amount of specific taxes to be refunded to petitioner. The respondents are **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** to petitioner in the amount of P258,629,494.00, representing the specific taxes paid for the importation of Jet A-1 aviation fuel for its domestic flight operations for the period of April to June 2005.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

[8] Rollo, pp. 1946-1967.
[9] Supra, Note 2.

CERTIFICATION

Pursuant to Section 13, Article VIII 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.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Acting Presiding Justice