REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PILIPINAS SHELL PETROLEUM CORPORATION, *Petitioner*,	**CTA EB No. 1078** (CTA Case No. 8049)
- versus-	Present: Del Rosario, *PJ*, Castañeda, Jr., Bautista, Uy, Casanova, Fabon-Victorino, Mindaro-Grulla, Cotangco-Manalastas, and Ringpis-Liban, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 27 2015 11:45 a.m.

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DECISION

COTANGCO-MANALASTAS, J.:

Before the Court *En Banc* is the Petition for Review[1] filed by petitioner assailing the Special Second Division's Decision[2] and Resolution[3], dated July 11, 2013 and October 2, 2013, respectively, in CTA Case No. 8049.

The Facts

The facts, as narrated by the Division, are as follows:

> "Petitioner is a corporation organized and existing under the laws of the Philippines, with office address at Shell House, 156 Valero Street, Salcedo Village, Makati City. It is engaged, among others, in the business of manufacturing,

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[1] *Rollo*, CTA EB Case No. 1078, pp. 35-89.
[2] *Rollo*, pp. 95-119.
[3] *Rollo*, pp. 120-122.

processing, treating and refining petroleum for the purpose of producing marketable products and by-products and the subsequent sale thereof. Petitioner also imports finished Jet A-1 fuel.

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue (BIR). She holds office at the BIR National Office Building located at Agham Road, Diliman, Quezon City.

On February 18, 2010, petitioner filed a claim for refund or tax credit with the Large Taxpayers Audit and Investigation Division II of the BIR, seeking the recovery of excise taxes paid on Jet A-1 fuel sold to tax-exempt international air carriers for the period covering March 18 to April 20, 2008 in the aggregate amount of P59,277,091.31, xxx

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Due to respondent's inaction on petitioner's administrative claim for refund of excise taxes paid on Jet A-1 fuel sold to tax-exempt international air carriers for the period beginning March 18 to April 20, 2008, petitioner filed the instant Petition for Review before this Court on March 29, 2010.

Respondent, in her Answer filed on May 24, 2010, interposed the following Special and Affirmative Defenses:

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On July 9, 2010, the parties filed their Joint Stipulation of Facts and Issues, which the Court approved in a Resolution dated July 13, 2010. In the same Resolution, the Court declared the pre-trial terminated.

During trial, petitioner presented eight (8) witnesses, namely: Mr. Nicasio Manuel, Mr. Garry Galvez, Ms. Pamela Harder, Ms. Rossebelle Litao, Atty. Nigel Avila, Mr. Benjamin Valdez, Mr. Damaso Pastrana, and Ms. Maria Luz Salting-Verdejo.

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On September 26, 2012, respondent, through counsel, manifested that she will no longer present evidence. Hence, the Court directed the parties to file their respective memoranda, within thirty (30) days therefrom or until October 26, 2012.

On December 6, 2012, the case was deemed submitted for decision, taking into consideration petitioner's

> Memorandum filed on October 25, 2012 and respondent's Memorandum filed on December 4, 2012."[4]

On July 11, 2013, the Division promulgated its Decision, dismissing petitioner's claim for refund or tax credit in the amount of P59,277,091.32, representing excise taxes paid by petitioner on Jet A-1 fuel sold to international air carriers for the period March 18 to April 20, 2008. The Division explained thus:

> "Excise taxes imposed under Title VI of the Tax Code are taxes on property which are imposed on 'goods manufactured or produced in the Philippines for domestic sales or consumption or for any other disposition and to things imported.' Though excise taxes are paid by the manufacturer or producer before removal of domestic products from the place of production or by the owner or importer before the release of imported articles from the customs house, the same partake of the nature of indirect taxes when it is passed on to the subsequent purchaser.
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> Indirect taxes are those that are demanded, in the first instance, from, or are paid by, one person in the expectation and intention that he can shift the burden to someone else. Stated elsewise, indirect taxes are taxes wherein the liability for the payment of the tax falls on one person but the burden thereof can be shifted or passed on to another person, such as when the tax is imposed on goods before reaching the consumer who ultimately pays for it. When the seller passes on the tax to his buyer, he, in effect, shifts the tax burden, not the liability to pay for it, to the purchaser as part of the price of goods sold or services rendered.
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> Corollarily, Section 131 of the NIRC of 1997 identifies the persons liable to pay excise taxes, xxx
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> xxx
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> Clearly from the foregoing, petitioner, being the importer of the petroleum products sold to various international air carriers, is liable to pay the excise tax due on the said importation. However, petitioner wishes to claim the refund of the excise taxes it paid on the sale of Jet A-1 fuel it sold to international carriers on the basis of Section 135 of the NIRC of 1997.
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> Contrary to petitioner's claim, there is nothing in the above-quoted Section 135 of the NIRC of 1997 that expressly grants petitioner, a seller of petroleum products, exemption from the payment of excise taxes for the same. The

[4] *Rollo*, pp. 96-112.

exemption provided in Section 135 is explicit and petitioner clearly does not fall in any of the categories enumerated.

In the case of *Philippine Acetylene Co., Inc. vs. Commissioner of Internal Revenue, et al.*, the Supreme Court had the occasion to explain that a tax exemption being enjoyed by the buyer cannot be the basis of a claim for tax exemption by the manufacturer/importer of the goods for any tax due to it as the manufacturer/importer. The excise tax imposed on petroleum products under Section 148 of the NIRC of 1997, as amended, is the direct liability of the manufacturer/importer who cannot invoke the excise tax exemption granted to its buyers who are international carriers.

Further, in the recent case of *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, the Supreme Court thoroughly explained that Section 135 of the NIRC of 1997 did not exempt the oil companies from the payment of excise tax on petroleum products manufactured and sold by them to international carriers, to wit:

> 'Because an excise tax is a tax on the manufacturer and not on the purchaser, and there being no express grant under the NIRC of exemption from payment of excise tax to local manufacturers of petroleum products sold to international carriers, and absent any provision in the Code authorizing the refund or crediting of such excise taxes paid, the Court holds that Sec. 135(a) should be construed as prohibiting the shifting of the burden of the excise tax to the international carriers who buys petroleum products from the local manufacturers. Said provision thus merely allows the international carriers to purchase petroleum products without the excise tax component as an added cost in the price fixed by manufacturers or distributors/sellers. Consequently, the oil companies which sold such petroleum products to international carriers are not entitled to a refund of excise taxes previously paid on the goods.'

Thus, the excise taxes paid by petitioner on the imported Jet A-1 fuel sold to tax-exempt international air carriers for the period covering March 18 to April 20, 2008, in the amount of P59,277,091.32, cannot be considered as erroneously or illegally collected tax since petitioner is the taxpayer statutorily liable to pay the said taxes. Consequently, petitioner is not entitled to its claim for

> refund, there being no erroneous or illegal collection of excise tax."[5]

Petitioner's motion for reconsideration, filed on July 29, 2013, with respondent's comment filed on August 28, 2013, was denied by the Division's Resolution, dated October 18, 2013.

On November 18, 2013, after an extension for filing was granted by the Court *En Banc*, petitioner filed the instant Petition for Review. Respondent filed its Comment on January 17, 2014.[6]

On January 22, 2014, petitioner filed a Motion to Suspend Proceedings[7]. Said motion was denied by the Court *En Banc* in the Resolution, dated March 31, 2014, and ordered the parties to file their memoranda.[8]

The case was submitted for decision considering petitioner's Memorandum[9], filed on May 22, 2014, and respondent's Manifestation[10], filed on June 18, 2014, that she is adopting the arguments in her Comment, filed on January 17, 2014; and Memorandum, filed with the Division on December 4, 2012.[11]

Issues

Petitioner submits the following issue for resolution:

> WHETHER PETITIONER IS ENTITLED TO REFUND OF EXCISE TAX PAID FOR ITS IMPORTATION OF JET A-1 FUEL SOLD TO EXEMPT INTERNATIONAL CARRIERS UNDER SECTION 135 OF THE NATIONAL INTERNAL REVENUE CODE ('NIRC').[12]

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[5] *Rollo*, pp. 115-118.
[6] *Rollo*, pp. 400-407.
[7] *Rollo*, pp. 408-412.
[8] *Rollo*, pp. 429-431.
[9] *Rollo*, pp. 432-478.
[10] *Rollo*, pp. 485-487.
[11] *Rollo*, pp. 494-495.
[12] *Rollo*, p. 448.

Ruling of the Court

The Division ruled that "there is nothing in Section 135 of the NIRC of 1997 that expressly grants petitioner, a seller of petroleum products, exemption from payment of excise taxes for the same." [13] The Division further stated that "the exemption provided in Section 135 is explicit and petitioner clearly does not fall in any of the categories enumerated."[14] On the basis of *Philippine Acetylene Co., Inc. v. Commissioner of Internal Revenue, et al.*[15], the Division further ruled that the excise tax imposed on petroleum products under Section 148 of the NIRC of 1997, as amended, is the direct liability of the manufacturer/importer who cannot invoke the excise tax exemption granted to its buyers who are international carriers.[16]

On February 19, 2014, the Supreme Court promulgated a Resolution reversing its April 25, 2012 Decision in G.R. No. 188497, entitled *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, and held that Pilipinas Shell Petroleum Corporation is entitled to a refund/tax credit certificate of the excise taxes it paid on petroleum products sold to international carriers. The Supreme Court explained the reason for the reversal of their Decision, as follows:

> "Under the basic international law principle of *pacta sunt servanda*, we have the duty to fulfill our treaty obligations in good faith. This entails harmonization of national legislation with treaty provisions. In this case, <u>Sec. 135(a) of the NIRC embodies our compliance with our undertakings under the Chicago Convention and various bilateral air service agreements not to impose excise tax on aviation fuel purchased by international carriers from domestic manufacturers or suppliers</u>. xxx
>
> Justice Bersamin argues that '(T)he shifting of the tax burden by manufacturers-sellers is a business prerogative resulting from the collective impact of market forces,' and that it is 'erroneous to construe Section 135(a) only as a prohibition against the shifting by the manufacturers-sellers of petroleum products of the tax burden to international carriers, for such construction will deprive the manufacturers-sellers of their business prerogative to determine the prices at which they can sell their products.'

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[13] *Rollo*, p. 116.
[14] *Ibid.*
[15] G.R. No. L-19707, August 17, 1967.
[16] *Rollo*, p. 117.

We maintain that Section 135(a), in fulfillment of international agreement and practice to exempt aviation fuel from excise tax and other impositions, prohibits the passing of the excise tax to international carriers who buys petroleum products from local manufacturers/sellers such as respondent. However, we agree that there is a need to reexamine the *effect* of denying the domestic manufacturers/sellers' claim for refund of the excise taxes they already paid on petroleum products sold to international carriers, and its serious implications on our Government's commitment to the goals and objectives of the Chicago Convention.

The Chicago Convention, which established the legal framework for international civil aviation, did not deal comprehensively with tax matters. Article 24(a) of the Convention simply provides that fuel and lubricating oils on board an aircraft of a Contracting State, on arrival in the territory of another Contracting State and retained on board on leaving the territory of that State, shall be exempt from customs duty, inspection fees or similar national or local duties and charges. Subsequently, the exemption of airlines from national taxes and customs duties on spare parts and fuel has become a standard element of bilateral air service agreements (ASAs) between individual countries.

The importance of exemption from aviation fuel tax was underscored in the following observation made by a British author in a paper assessing the debate on using tax to control aviation emissions and the obstacles to introducing excise duty on aviation fuel, thus:

> Without any international agreement on taxing fuel, it is highly likely that moves to impose duty on international flights, either at a domestic or European level, would encourage 'tankering': carriers filling their aircraft as full as possible whenever they landed outside the EU to avoid paying tax. Clearly this would be entirely counterproductive. Aircraft would be travelling further than necessary to fill up in low-tax jurisdictions; in addition they would be burning up more fuel when carrying the extra weight of a full fuel tank.

With the prospect of declining sales of aviation jet fuel sales to international carriers on account of major domestic oil companies' unwillingness to shoulder the burden of excise tax, or of petroleum products being sold to said carriers by local manufacturers or sellers at still high prices, the practice of "tankering" would not be discouraged. This scenario does not augur well for the Philippines' growing economy and the booming tourism industry. Worse, our Government would be risking retaliatory action under

> several bilateral agreements with various countries. Evidently, construction of the tax exemption provision in question should give primary consideration to its broad implications on our commitment under international agreements.
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> In view of the foregoing reasons, we find merit in respondent's motion for reconsideration. We therefore hold that respondent, as the statutory taxpayer who is directly liable to pay the excise tax on its petroleum products, is entitled to a refund or credit of the excise taxes it paid for petroleum products sold to international carriers, the latter having been granted exemption from the payment of said excise tax under Sec. 135(a) of the NIRC."

In the instant case, petitioner is claiming for refund or issuance of tax credit certificate for the excise taxes it paid on imported Jet A-1 fuel sold to tax exempt international air carriers for the period covering March 18 to April 20, 2008, in the amount of P59,277,091.32. Applying the ruling of the Supreme Court as quoted above, the Court will now determine petitioner's compliance with the requisites for a claim for refund.

Sections 204(C) and 229 of the NIRC of 1997, as amended, authorize the credit or refund of taxes erroneously or illegally received or collected, to wit:

> **"SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes**. – The Commissioner may –
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> "(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."
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> "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, of any sum alleged to have been

> excessively or in any manner wrongfully 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." *(Emphasis supplied)*

Thus, in order to be entitled to a refund of erroneously or illegally collected tax, the following requisites must be satisfied:

1) That there must be an erroneous or illegal collection of tax or a penalty collected without authority, or sum excessively or wrongfully collected;

2) That the claim for refund has been duly filed with the Commissioner, within two (2) years after the payment of tax or penalty; and

3) That the suit or proceeding is instituted with this Court within two (2) years from the date of payment of the tax or penalty.

To inquire into the existence of jurisdiction over the subject matter is the primary concern of a court, for thereon would depend the validity of its entire proceedings.[17] In the instant case, petitioner seeks recovery of excise taxes it paid on April 18, 2008[18] and April 29, 2008[19]. Counting from the earliest date that the excise taxes were paid, petitioner had until April 18, 2010 within which to file the administrative and the judicial claims. Based on the records, petitioner filed its claim with the Bureau of Internal Revenue and this Honorable Court on February 18, 2010 [20] and March 29, 2010,

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[17] Commissioner of Internal Revenue vs. Leonardo S. Villa and the Court of Appeals, G.R. No. L-23988, January 2, 1968.
[18] Exhibits "A" to "A-11".
[19] Exhibits "B" to "B-8".
[20] Exhibit "C".

respectively. Clearly, petitioner complied with the second and third requisites, *i.e.,* its claim for refund was filed within the two-year period prescribed by law.

We shall now discuss the merits of petitioner's claim.

Petitioner posits that it sold and delivered Jet A-1 fuel to various domestic and international carriers of Philippine and foreign registry, which are exempt from excise taxes under Section 135 of the NIRC of 1997, covering the period March 18 to April 20, 2008. Inasmuch as the international carriers to which petitioner sold Jet A-1 fuel are exempt from excise taxes, petitioner claims that the excise taxes in the amount of ₱59,277,091.32 were erroneously or illegally paid. Section 135 of the NIRC of 1997 states:

> "SEC. 135. *Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.* – Petroleum products sold to the following are exempt from excise tax:
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> (a) International carriers of Philippine or foreign registry on their use or consumption outside the Philippines; *Provided,* That the petroleum products sold to these international carriers shall be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner;
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> (b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use or consumption: Provided, however, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and
>
> (c) Entities which are by law exempt from direct and indirect taxes."

Based on the foregoing, petroleum products sold to international air carriers, whether of Philippine or foreign registry, are exempt from excise taxes provided that: (a) the petroleum products are consumed outside the Philippines; (b) such petroleum products be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner; and (c) in the case of foreign international carriers, their country of registry exempts from excise or similar taxes petroleum products sold to Philippine carriers.

Petitioner is engaged, among others, in the business of manufacturing, processing, treating and refining petroleum for the purpose of producing marketable products and by-products and the subsequent sale thereof.[21] Petitioner having its own refinery, produces Jet A-1 from crude refining process. However, petitioner resorts to occasional importation of finished Jet A-1 fuel if, say, the refinery shuts down or if the demand for Jet A-1 fuel exceeds the projected supply of locally manufactured Jet A-1 fuel. The imported finished grade Jet A-1 fuel stored at product tanks is withdrawn from the Tabangao refinery and is delivered via pipeline to the Pandacan installation for intermediate storage, after which, it will be withdrawn and delivered to Joint Oil Company Aviation Storage Plant ('JOCASP') and Lubwell Facility in Clark for eventual sale and delivery to the various international and domestic carriers.[22]

Sometime in March 2008, petitioner imported finished grade Jet A-1 fuel via Tabangao Refinery in Batangas. Pursuant to Section 131(A) in relation to Section 148 of the NIRC of 1997, as amended, petitioner paid to the Bureau of Customs the corresponding duties, taxes and fees, including excise taxes at the rate of ₱3.67 per liter on the imported Jet A-1 fuel. Details of petitioner's importation and payment of excise taxes are illustrated as follows:

Exhibit	Date of Arrival	IEIRD No.	Date of Payment	Volume in Liters	Amount of Excise Taxes Paid
"A" to "A-11"	18-Mar-2008	677-08	18-Apr-2008	7,630,785	₱ 28,004,980.95
"B" to "B-8"	28-Mar-2008	736-08	29-Apr-2008	8,915,158	32,718,629.86
Total				**16,545,943**	**₱ 60,723,610.81**

From the above imported Jet A-1 fuel, petitioner maintains that a total of 16,151,796 liters, with excise tax payments of ₱59,277,091.32, as summarized below[23], were sold to various international airlines for the period March 18

[21] Par. 3, Joint Stipulation of Facts and Issues, CTA Case No. 8049, Docket, pp. 74-75.
[22] Exhibit "Y".
[23] Exhibit "C-3".

to April 20, 2008 for their use or consumption outside the Philippines:

Customers	Flag Registry	Volume in Liters / Excise Tax Paid
Philippine Airlines	Philippines	2,060,639
Air Asia	Malaysia	453,324
Asiana Airlines	Korea	268,640
Air Hong Kong	China	234,795
China Airlines	China	993,608
China Southern	China	284,520
Japan Airlines	Japan	3,033,850
Jet Star Asia	Singapore	294,359
Korean Air	Korea	2,523,201
Royal Brunei Airlines	Brunei	190,943
Qantas Airlines	Australia	874,023
Qatar Airways	Qatar	2,546,309
Singapore Airlines	Singapore	1,931,008
Tiger Airways	Singapore	462,577
Total Aviation Sales		**16,151,796**
Excise Tax Rate		3.67
Total Excise Tax		**₱ 59,277,091.32**

To prove that the foregoing airlines were registered in the countries that grant reciprocal tax exemption to Philippine-registered airline carriers, petitioner secured from the Department of Foreign Affairs ("DFA")[24] a list of countries that grant such exemptions with their corresponding dates of effectivity. Likewise, various Air Services Agreements[25] were presented to prove the existence of an agreement between the Philippines and other countries on the grant of reciprocal tax exemption to Philippine-registered airline carriers. Moreover, the Civil Aeronautics Board certified that Philippine Airlines have been granted a Franchise Permit via Presidential Decree No. 1590 to operate and maintain air transport services in the Philippines and between the Philippines and other countries, and that the other foregoing airlines have been issued Foreign Air Carrier's Permit to operate scheduled international services to and from the Philippines.[26]

Petitioner also presented various documents[27] to prove the sale and delivery of Jet A-1 fuel to international carriers.

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[24] Exhibit M to M-1.
[25] Exhibits DD to NN.
[26] Exhibits AA to AA-2.
[27] Exhibits S to S-1, AAAA-1 to AAAA-346, BBBB-1 to BBBB-181, CCCC-1 to CCCC-735, DDDD-1 to DDDD-55, EEEE-1 to EEEE-350, FFFF-1 to FFFF-318, HHHH-1 to HHHH-2 and IIII-1 to IIII-14.

As ascertained by the Court-commissioned Independent Certified Public Accountant, Mr. Benjamin P. Valdez of Punongbayan & Araullo, and further verified by this Court, it was found that of the total claim for refund or tax credit of ₱59,277,091.32, only the amount of ₱50,797,156.29,[28] as summarized below, was properly supported by relevant documents:

Customers	Volume in Liters / Excise Tax Paid
Philippine Airlines	1,887,571
Air Asia	327,020
Asiana Airlines	215,280
Air Hong Kong	181,980
China Airlines	813,657
China Southern	198,306
Japan Airlines	2,673,887
Jet Star Asia	215,897
Korean Air	2,211,235
Royal Brunei Airlines	173,514
Qantas Airlines	697,088
Qatar Airways	2,189,303
Singapore Airlines	1,699,872
Tiger Airways	356,577
Total Aviation Sales	**13,841,187**
Excise Tax Rate	3.67
Total Excise Tax	**₱ 50,797,156.29**

On the other hand, the claim in the amount of ₱8,479,935.03[29] should be denied on the following grounds:

Exception	Volume in Liters	Specific Tax @ ₱3.67/Liter
Sales/deliveries sourced from importation not duly supported by documents	2,121,669	₱ 7,786,525.23
Sales invoice not provided	145,325	533,342.75
CPS documents and F4 displays printout not provided	43,615	160,067.05
Total	**2,310,609**	**₱8,479,935.03**

WHEREFORE, the instant Petition for Review is **PARTIALLY GRANTED**. The assailed Decision and Resolution of the Special Second Division are hereby **REVERSED** and **SET ASIDE**. Accordingly, respondent Commissioner of Internal Revenue is **ORDERED** to **REFUND** or to **ISSUE A**

[28] Exhibit JJJJ-1.
[29] Exhibit JJJJ-2.

TAX CREDIT CERTIFICATE in the reduced amount of **₱50,797,156.29** to petitioner Pilipinas Shell Petroleum Corporation, representing petitioner's erroneously paid excise taxes on petroleum products sold to international carriers from March 18, 2008 to April 20, 2008.

SO ORDERED.

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice