REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9104

Members:

FABON-VICTORINO, and
RINGPIS-LIBAN, *JJ.*

Promulgated:

OCT 0 2 2018
10:42 a.m.

x- -x

RESOLUTION

***Fabon-Victorino, J.*:**

On July 27, 2018, the Court promulgated a Decision,[1] the decretal portion of which reads:

> **WHEREFORE**, the Petition for Review filed by Pilipinas Shell Petroleum Corporation on July 24, 2015, is hereby **PARTIALLY GRANTED**. Accordingly, respondent 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.**

[1]Docket, pp. 1065-1087.

Aggrieved, respondent filed the instant *Motion for Partial Reconsideration (Re: Decision dated 27 July 2018)*[2] on August 17, 2018, assailing the foregoing Decision on the following ground:

> Petitioner is not entitled to its entire claim for refund or tax credit of excise taxes in the amount of sixty-one million four hundred sixty-nine thousand ninety-four pesos and 24/100 (₱61,469,094.24) allegedly paid on Jet A-1 fuel sold to tax-exempt international air carriers for the period August 12, 2013 to December 31, 2013.

In support of his *motion*, respondent set forth the following arguments:

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.

II. There is no provision in the NIRC of 1997 which provides that petitioner 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.

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

In its *Comment/Opposition* filed on September 17, 2018, petitioner submits that respondent's motion should be denied outright for being *pro-forma*. According to petitioner, the arguments raised by respondent in his *motion* are mere reiteration of the arguments raised in his *Answer* dated October 9, 2015, which the Court had already considered in the assailed Decision of July 27, 2018.

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[2]Docket, pp. 1088-1095.

Indeed, all the arguments raised by respondent in his *motion* were the very same flawed arguments raised in his *Answer* dated October 9, 2015 as well as in his *Memorandum* dated August 18, 2017, which had been thoroughly discussed and passed upon by the Court in the assailed Decision of July 27, 2018. There being no ground to deviate from the original determination on the merits of the case, respondent's motion should be denied.

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.

ESPERANZA R. FABON-VICTORINO
Associate Justice

I concur:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice