REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

SL HARBOR BULK TERMINAL CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10715

Members:
MANAHAN, *Chairperson,*
REYES-FAJARDO, and
ANGELES, *JJ.*

Promulgated:
JAN 17 2025
4:24 p.m.

x- -x

DECISION

REYES-FAJARDO, *J.*:

This Petition for Review[1] filed by SL Harbor Bulk Terminal Corporation on January 4, 2022, prays for the issuance of a tax credit certificate (TCC) in the amount of ₱111,187,111.50, allegedly representing its erroneously paid excise taxes for the period of January 1, 2020 to December 31, 2020.[2]

PARTIES

Petitioner SL Harbor Bulk Terminal Corporation is a domestic corporation, with principal office at Block 4 Lots 10 and 11, Manila Harbor Center, North Harbor, Barangay 128, Zone 10, Tondo, Manila. It is duly registered with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 29.[3]

---

1 Docket- Vol. I, pp. 7 to 42.
2 Summary of the Case, Pre-Trial Order dated October 7, 2022, Docket - Vol. I, p. 421.
3 Par. 1, Summary of Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), Docket - Vol. I, p. 304.

Respondent is the Commissioner of Internal Revenue (CIR), vested under appropriate laws with the authority to carry out the functions, duties, and responsibilities of his office, including the authority to refund and/or credit taxes under Section 204 of the 1997 National Internal Revenue Code (NIRC), as amended.[4]

FACTS

Petitioner claims that it paid excise taxes in the amount of ₱111,187,111.50 on its importations of a total of 18,876,766 liters of bunker fuel oil (BFO) and special fuel oil (SFO) sold to tax-exempt entities registered with either the Subic Bay Metropolitan Authority (SBMA) or the Philippine Economic Zone Authority (PEZA) from January 2020 to December 2020:[5]

	Liters	Period Sold	Excise Tax (per Liter)	Total Excise Tax Paid
Bunker fuel and diesel sold to tax-exempt entities sourced from remaining 2019 importation	1,382,323	January to February 2020	4.50	₱ 6,220,453.50
Bunker fuel and diesel sold to tax-exempt entities sourced from 2020 importation	17,494,443	February to December 2020	6.00	104,966,658.00
TOTAL	**18,876,766**			**₱111,187,111.50**

By virtue of the exemption under Section 135(c) of the NIRC, as amended, petitioner allegedly did not pass the excise taxes it paid on the BFO and SFO sold to said tax-exempt entities.[6]

On December 7, 2021, petitioner filed an administrative claim for issuance of TCC with BIR RDO No. 29,[7] in the amount of ₱111,187,111.50, allegedly representing erroneously paid excise taxes on the importation of BFO and SFO.[8]

4 Par. 2, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 304.
5 Pars. 4.6, 4.10 and 4.11, Petition for Review, Docket – Vol. I, pp. 6 to 8.
6 Par. 5.9, Petition for Review, Docket – Vol. I, p. 17.
7 Par. 3, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 305.
8 Exhibits "P-9" and "P-10," Docket – Vol. II, pp. 617 to 621.

On January 4, 2022, petitioner filed a Petition for Review[9] citing inaction on the part of respondent.

On May 11, 2022, respondent filed his Answer.[10]

On August 17, 2022, the Pre-Trial Conference was held.[11]

On August 30, 2022, respondent transmitted to the Court the BIR Records of the case.[12]

On September 16, 2022, the parties filed their Joint Stipulations of Facts and Issues,[13] which the Court approved through Resolution dated September 28, 2022.[14] On the basis thereof, a Pre-Trial Order dated October 27, 2022, was issued.[15]

Trial ensued. Petitioner presented as its witnesses: (1) Ms. Shiela Mary A. Ahing,[16] its Finance Manager; (2) Mr. Christian Ivan R. Requinta,[17] its Trading Head; (3) Ms. Jenny V. Catriz,[18] its Billing Head; and, (4) Mr. Romeo A. De Jesus, Jr.,[19] the Court-commissioned Independent Certified Public Accountant (ICPA De Jesus).[20]

On March 9, 2023, the ICPA De Jesus filed his Report. [21]

---

9 Docket - Vol. I, pp. 7 to 42.

10 Docket - Vol. I, pp. 144 to 150.

11 Notice of Hearing dated July 14, 2022, Docket - Vol. I, p. 155; and Order dated, August 17, 2022, Docket - Vol. I, pp. 261 to 264.

12 Manifestation with Compliance dated August 30, 2022, Docket - Vol. I, pp. 275 to 277.

13 Docket - Vol. I, pp. 304 to 308.

14 Docket - Vol. I, p. 406.

15 Docket - Vol. I, pp. 421 to 455.

16 Exhibit "P-19," Docket - Vol. I, pp. 43 to 59; and Order dated, December 1, 2022, Docket - Vol. I, pp. 456 to 457.

17 Exhibit "P-20" (not marked as such), Docket - Vol. I, pp. 62 to 73; and Order dated, January 26, 2023, Docket - Vol. I, pp. 458 to 460.

18 Exhibit "P-21" (not marked as such), Docket - Vol. I, pp. 81 to 134; and Order dated, March 2, 2023, Docket - Vol. I, pp. 468 to 469.

19 Exhibit "P-29," Docket - Vol. I, pp. 475 to 492; and Order dated, March 15, 2023, Docket - Vol. II, pp. 507 to 509.

20 Order dated, January 26, 2023, Docket - Vol. I, pp. 458 to 460.

21 Compliance dated March 9, 2023, with attached ICPA Report dated March 7, 2023 marked as Exhibit "P-41," Docket - Vol. II, pp. 471 to 473 and 493 to 506, respectively.

In the March 15, 2023 Hearing,[22] respondent's counsel manifested that he will not present any witness.

On April 4, 2023, petitioner filed its Formal Offer of Evidence,[23] to which respondent filed his Comment/Opposition [Re: Petitioner's Formal Offer of Evidence dated 04 April 2023] on May 12, 2023.[24]

Under Resolution May 26, 2023,[25] the Court admitted petitioner's offered exhibits, except for:

> (1) Exhibits "P-1," "P-1-1," "P-6," "P-11," "P-15," "P-15-1," "P-15-2," "P-16," and "P-16-1," for failure to present the originals for comparison; and
>
> (2) Exhibit "P-18," for not being found in the records of the case and for failure to identify.

On June 23, 2023, petitioner filed its Omnibus Motion (Re: Resolution dated 26 May 2023),[26] to which respondent filed his Comment/Opposition [Re: Petitioner's Omnibus Motion dated 23 June 2023] on July 21, 2023.[27]

Through Resolution dated October 6, 2023,[28] the Court still denied the admission of Exhibits "P-1," "P-1-1," "P-6," "P-11," "P-15," "P-15-1," "P-15-2," "P-16," and "P-16-1," for failure to present the originals thereof for comparison.

In the Resolution dated January 19, 2024, this case was submitted for decision,[29] considering respondent's Memorandum filed on November 14, 2023,[30] and petitioner's Memorandum filed via accredited courier on January 11, 2024.[31]

---

22 Order dated, March 15, 2023, Docket - Vol. II, pp. 507 to 509.
23 Docket - Vol. II, pp. 510 to 542.
24 Docket - Vol. II, pp. 640 to 642.
25 Docket - Vol. II, pp. 644 to 650.
26 Docket - Vol. II, pp. 657 to 666.
27 Docket - Vol. II, pp. 776 to 781.
28 Docket - Vol. II, pp. 784 to 792.
29 Minute Resolution dated January 19, 2024, Docket - Vol. II, p. 843.
30 Docket - Vol. II, pp. 793 to 806.
31 Docket - Vol. II, pp. 808 to 840.

ISSUE

Is petitioner entitled to the issuance of TCC in the amount of ₱111,187,111.50 representing its alleged erroneously paid excise tax for the period from January to December 2020?[32]

ARGUMENTS

Petitioner argues that its claim for tax credit for the erroneously paid excise taxes on its importations of BFO and SFO should be granted because: *first,* its administrative and judicial claims for tax credit were filed within the two (2)-year prescriptive period provided in Sections 204 (C) and 229, of the NIRC, as amended; and, *second,* the imported BFO and SFO were sold to tax-exempt entities registered either with SBMA or PEZA.

Respondent counters that petitioner's claim for tax credit must be rejected, because: *first,* the excise taxes paid by petitioner were not erroneously or illegally collected; and, *second,* petitioner failed to prove that it did not pass the excise taxes it paid on the BFO and SFO to the tax-exempt entities; hence, it is not the proper party to claim for tax credit of excise taxes.

RULING

The Petition lacks merit.

Foremost, the Court shall determine its jurisdiction over this case.

Section 7(a)(2) of Republic Act (RA) No. 1125,[33] as amended by RA No. 9282, in relation to Section 3(a)(2), Rule 4 of the Revised Rules

---

32 Issue, JSFI, Docket - Vol. I, p. 305.

33 Sec. 7. Jurisdiction. - The CTA shall exercise:

a. **Exclusive appellate jurisdiction to review by appeal,** as herein provided:

...

2. **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges, penalties in relations thereto,** or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal

of the Court of Tax Appeals (RRCTA)[34] clothes the Court with jurisdiction over inaction of respondent involving refund or credit of national internal revenue taxes, among others. Among the kinds of refund or credit of national internal revenue taxes is one that is erroneously or illegally collected, as recognized in Sections 204 (C)[35] and 229[36] of the NIRC, as amended.

Relevantly, *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc. (Carrier)*[37] laid down the conditions for the Court to acquire jurisdiction over a claim for tax credit premised on Section 204(C), in relation to Section 229 of the NIRC, as amended, thus:

> Section 204 [of the NIRC, as amended] refers to the Commissioner of Internal Revenue's administrative

Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial; (Boldfacing supplied)

34 SEC. 3. Cases within the jurisdiction of the Court in Divisions. - The Court in Divisions shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal the following:

...

(2) **Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under** the National Internal Revenue Code or other laws, administered by the Bureau of Internal Revenue ... (Boldfacing supplied)

35 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. (Boldfacing supplied)

36 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.

37 G.R. No. 226592, July 27, 2021.

> authority to credit or refund erroneously paid or illegally collected taxes. Under this provision, an administrative claim for refund or credit must be filed within two years from payment of the tax.
>
> Section 229 [of the NIRC, as amended], on the other hand, requires two conditions for the filing of judicial claims: (1) an administrative claim must be filed first; and (2) the judicial claim must be filed within two years after payment of the tax sought to be refunded.
>
> Reading the two provisions together, **both administrative and judicial claims must be filed within the two-year period.** Furthermore, the administrative claim must be filed before the judicial claim. This Court has previously declared that "[t]imeliness of the filing of the claim is mandatory and jurisdictional. The [Court of Tax Appeals] cannot take cognizance of a judicial claim for refund filed either prematurely or out of time."[38]

Applying *Carrier*, the following table shows that the Court acquired jurisdiction over CTA Case No. 10715, to wit:

Date of Payment	Amount of Excise Tax Paid	Two (2)-Year Prescriptive Period	Date of Administrative Claim	Date of Judicial Claim
January 10, 2020[39]	₱ 113,700,876.00	January 10, 2022	December 7, 2021[40]	January 4, 2022[41]
January 14, 2020[42]	163,793,694.00	January 14, 2022		
March 6, 2020[43]	93,257,058.00	March 7, 2022[44]		
March 10, 2020[45]	179,926,302.00	March 10, 2022		
April 14, 2020[46]	149,255,514.00	April 14, 2022		
April 15, 2020[47]	124,658,070.00	April 15, 2022		

38 Boldfacing supplied.
39 Exhibit "P-37-1," USB marked as "P-42".
40 Par. 3, Summary of Admitted Facts, JSFI, Docket – Vol. I, p. 305; Exhibits "P-9" and "P-10," Docket – Vol. II, pp. 617 to 621.
41 Docket – Vol. I, pp. 7 to 42.
42 Exhibit "P-37-2," USB marked as "P-42".
43 Exhibit "P-37-3," USB marked as "P-42".
44 March 6, 2022 fell on Sunday.
45 Exhibit "P-37-4," USB marked as "P-42".
46 Exhibit "P-37-5," USB marked as "P-42".
47 Exhibit "P-37-6," USB marked as "P-42".

July 16, 2020[48]	146,322,222.00	July 18, 2022[49]		
July 21, 2020[50]	132,800,778.00	July 21, 2022		
September 14, 2020[51]	87,076,080.00	September 14, 2022		
September 16, 2020[52]	188,730,954.00	September 16, 2022		
November 27, 2020[53]	143,726,124.00	November 28, 2022[54]		
November 27, 2020[55]	131,186,052.00	November 28, 2022		
Total	**₱1,654,433,724.00**			

The Court shall now determine petitioner's entitlement to its judicial claim for tax credit for the erroneous payment of excise taxes on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020.

Petitioner's claim for tax credit is governed by Sections 129, 131, and 135 of NIRC, as amended, which read:

> SEC. 129. *Goods Subject to Excise Taxes.* — **Excise taxes apply** to goods manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition and **to things imported**. The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.
>
> ...
>
> SEC. 131. *Payment of Excise Taxes on Imported Articles.* —
>
> (A) *Persons Liable.* — **Excise taxes on imported articles shall be paid by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customhouse,** or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

48 Exhibit "P-37-7," USB marked as "P-42".
49 July 16, 2022 fell on Saturday.
50 Exhibit "P-37-8," USB marked as "P-42".
51 Exhibit "P-37-9," USB marked as "P-42".
52 Exhibit "P-37-10," USB marked as "P-42".
53 Exhibit "P-37-11," USB marked as "P-42".
54 November 27, 2022 fell on Sunday.
55 Exhibit "P-37-12," USB marked as "P-42".

> ...
>
> 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) ...
>
> (b) ...
>
> (c) **Entities which are by law exempt from direct and indirect taxes.**

To justify a grant of tax credit for excise taxes paid on its importation of BFO and SFO, petitioner must establish the following: *first,* the entity to which the petitioner sold the petroleum products is an entity exempt by law from direct and indirect taxes; and, *second,* petitioner paid the excise taxes on its importation of BFO and SFO subsequently sold to the tax-exempt entities under Section 135(c) of the NIRC, as amended.

Chevron Philippines, Inc. v. Commissioner of Internal Revenue (Chevron),[56] explained that excise tax paid by the statutory taxpayer on petroleum products sold to any of the entities or agencies named in Section 135 of the NIRC exempt from excise tax is deemed illegal or erroneous and should be credited to the payor pursuant to Section 204 of the NIRC, as amended, thus:

> 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.[57]

Moreover, *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue,*[58] clarified that considering that the status of the

---

[56] G.R. No. 210836, September 1, 2015.

[57] Boldfacing supplied.

[58] G.R. No. 211303, June 15, 2021.

petroleum products as tax-exempt solidifies upon the sale to any of the entities enumerated under Section 135 of the NIRC, any excise taxes which were previously paid thereon would then be considered as 'erroneously or illegally collected,' and therefore, subject to refund.

For the *first* condition, the status of petitioner's clients as tax-exempt entities under Section 135(c) of the NIRC, as amended may not be denied.

Section 12(c) of RA No. 7227,[59] as amended by RA No. 9400,[60] recognizes national and local tax exemption on business enterprises within the Subic Special Economic Zone (SSEZ):

> SEC. 12. *Subic Special Economic Zone.* — ...
>
> ...
>
> (c) **The provision of existing laws, rules and regulations to the contrary notwithstanding, no national and local taxes shall be imposed within the Subic Special Economic Zone. In lieu of said taxes, a five percent (5%) tax on gross income earned shall be paid by all business enterprises within the Subic Special Economic Zone** and shall be remitted as follows: three percent (3%) to the National Government, and two percent (2%) to the Subic Bay Metropolitan Authority (SBMA) for distribution to the local government units affected by the declaration of and contiguous to the zone...[61]

Sections 3(h) and 21 of the Implementing Rules and Regulations (IRR)[62] of RA No. 7227, state:

> Sec. 3. *Definitions.* For purposes of these Rules these terms shall be understood to have the following meanings:
>
> ...

---

59 AN ACT ACCELERATING THE CONVERSION OF MILITARY RESERVATIONS INTO OTHER PRODUCTIVE USES, CREATING THE BASES CONVERSION AND DEVELOPMENT AUTHORITY FOR THE PURPOSE, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSE.

60 AN ACT AMENDING REPUBLIC ACT NO. 7227, AS AMENDED, OTHERWISE KNOWN AS THE BASES CONVERSION AND DEVELOPMENT ACT OF 1992, AND FOR OTHER PURPOSES.

61 Boldfacing supplied.

62 Rules and Regulations Implementing the Provisions Relative to the Subic Special Economic and Freeport Zone (SSEFZ) and the Subic Bay Metropolitan Authority (SBMA) IRR of RA 7227. 03 November 1992.

h. *Certificate of Registration* - **refers to the certificate issued by the SBMA representing the registration of the business entity as an SBF Enterprise.**

...

Sec. 21. *Effect of Issuance of Certificates.* - **Issuance of the Certificate of Registration** or Residency to an SBF Enterprise or Resident, respectively, **shall entitle and subject the business enterprise or resident to all the benefits and obligations under the Act and these Rules**, and other regulations that may be promulgated by the SBMA, subject to the provisions of Section 5 and 13 hereof.[63]

Likewise, Section 24 of RA No. 7916,[64] as amended by RA No. 8748,[65] provides:

SEC. 24. *Exemption from National and Local Taxes.* - Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:

(a) Three percent (3%) to the National Government;

(b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located.

Section 2 (s) and (t) Rule I and Section 2 Rule XIII of the IRR[66] of RA No. 7916 states:

...

PART I - GENERAL PROVISIONS

Rule I. Definition and Basic Guidelines

...

---

63 Boldfacing supplied.

64 AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES.

65 AN ACT AMENDING REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE "SPECIAL ECONOMIC ZONE ACT OF 1995."

66 Rules and Regulations to Implement Republic Act No. 7916, IRR of RA 7916, 17 May 1995.

> **SECTION 2.** Definition of Terms - For purposes of these Rules and Regulations, the following definitions shall apply:
>
> ...
>
> s. "Certificate of Registration" shall mean the certificate issued by the PEZA to an ECOZONE Enterprise upon its registration.
>
> t. "Date of Registration" shall refer to the date appearing in the certificate of registration.
>
> ...
>
> **SECTION 2.** Scope of Entitlement - New or expanding ECOZONE Developers / Operators, Export, Free Trade, Domestic Market, Utilities, Facilities and Tourism Enterprises, except ECOZONE Service Enterprises as defined under Section 2(p), Rule I of these Rules, registered on or after the effectivity of these Rules, shall be entitled to the fiscal incentives provided in Sections 24 and 42 of the Act.
>
> ...

In this case, petitioner presented the Certifications issued by the SBMA and PEZA to prove that its customers are tax-exempt entities: [67]

Customer Name	Certification	Exhibit No.	Period
Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	Certificate of Registration and Tax Exemption Subic Bay Freeport Enterprise Certificate No. 1997-0022	"P-7-1"	June 18, 2018 to June 17, 2021.
JX Nippon Mining & Metals Philippines, Inc.	PEZA Amended Certificate of Registration No. 96-080 and PEZA Certification No. 2020-1260	"P-7-2" to "P-7-3"	Valid for the year 2020
Philippine Sinter Corporation	PEZA Certificate of Registration No. 11-04 and PEZA Certification No. 2020-0587	"P-7-4" to "P-7-5"	Valid for the year 2020
Philippine Associated Smelting and Refining Corporation	PEZA Certificate of Registration No. 82-40 and PEZA Certification No. 2020-0495	"P-7-6" to "P-7-7"	Valid for the year 2020

67 USB marked as "P-42".

In relation to the *second* condition, petitioner has the burden of proving that the 18,876,766 liters BFO and SFO sold to tax-exempt entities for the year 2020 came from the importations on which petitioner paid excise taxes in the amount of ₱111,187,111.50, on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020. The excise taxes paid in the amount of ₱111,187,111.50 are broken down as follows:[68]

	Liters	Period Sold	Excise Tax (per Liter)	Total Excise Tax Paid
Bunker fuel and diesel sold to tax-exempt entities sourced from petitioner's remaining importation for the year 2019	1,382,323	January to February 2020	4.50	₱6,220,453.50
Bunker fuel and diesel sold to tax-exempt entities sourced from petitioner's importation for the year 2020	17,494,443	February to December 2020	6.00	₱104,966,658.00
TOTAL	**18,876,766**			**₱111,187,111.50**

As regards the claim for tax credit for the 1,382,323 liters of BFO and SFO sourced from petitioner's remaining importations for the year 2019 in the amount of ₱6,220,453.50, the same must be denied outright for petitioner's failure to present documents establishing actual payment thereof.

With regard to the claim for tax credit in the amount of ₱104,966,658.00, petitioner presented its commercial invoices, bills of lading, Authority to Release Imported Goods (ATRIGs), Assessment Notices, Import Entry Declarations (IEDs), Statements of Settlement of Duties and Taxes (SSDTs) to prove its importations of 275,738,954 liters BFO and SFO on the following dates in the amount of ₱1,654,433,724.00:

				Importation Documents					
Importation Date	Volume (in liters)	Excise Taxes Paid	Date of Payment of Excise Taxes	Commercial Invoice	Bill of Lading	ATRIG	Assessment Notice	IED	SSDT
3 January 2020	18,950,146	₱ 113,700,876.00	10 January 2020	"P-33-1"	"P-34-1"	"P-38-1"	"P-35-1"	"P-36-1"	"P-37-1"
3 January 2020	27,298,949	163,793,694.00	15 January 2020	"P-33-2"	"P-34-2"	"P-38-2"	"P-35-2"	"P-36-2"	"P-37-2"

68 Petition for Review, par. 4.11, Docket – Vol. I, pp. 13 to 14.

1 March 2020	15,542,843	93,257,058.00	6 March 2020	"P-33-3"	"P-34-3"	"P-38-3"	"P-35-3"	"P-36-3"	"P-37-3"
1 March 2020	29,987,717	179,926,302.00	10 March 2020	"P-33-4"	"P-34-4"	"P-38-4"	"P-35-4"	"P-36-4"	"P-37-4"
4 April 2020	24,875,919	149,255,514.00	15 April 2020	"P-33-5"	"P-34-5"	"P-38-5"	"P-35-5"	"P-36-5"	"P-37-5"
4 April 2020	20,776,345	124,658,070.00	15 April 2020	"P-33-6"	"P-34-6"	"P-38-6"	"P-35-6"	"P-36-6"	"P-37-6"
3 July 2020	24,387,037	146,322,222.00	17 July 2020	"P-33-7"	"P-34-7"	"P-38-7"	"P-35-7"	"P-36-7"	"P-37-7"
3 July 2020	22,133,463	132,800,778.00	21 July 2020	"P-33-8"	"P-34-8"	"P-38-8"	"P-35-8"	"P-36-8"	"P-37-8"
6 September 2020	14,512,680	87,076,080.00	15 September 2020	"P-33-9"	"P-34-9"	"P-38-9"	"P-35-9"	"P-36-9"	"P-37-9"
6 September 2020	31,455,159	188,730,954.00	15 September 2020	"P-33-10"	"P-34-10"	"P-38-10"	"P-35-10"	"P-36-10"	"P-37-10"
25 November 2020	23,954,354	143,726,124.00	27 November 2020	"P-33-11"	"P-34-11"	"P-38-11"	"P-35-11"	"P-36-11"	"P-37-11"
25 November 2020	21,864,342	131,186,052.00	27 November 2020	"P-33-12"	"P-34-12"	"P-38-12"	"P-35-12"	"P-36-12"	"P-37-12"
Total	275,738,954	₱1,654,433,724.00							

The above documents reveal that petitioner is the proper party to file the claim for tax credit of excise taxes paid on BFO and SFO sold to tax-exempt entities.

For the excise taxes on the sales of BFO and SFO to tax-exempt entities of 17,494,443 liters to be eligible for tax credit, it must be determined that the BFO and SFO sold to tax-exempt entities came from the importations of BFO and SFO on which petitioner paid excise taxes on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020. In support thereof, petitioner presented its Official Register Books (ORBs).[69]

The evidence presented leaves much to be desired. Specifically, an examination of these documents will not allow the Court to trace that the 17,494,443 liters of BFO and SFO sold to tax-exempt entities for the year 2020 came from the importations of BFO and SFO on which petitioner paid excise taxes on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020. Petitioner submitted the ORB only for the months of **January** and **February** 2020.

---

[69] Exhibit "P-5," USB marked as Exhibit "P-42".

As explained by its witness, Ms. Shiela Mary A. Ahing, petitioner's Finance Manager, most of the transactions included in the ORBs for the months of January and February 2020 were sales of bunker fuel and diesel sourced from petitioner's remaining 2019 inventory:[70]

40. Q: You mentioned that the sales made in 2020 were, in part, from the remaining inventory of 2019. Which among the aforementioned sales were still taken from the 2019 inventory of SLHBTC?

A: Out of all the sales made to excise tax-exempt entities for the year 2020, a total of One Million Three Hundred Eighty-Two Thousand Three Hundred Twenty-Three Liters (1,382,323 L), were sourced from SLHBTC's remaining 2019 inventory and sold on various dates from 04 January 2020 until 17 February 2020, as follows:

Sales Invoice		**Registered Name of Buyer**	**Quantity (in Liters)**
No.	Date		
45567	January 04, 2020	Johnson Controls - Hitachi Air Conditioning Philippines, Inc.	20,000.00
45762	January 27, 2020	Johnson Controls - Hitachi Air Conditioning Philippines, Inc.	20,000.00
45793	January 31, 2020	JX Nippon Mining & Metals Phils.	440,000.00
45959	January 31, 2020	Phil. Associated Smelting & Refining Corp.	882,323.00
46328	February 17, 2020	Johnson Controls - Hitachi Air Conditioning Philippines, Inc.	20,000.00

...

42. Q: Which among the sales you earlier identified were taken exclusively from SLHBTC's importation of bunker fuel and diesel for the year 2020?

A: Out of all the sales made to excise tax-exempt entities for the year 2020, a total of Seventeen Million Four Hundred Ninety-Four Thousand Four Hundred Forty-Three Liters (17,494,443 L) were sourced exclusively from SLHBTC's importation of bunker fuel and diesel for the year 2020 and sold on various dates from 29 February 2020 until 31 December 2020, as follows:

---

[70] Exhibit "P-19," Docket - Vol. I. pp. 54-55.

Sales Invoice		Registered Name of Buyer	Quantity (in Liters)
No.	Date		
46603	29-Feb-2020	JX Nippom Mining & Metals Phils.	400,000.00
46767	29-Feb-2020	Phil. Associated Smelting & Refining Corp.	622,252.00
46934	10-Mar-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
47062	24-Mar-2020	JX Nippom Mining & Metals Phils.	360,000.00
47182	24-Mar-2020	Phil. Associated Smelting & Refining Corp.	503,016.00
47353	31-Mar-2020	JX Nippom Mining & Metals Phils.	100,000.00
47400	31-Mar-2020	Phil. Associated Smelting & Refining Corp.	217,682.00
47652	30-Apr-2020	JX Nippom Mining & Metals Phils.	400,000.00
47826	30-Apr-2020	Philippine Sinter Corporation	1,200,000.00
47765	30-Apr-2020	Phil. Associated Smelting & Refining Corp.	695,799.00
48094	31-May-2020	JX Nippom Mining & Metals Phils.	440,000.00
48234	31-May-2020	Philippine Sinter Corporation	400,000.00
48215	31-May-2020	Phil. Associated Smelting & Refining Corp.	663,957.00
48559	02-Jun-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
48826	25-Jun-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
48844	30-Jun-2020	JX Nippom Mining & Metals Phils.	460,000.00
49044	30-Jun-2020	Philippine Sinter Corporation	500,000.00
48997	30-Jun-2020	Phil. Associated Smelting & Refining Corp.	713,826.00
49595	22-Jul-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
49634	31-Jul-2020	JX Nippom Mining & Metals Phils.	440,000.00
49958	31-Jul-2020	Philippine Sinter Corporation	500,000.00
49794	31-Jul-2020	Phil. Associated Smelting & Refining Corp.	521,172.00
50178	28-Aug-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
50271	31-Aug-2020	JX Nippom Mining & Metals Phils.	450,000.00
50432	31-Aug-2020	Philippine Sinter Corporation	450,000.00
50406	31-Aug-2020	Phil. Associated Smelting & Refining Corp.	675,942.00
50974	30-Sep-2020	JX Nippom Mining & Metals Phils.	520,000.00
51107	30-Sep-2020	Phil. Associated Smelting & Refining Corp.	558,449.00
51379	06-Oct-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
51408	14-Oct-2020	Philippine Sinter Corporation	800,000.00
51550	31-Oct-2020	JX Nippom Mining & Metals Phils.	440,000.00
51691	31-Oct-2020	Phil. Associated Smelting & Refining Corp.	662,722.00
51960	05-Nov-2020	Johnson Controls-Hitachi Air Conditioning Philippines, Inc.	20,000.00
52309	25-Nov-2020	Philippine Sinter Corporation	800,000.00
52122	30-Nov-2020	JX Nippom Mining & Metals Phils.	440,000.00
52410	30-Nov-2020	Philippine Sinter Corporation	200,000.00
52267	30-Nov-2020	Phil. Associated Smelting & Refining Corp.	656,555.00
53042	22-Dec-2020	Phil. Associated Smelting & Refining Corp.	30,000.00
52767	31-Dec-2020	JX Nippom Mining & Metals Phils.	520,000.00
52946	31-Dec-2020	Philippine Sinter Corporation	500,000.00
52910	31-Dec-2020	Phil. Associated Smelting & Refining Corp.	513,071.00

Petitioner failed to proffer as evidence its ORBs for the months of March to December 2020 pursuant to Section 41 of the Revenue Regulations (RR) No. 13-77[71] for the Court to properly determine that the 17,494,443 liters BFO and SFO sold to the tax-exempt entities are the same petroleum products which petitioner paid excise taxes on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020.

It simply means that petitioner failed to prove a nexus between the imported BFO and SFO on which petitioner paid excise taxes on January 10, 2020, January 14, 2020, March 6, 2020, March 10, 2020, April 14, 2020, April 15, 2020, July 16, 2020, July 21, 2020, September 14, 2020, September 16, 2020, and November 27, 2020 and the imported BFO and SFO sold to tax-exempt entities. Therefore, the credit prayed for should be denied in its entirety.

Actions for tax refund or credit, as in the instant case, are in the nature of a claim for exemption and the law is not only construed in *strictissimi juris* against the taxpayer, but also **the pieces of evidence presented entitling a taxpayer to an exemption is *strictissimi* scrutinized and must be duly proven**. The burden is on

---

[71] Subject: Petroleum Products Regulations

...

CHAPTER X

BOOKS AND RECORDS

SECTION 41. Records to be kept by importers. — **Every person or entity engaged in the importation of petroleum products shall keep an official register book** wherein shall be entered the following;

(a) On the debit side — Date of arrival of the importations, subsidiary document reference (e.g. Customs Formal Entry), kind of product, quantity actually received, amount of specific taxes paid, number and date of the covering official receipt payment.

(b) On the credit side — Date of removal, consignee and address, kind of product removed, quantity, and remarks.

(c) Resumé — At the end of the month, the importer shall prepare a resumé which shall show the totals of the beginning balance, the importations for the month, the sales for the month, and finally the ending balance. These records should be submitted to the Chief, Gasoline & Miscellaneous Tax Division on or before the 8th day of the succeeding month.

The importer shall certify that the entries on the page of the transcript sheets contain a true and correct account of all petroleum products imported during the month, for the debit side, and the petroleum products removed, sold or disposed of, in the case of the credit side. The books of account shall be subject to periodic verification. Boldfacing supplied.

the taxpayer to show that he (or she) has strictly complied with the conditions for the grant of the tax refund or credit.[72] Petitioner failed in this regard.

WHEREFORE, the Petition for Review filed by SL Harbor Bulk Terminal Corporation, is **DENIED,** for lack of merit.

SO ORDERED.

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

We Concur:

CATHERINE T. MANAHAN
Associate Justice

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

---

72 *Coca-Cola Bottlers Philippines, Inc. v. Commissioner of Internal Revenue,* G.R. No. 222428, February 19, 2018. Boldfacing supplied.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

ROMAN G. DEL ROSARIO
Presiding Justice