REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**C.T.A. EB NO. 392** **(C.T.A. CASE NO. 6624)**
	Present:
-versus-	ACOSTA, Presiding Justice, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, and PALANCA-ENRIQUEZ, JJ.
PILIPINAS SHELL PETROLEUM CORPORATION, *Respondent.*	**Promulgated:** MAY 2 2 2009

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R E S O L U T I O N

PALANCA-ENRIQUEZ, J.:

This resolves respondent Pilipinas Shell Petroleum Corporation's "Motion for Reconsideration (of the Resolution dated January 14, 2009)" filed on February 4, 2009.

Considering that petitioner CIR has failed to file his comment, as per report of the Records Division, the motion is now deemed submitted for resolution.

Records show that on February 19, 2008, the First Division rendered its decision in C.T.A. Case No. 6624, partially granting respondent Pilipinas Shell Petroleum Corporation's (hereafter "respondent PSPC") Petition for Review, the dispositive portion of which reads, as follows:

> "**WHEREFORE**, the instant "**Petition for Review**" and "**Supplement (to Petition for Review dated March 27, 2003 pursuant to Sec. 6, Rule 10 of the 1997 Revised Rules of Civil Procedure**)" are hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND** or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of **THIRTY NINE MILLION THIRTY THOUSAND FOUR HUNDRED NINETY SIX AND 70/100 PESOS (P39,030,496.70)** representing excise taxes paid by petitioner on petroleum products sold to international carriers which were sourced from its own tax-paid inventories for the period covering April to June 2001.
>
> **SO ORDERED.**"

On March 17, 2008, petitioner CIR filed a "Motion for Partial Reconsideration", which the First Division denied in a Resolution dated April 23, 2008.

On May 23, 2008, petitioner CIR appealed said decision to the Court *En Banc,* docketed as C.T.A. EB No. 392 .

On June 20, 2008, respondent PSPC filed its "Comment (on Petition for Review dated May 21, 2008)".

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On July 2, 2008, the case was deemed submitted for decision.

On August 1, 2008, respondent PSPC filed a "Manifestation and Motion" alleging that petitioner CIR's instant appeal is now moot and academic, with petitioner CIR's partial grant of respondent PSPC's remaining claim for refund of P49,393,237.01 (albeit in the reduced amount of P38,801,091.18), attaching thereto as Annex "A" a photocopy of TCC No. 121-08-000025.

In a Resolution dated August 20, 2008, this Court required petitioner CIR to comment on respondent PSPC's "Manifestation and Motion", while respondent PSPC was ordered to submit a certified true copy of the TCC in support of its motion.

On September 5, 2008, respondent PSPC filed its "Motion to Admit (Attached Certified True Copy of Tax Credit Certificate No. 121-08-000025)" praying for the admission of the attached copy of the said TCC, certified by a certain Nicasio M. Manuel, a Tax Compliance Manager.

In a Resolution dated October 24, 2008, this Court ordered petitioner CIR to manifest in writing whether he is still pursuing her Petition for Review, and if in the negative to file the appropriate pleading for the withdrawal of the present petition.

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On November 6, 2008, petitioner CIR filed his "Manifestation" stating that he is still pursuing his Petition for Review in view of his appeal with the Supreme Court in the case entitled "Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation, G.R. No. 180402", involving the same parties and issues (although of different period), which might be decided in his favor, thus, the TCC already issued in this case was considered erroneously issued and may be recalled and eventually cancelled

On January 14, 2009, this Court issued a Resolution denying respondent PSPC's "Motion to Admit" and "Manifestation and Motion", on the ground that the TCC attached to the motion was not certified by the BIR, which purportedly issued the same.

On February 4, 2009, respondent PSPC filed a "Motion for Reconsideration (of the Resolution dated January 14, 2009).

For failure of petitioner CIR to file his comment despite notice, as per report of the Records Division, the motion is now deemed submitted for resolution.

Respondent PSPC moves for a reconsideration of the Resolution dated January 14, 2009 and manifested that it has secured a certified true

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copy of TCC No. 121-08-000025 (hereafter “subject TCC”) issued by the BIR, which was attached to its motion, as Annex “A”.

In his Manifestation filed on November 6, 2008, petitioner CIR stated that he is still pursuing his Petition for Review in view of his appeal with the Supreme Court in the case entitled “Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation, G.R. No. 180402”, involving the same parties and issues (although of different period), which might be decided in his favor, thus, the TCC already issued in this case was considered erroneously issued and may be recalled and eventually cancelled.

On the other hand, respondent PSPC contends that with the grant of the remaining claim for refund of P49,393,237.01 (albeit in the reduced amount of P38,801,091.18), the instant appeal is deemed moot and academic, and the case should now be considered closed and terminated.

We find merit in the motion.

Although the TCC issued by petitioner CIR in favor of respondent PSPC is only in the reduced amount of P38,801,091.18, which is short of P229,405.52 from the amount of P39,030,496.70 granted by the Court in Division in its decision in C.T.A. Case No. 6624, and considering that

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respondent PSPC does not question the reduced amount, as in fact in its "Manifestation and Motion" filed on August 1, 2008, respondent PSPC prayed to render the present Petition For Review as moot and academic and to consider this case as closed and terminated in view of the issuance by the BIR of said TCC, We rule that the subject TCC in the reduced amount of P38,801,091.18 issued by the BIR in favor of respondent PSPC amounts to a full satisfaction of the Decision dated February 19, 2008 in C.T.A. Case No. 6624.

Petitioner CIR's contention that he has a pending appeal with the Supreme Court in G.R. No. 180402, involving the same parties and issues and the TCC already issued in this case maybe recalled and eventually cancelled, cannot be sustained, as said case involves a different taxable year. If petitioner CIR is doubtful of the subject TCC, in this case, he should question the same and request for the cancellation thereof, which in this case, was not done by the Commissioner.

Considering that respondent PSPC has submitted to the Court a certified true copy of the subject TCC (Annex "A" of respondent PSPC's Motion for Reconsideration), We have no recourse, but to consider the issuance by the BIR of the subject TCC in favor of PSPC, which the latter has unqualifiedly accepted, as full satisfaction of the judgment in C.T.A.

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Case No. 6624, and to GRANT respondent PSPC's "Motion For Reconsideration", and to RECALL and SET ASIDE the Resolution dated January 14, 2009.

WHEREFORE, in view of the full satisfaction of the Decision dated February 19, 2008 in C.T.A. Case No. 6624 with the issuance by the BIR of TCC No. 121-08-000025 in favor of respondent PSPC, the present Petition For Review is hereby **DISMISSED**.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice