REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 10352

Members:

BACORRO-VILLENA, *and*
CUI-DAVID, <u>*JJ.*</u>

Promulgated:
OCT 11 2024 4:11 pm

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RESOLUTION

CUI-DAVID, J.:

This resolves respondent's *Motion for Reconsideration (Re: Decision promulgated 14 August 2024)*[1] filed on September 5, 2024, with petitioner's *Comment/Opposition [To Respondent's Motion for Reconsideration Re: Amended Decision promulgated 14 August 2024]* filed on September 24, 2024.

Respondent seeks reconsideration of the Court's *Amended Decision*[2] promulgated on August 14, 2024 (*Assailed Amended Decision*), the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant *Petition for Review* filed by Pilipinas Shell Petroleum Corporation on September 17, 2020, is **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱82,640,348.00**, representing the erroneously paid excise taxes on its Jet A-1 fuel importation during the period from May to September 2018 and sold to international air carriers during the period from September to November 2018.

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[1] Docket, pp. 1442-1450.
[2] Docket, pp. 1429-1440.

SO ORDERED.

Respondent anchors his *Motion* on a single ground, as follows:

> WHETHER THE HONORABLE COURT ERRED IN RULING THAT PETITIONER IS ENTITLED TO A REFUND IN THE REDUCED AMOUNT OF P82,640,348.00 REPRESENTING ALLEGED EXCISE TAXES ON JET A-1 FUEL SOLD TO TAX-EXEMPT INTERNATIONAL AIR CARRIERS FROM SEPTEMBER TO NOVEMBER 2018.

Respondent submits that there must be a categorical and express provision of law allowing a tax refund; otherwise, a tax refund should not be granted.

Citing Section 129[3] of the National Internal Revenue Code (NIRC) of 1997, as amended, respondent asserts that petitioner, as the importer of Jet A-1 fuel allegedly sold to international air carriers, is liable to pay the excise taxes due on it. In other words, petitioner is liable to pay the excise tax upon importation of the Jet A-1 fuel. The only instance petitioner may claim a refund is in the case of an erroneous payment of excise taxes. In the instant case, respondent contends that the excise tax paid by petitioner was legally and validly collected.

Respondent further argues that Section 135 of the NIRC of 1997, as amended, cannot be the source for petitioner's right to claim a refund on excise taxes paid, as it merely provides an enumeration of exempt entities not liable to pay excise taxes. Respondent explains that if petitioner is granted a refund on the excise tax for fuel sold to an exempt entity under Section 135 of the NIRC of 1997, as amended, petitioner, in effect, is granted a refund based solely on the exemption enjoyed by the exempt entities.

In its *Comment/Opposition,* petitioner submits that respondent's *Motion for Reconsideration* should be denied, as the arguments raised are merely a repetition of those previously raised in respondent's *Answer, Memorandum,* and *Motion for Partial Reconsideration (Re: Decision promulgated 4*

[3] 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.

January 2024), which the Court has already considered and passed upon in its decision promulgated on January 4, 2024.

Furthermore, petitioner contends that the Supreme Court, in the case of *Pilipinas Shell Petroleum Corp. v. Commissioner of Internal Revenue*,[4] has already settled the issue. According to the Court's ruling, upon the sale of imported petroleum products to international carriers, the tax exemption under Section 135(a) of the NIRC of 1997, as amended, applies. Consequently, the excise taxes previously paid on imported petroleum products are deemed erroneously or illegally collected.

Respondent's *Motion* must fail.

Indeed, a reading of the instant *Motion* readily shows that the arguments raised by respondent were all squarely discussed and passed upon by the Court in its Decision promulgated on January 4, 2024, and reiterated in the *Amended Decision* sought to be reconsidered. Repeating these discussions would only waste the Court's time and resources.

ACCORDINGLY, there being no new matters and issues advanced that will merit reconsideration, let alone modification of the assailed *Amended Decision* of August 14, 2024, respondent's *Motion for Reconsideration (Re: Decision promulgated 14 August 2024)* is **DENIED**, for lack of merit.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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