REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION

TOYOTA MOTOR PHILIPPINES CORPORATION, *Petitioner,*	**CTA CASE NO. 9250** Members:
-versus-	**Del Rosario,** *P.J., Chairperson,* **Fabon-Victorino**, *and* **Manahan,** *JJ.*
COMMISSIONER OF CUSTOMS, *Respondent.*	Promulgated: JUL 02 2020 ; 4:00 P.M.

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed by petitioner Toyota Motor Philippines Corporation against respondent Commissioner of Customs on January 28, 2016, claiming for refund or issuance of a tax credit certificate in the total amount of Two Hundred Forty Eight Million Eight Hundred Twenty One Thousand Two Hundred Thirty One Pesos and Seventy Six Centavos (Php248,821,231.76), consisting of: (a) **customs duties** of One Hundred Eighty Two Million Seven Hundred Fifteen Thousand Two Hundred Seventy Four Pesos (Php182,715,274.00); (b) **excise tax** of Thirty Eight Million Eight Hundred Twenty Four Thousand Eight Hundred Seventy Seven Pesos (Php38,824,877.00); and, (c) **Value Added Tax** *(VAT)* of Twenty Seven Million Two Hundred Eighty One Thousand Eighty Pesos and Seventy Six Centavos (Php27,281,080.76) paid by petitioner on its importation from Japan of Complete Built Up *("CBU")* motor vehicles with a cylinder capacity above three thousand cubic centimeters (3,000 cc) *("CBU Importation")* and Knocked Down *("KD")* components, parts, and/or accessories for the assembly of motor vehicles *(the "KD Importation")* from January to June 2010.[1]

THE PARTIES

Petitioner is a corporation duly organized and existing under the laws of the Philippines with Certificate of Filing of Amended Articles of Incorporation issued by the Securities and Exchange Commission on December 22, 2014.[2] It is engaged in the business of, among others, the sale and distribution in the Philippines of all kinds of motor vehicles, automobile products of every kind and description, motor vehicle parts, accessories, instruments, tools, supplies and equipment, as indicated in the Primary Purpose Clause of its Articles of Incorporation.[3]

Respondent is the Head of the Bureau of Customs (BOC) which is the government agency officially responsible for the assessment and collection of lawful revenues from imported articles and all other dues, fees, charges, fines and penalties accruing under the Tariff and Customs laws. Respondent is vested with the power and authority to cause the payment of claims for refund of customs duties and the corresponding internal revenue taxes on the same importation.[4]

THE FACTS

On March 17, 2011, petitioner filed with the Office of the District Collector of BOC-Collection District II-A (Port of Manila) a letter request for a tax refund or credit in the total amount of Php231,659,005.76, consisting of customs duties of Php168,013,521.00, excess VAT of Php24,82,607.76, and excess excise taxes of Php38,824,877.00 it paid on its <u>CBU Importation from Japan from January to June 2010</u>.[5]

Petitioner claims that the applicable duty rate on motor vehicles with cylinder capacity above 3,000 cc is zero percent (0%) effective January 1, 2010 under Executive Order (EO) No. 905 enacted on June 29, 2010, implementing the Agreement between Japan and the Republic of the Philippines for an Economic Partnership *(JPEPA)*,

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[1] Statement of the Case, Pre-Trial Order, CTA Docket, p. 1065.
[2] Exhibit "P-2"; CTA Docket, pp. 1357-1373.
[3] Par. 4, Petition for Review in relation to par. 4 of the Verified Answer; CTA Docket, pp. 11 and 104.
[4] Par. 3, Petition for Review in relation to par. 3 of the Verified Answer; CTA Docket, pp. 11 and 104.
[5] Par. 17.1 of Petition for Review, CTA Docket, p. 17 in relation to Section 11, Rule 8 of the Rules of Court; Exhibit "P-3"; and Exhibit "R-3"; CTA Docket, p. 1391.

following settled principles of statutory construction and the doctrine of *pacta sunt servanda.*

Since petitioner paid regular rate of customs duties for its importations from January to June 2010, petitioner posits that it is entitled to the refund of customs duties paid on said importations. It also asserts that, in view of the elimination by EO No. 905 of customs duties on motor vehicles with cylinder capacity above 3,000 cc, there was a resulting overpayment of VAT and excise tax on said importation as the tax base thereof included customs duties.[6]

On April 12, 2011, petitioner filed with the Office of the District Collector of BOC-Port of Manila another letter-request for a tax refund or credit of the total amount of Php17,162,226.00, consisting of customs duties of Php14,701,753.00, and excess VAT of Php2,460,473.00 it paid on its <u>KD Importation from Japan from January to June 2010</u>.[7] It likewise averred that the JPEPA provided for the elimination of the applicable duty rate on KD from its "date of entry into force" on October 8, 2008, and that the 0% duty on KD under EO No. 905 shall be applied retroactively effective December 11, 2008, following settled principles of statutory construction and the doctrine of *pacta sunt servanda.*

Considering that petitioner paid the customs duties for its KD Importations from January to July 2010, petitioner contends that it is entitled to the refund of said customs duties. It also asserts that, in view of the elimination by EO No. 905 of customs duties on KD, it overpaid VAT on said importation as the tax base thereof included customs duties.[8]

Alleging inaction by the BOC on its administrative claims for refund,[9] petitioner filed the present Petition for Review on January 28, 2016.[10]

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[6] March 17, 2011 Letter claim for refund; Exhibits "P-3" and "R-3"; CTA Docket, pp. 1391-1405.
[7] Par. 17.2 of Petition for Review, CTA Docket, pp. 17-18 in relation to Section 11, Rule 8 of the Rules of Court; Exhibit "P-4"; and Exhibit "R-4"; CTA Docket, p. 1407.
[8] April 12, 2011 Letter claim for refund; Exhibits "P-4" and "R-4"; CTA Docket, pp. 1407-1422.
[9] CTA Docket, p. 18.
[10] CTA Docket, p. 10.

On April 4, 2016, this Court received respondent's Verified Answer[11] filed through registered mail on March 21, 2016, with the following special and affirmative defenses: (i) the Petition is dismissible for lack of cause of action due to petitioner's failure to exhaust all administrative remedies available, *i.e., petitioner should have invoked first the authority of the Commissioner of Customs (COC) by requesting to direct the District Collector to perform the latter's mandate under Section 1708* of Presidential Decree No. 1464, as amended, otherwise known as the Tariff and Customs Code of the Philippines (TCCP) of 1978, *to act on its claim*; and, (ii) the presumption of regularity of official function finds application in the case, and not the principle of *solutio indebiti*.

On April 8, 2016, petitioner filed through registered mail its Reply (to Respondent's Verified Answer dated 14 March 2016),[12] which was received by this Court on April 21, 2016. Petitioner asserts that its claim before this Court is an exception to the rule on exhaustion of administrative remedies, and the principle of *solutio indebiti* applies to this case.

At the pre-trial stage, respondent filed his Pre-Trial Brief[13] on May 30, 2016, while petitioner's Pre-Trial Brief was filed on July 4, 2016.[14] Pre-Trial Conference was held on July 7, 2016.[15] The Pre-Trial was terminated in a Resolution dated October 21, 2016.[16]

During trial, both parties presented their respective testimonial and pieces of documentary evidence.

Petitioner presented the testimony of Atty. Roque Rommel R. Gutierrez, Elsa A. Mangurali,[17] Edsel Bryan M. Claro,[18] and the Independent Certified Public Accountant Cleopatra A. Du.[19] Petitioner's formally offered exhibits as contained in its Formal Offer of Evidence filed on May 2, 2017,[20] with respondent's Comment thereon filed on May 17, 2017,[21] were admitted in the Court's Resolution dated

[11] CTA Docket, pp. 104-118.
[12] CTA Docket, pp. 123-130.
[13] CTA Docket, pp. 196-201.
[14] CTA Docket, pp. 216-231.
[15] CTA Docket, pp. 874-876; and 881-883.
[16] CTA Docket, pp. 971-972.
[17] CTA Docket, pp. 1054-1061.
[18] CTA Docket, pp. 1076-1081.
[19] CTA Docket, pp. 1299-1303, and 1337-1340.
[20] CTA Docket, pp. 1343-1354.
[21] CTA Docket, pp. 1483-1494.

October 27, 2017 and January 18, 2018, except for Exhibits "P-215" and "P-216" for petitioner's failure to identify the documents; and Exhibits "P-13-C-4", "P-14-C-3", "P-14-C-4", "P-15-C-4", and "P-102-C-7" for not being found in case records.[22]

Respondent, on the other hand, presented as his witness Rene M. Gatchalian[23] while his Exhibits "R-1" and "R-1-A" were admitted in the Court's Resolution dated April 6, 2018.[24]

Petitioner further presented in rebuttal its witness, Atty. Roque Rommel R. Gutierrez.[25] Its formally offered rebuttal exhibits, as contained in the Formal Offer of Rebuttal Evidence filed on June 18, 2018,[26] were admitted in the Court's Resolution dated August 6, 2018[27] and January 24, 2019.[28]

Respondent also presented his sur-rebuttal witness, Atty. Clarence S. Dizon.[29] His sur-rebuttal exhibits as contained in his Formal Offer of Sur-Rebuttal Evidence filed through registered mail on September 12, 2018, were admitted in the Resolution dated January 24, 2019[30] and March 7, 2019.[31]

With the filing of petitioner's Memorandum on April 12, 2019[32] and the failure of the respondent to file his memorandum within the extended period, this case was submitted for decision on July 9, 2019.[33]

THE ISSUE

Whether petitioner is entitled to a refund or credit of customs duties, excise tax and VAT paid on the CBU and KD Importations in the total amount of Two Hundred Forty Eight Million Eight Hundred

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[22] CTA Docket, pp. 1513-1515, and 1537-1539.
[23] CTA Docket, pp. 1541-1542.
[24] CTA Docket, pp. 1567-1568.
[25] CTA Docket, pp. 1595-1596.
[26] CTA Docket, pp. 1598-1600.
[27] CTA Docket, pp. 1692-1693.
[28] CTA Docket, pp. 1816-1820.
[29] CTA Docket, pp. 1695-1696.
[30] CTA Docket, pp. 1816-1820.
[31] CTA Docket, pp. 1905-1906.
[32] CTA Docket, pp. 1914-1951.
[33] CTA Docket, pp. 2022-2024.

Twenty One Thousand Two Hundred Thirty One Pesos and Seventy Six Centavos (Php248,821,231.76).[34]

THE PARTIES' ARGUMENTS

Petitioner asserts that it is entitled to a refund and/or issuance of a tax credit certificate for its mistaken payment of customs duties, excise tax and VAT from January to June 2010, having proven the requisites for refund pursuant to JPEPA and EO No. 905.[35] It claims that (i) it is a registered taxpayer and a duly accredited importer; (ii) it imported CBU motor vehicles and KD components, parts and/or accessories from Japan from January to June 2010; (iii) it mistakenly paid custom duties, excise taxes and VAT to the BOC based on regular duty rate and not the preferential rate under the JPEPA and EO No. 905; (iv) EO No. 905 is clear that effective 1 January 2010, CBU importations and KD importations from Japan were imposed a duty rate of 0%, but it paid customs duties, VAT and excise tax based on regular rate by mistake; (v) it filed its administrative claim for refund within six (6) months from the issuance of the certificates of origin and complied with the requirements and procedure for filings its administrative claims for refund; and (vi) its judicial claim for refund was filed within six (6) years from the time of its payment.[36]

Respondent avers that the Petition is dismissible for lack of cause of action due to petitioner's failure to exhaust all administrative remedies available, *i.e., petitioner should have invoked first the authority of the COC by requesting to direct the District Collector to perform the latter's mandate under Section 1708 of the TCCP, as amended, to act on its claim*; and, (ii) the presumption of regularity of official function finds application in the case, and not the principle of *solutio indebiti*.[37]

Anent the issue of failure to exhaust administrative remedies, petitioner states that the law and jurisprudence recognize specific exceptions like *unreasonable delay or official inaction that would greatly prejudice the complainant.* It claims that its case cannot be dismissed on the ground of failure to exhaust administrative remedies as it did not neglect to go through the procedure for its administrative claims for refund, and there was unreasonable delay and inaction on

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[34] Issue, Pre-Trial Order, CTA Docket, p. 1066.
[35] Petitioner's Memorandum; CTA Docket, p. 1929.
[36] Petitioner's Memorandum; CTA Docket, pp. 1930-1941.
[37] Verified Answer; CTA Docket, pp. 104-118.

BOC's part in failing to issue a Statement of Refund, which caused great prejudice to it.[38]

THE COURT'S RULING

At the outset, the Court notes that the present Petition for Review was filed on January 28, 2016, which was prior to the effectivity of Republic Act No. 10863, otherwise known as the Customs Modernization and Tariff Act (CMTA) on June 16, 2016. Thus, the pertinent provisions of the TCCP, as amended, prior to its amendment by CMTA, shall govern in resolving the present controversy.

Exhaustion of administrative remedies

The present Petition for Review appeals the **inaction** of the BOC, specifically the Office of the District Collector of BOC Collection District II-A, on petitioner's administrative claims for refund or issuance of a tax credit certificate in the total amount of Php248,821,231.76, consisting of: (i) customs duties of Php182,715,274.00; (ii) excise tax of Php38,824,877.00; and, (iii) VAT of Php27,281,080.76, which the latter paid on its aforestated CBU and KD importations from Japan from January to June 2010.

Section 1708 of the TCCP, as amended, lays down the remedy which a taxpayer-importer may avail to claim for refund of customs duties and taxes, *viz.*:

> "SECTION 1708. *Claim for Refund of Duties and Taxes and Mode of Payment.* — All claims for refund of duties shall be made in writing, and forwarded to the Collector to whom such duties are paid, who upon receipt of such claim, shall verify the same by the records of his Office, and if found to be correct and in accordance with law, shall certify the same to the Commissioner with his recommendation together with all necessary papers and documents. Upon receipt by the Commissioner of such certified claim he shall cause the same to be paid if found correct.
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> If as a result of the refund of customs duties there would necessarily result a corresponding refund of internal revenue taxes on the same importation, the Collector shall likewise certify the same to the Commissioner who shall cause the said excess taxes to be paid, refunded, or tax credited in favor of the importer, with advice to the Commissioner of Internal Revenue."

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[38] Petitioner's Memorandum; CTA Docket, pp. 1941-1949.

In _Republic of the Philippines vs. Grandteq Industrial Steel Products, Inc._,[39] the Court _En Banc_ ruled that the right to claim for refund of customs duties and taxes is specifically governed by Section 1708 of the TCCP, as amended:

> "As found and ruled by the Court in Division, **the right to claim for refund of customs duties and taxes is specifically governed by Section 1708 of the TCCP**, xxx." _(Boldfacing supplied)_

Grandteq in _esse_ declares that to be entitled to a refund of customs duties and taxes, it was incumbent upon the taxpayer to establish that the following requirements have been complied with, to wit:

> 1. The written claim for refund addressed to the District Collector of the port concerned has been filed;
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> 2. The District Collector has verified the claim from the records of his office;
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> 3. Having found the claim to be correct and in accordance with law, the District Collector has certified it to the COC with his recommendation, together with all necessary papers and documents; and,
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> 4. The COC, upon finding that the claim is meritorious, has approved and granted the request for refund.

There is no denying that petitioner filed its administrative claims for refund of customs duties, excise tax and VAT with the District Collector way back on March 17, 2011 and April 13, 2011. Yet, despite the astronomical amount of the claims _vis-à-vis_ the District Collector's duty of verifying the correctness of the claims based simply on its own records, no written communication advising petitioner of the District Collector's action appears on record -- not even when petitioner filed its Petition for Review with this Court on January 28, 2016. This is disturbing, to say the least, on the manner by which BOC officials discharge their functions. And it is precisely this deplorable inaction that compelled petitioner to invoke judicial intervention.

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[39] CTA EB No. 981 (CTA Case No. 8201), October 30, 2014; affirmed by the Supreme Court in a Resolution dated March 7, 2018 in G.R. No. 218194.

Of course, respondent lamely argues that the inaction of the District Collector -- even as it wreaks of malfeasance -- is not appealable to the Court of Tax Appeals (CTA). Citing *Southwest Agricultural Marketing Corporation vs. The Secretary of Finance*,[40] respondent insists that the absence of a decision rendered by the COC underscores petitioner's failure to exhaust administrative remedies and suggests lack of cause of action.

The Court finds respondent's contentions as ludicrous as it is brazen.

The doctrine of exhaustion of administrative remedies is not an ironclad rule that public officials may conveniently invoke to preclude private citizens, especially those who are oppressed, from seeking judicial assistance.

In *International Container Terminal Services, Inc. vs. The City of Manila, et al.*,[41] the Supreme Court reiterated the exceptions to the requirement of exhausting adminsitrative remedies before resorting to judicial action, *viz.*:

> "Nonetheless, the failure to exhaust administrative remedies is not always fatal to a party's cause. This Court has admitted of several exceptions to the doctrine:
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> > As correctly suggested by the respondent court, however, there are a number of instances when the doctrine may be dispensed with and judicial action validly resorted to immediately. Among these exceptional cases are: 1) when the question raised is purely legal; 2) when the administrative body is in estoppel; 3) when the act complained of is patently illegal; 4) **when there is urgent need for judicial intervention**; 5) when the claim involved is small; 6) **when irreparable damage will be suffered;** 7) when there is [no] other plain, speedy and adequate remedy; 8) when strong public interest is involved; 9) when the subject of the controversy is private land; and 10) in quo warranto proceedings. (Citations omitted)
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> If the party can prove that the resort to the administrative remedy would be an idle ceremony such that it will be absurd and unjust for it to continue seeking relief that evidently will not be granted to it, then the doctrine would not apply. Xxx" *(Boldfacing supplied)*

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[40] G.R. No. L-24797, October 8, 1968.
[41] G.R. No. 185622, October 17, 2018.

Similarly, in *Marichu G. Ejera vs. Beau Henry L. Merto and Erwin Vergara*,[42] the Supreme Court was categorical in specifying unreasonable delay or official inaction that will irretrievably prejudice the complainant as an exception to the doctrine of exhaustion of administrative remedies, *viz.*:

> "It is true that the doctrine of exhaustion of administrative remedies is not an ironclad rule, but recognizes exceptions, specifically: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) **where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant**; (d) where the amount involved is relatively so small as to make the rule impractical and oppressive; (e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g) where the application of the doctrines may cause great and irreparable damage; (h) where the controversial acts violate due process; (i) where the issue of non-exhaustion of administrative remedies has been rendered moot; (j) where strong public interest is involved; and (l) in quo warranto proceedings." *(Boldfacing supplied)*

Indeed, the present case falls within the aforestated exception.

First, the District Collector never made any recommendation to the COC anent the correctness of petitioner's claims; second, the District Collector's delay of more than four (4) years from the filing of the aforesaid claims cannot be characterized as less than unreasonable; more appropriately stated, the 4-year delay is intolerable as it is much longer than the period within which Regional Trial Court judges are allowed to render a judgment, albeit in contrast, the District Collector's duty is only to verify the claims based on his office's own records; third, the delay subtly but effectively throws the message that the claimant is at the total mercy of the District Collector; and lastly, any further delay irretrievably causes prejudice to the petitioner whose claimed refund, even if granted, bears no interest.

As oft-repeated, records show that petitioner was not remiss in its duty of pursuing its administrative claims. Petitioner filed its administrative claims for refund for its CBU and KD Importations on March 17, 2011[43] and April 12, 2011,[44] respectively. Its administrative

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[42] G.R. No. 163109, January 22, 2014.
[43] Exhibit "P-3", CTA Docket, p. 1391.
[44] Exhibit "P-4", CTA Docket, p. 1407.

claims were then forwarded to the BOC Law Division following standard operating procedure and were forwarded to the Liquidation and Billings Division (LBD) for preparation of Statement of Refund. Thereafter, the LBD prepared Statements of Refund dated September 4, 2013 but these were unsigned.[45]

Respondent, through its witness Mr. Reny Gatchalian, alleged that due to petitioner's failure to secure the necessary clearance and submit the same to the LBD, its claims for refund could not proceed thereafter.

Petitioner, however, duly established that it attached Certifications from the LBD dated February 2, 2011 to its administrative claims for both the CBU and KD importations.[46] **These Certifications provided that TMP had "no pending account/administrative case with the Port of Manila, Bureau of Customs per available records of the Collection Division, Law Division, Bonds Division, and Warehousing/Documentation and Records Division as certified by their respective Chief/Assistant Chief in processing form attached."**

Respondent maintains that such Certifications were no longer valid when the Statements of Refund for petitioner were prepared. Allegedly, Customs Administrative Order (CAO) No. 5-92[47] provides that the Certification issued by the LBD shall be valid only for three (3) months.[48] Thus, the Certifications presented by petitioner, which were issued to it on February 2, 2011, supposedly cannot cover the Statements of Refund issued to it on September 4, 2013.

If the foregoing proposition is indeed vital to respondent's theory that may justify the District Collector's inaction, the Court is disturbed as to why petitioner was not notified of the invalidity of its submitted Certifications and that its claims for refund could no longer proceed. Aside from the self-serving testimony of respondent's witness, Mr. Gatchalian, i.e., that he informed the legal counsel of petitioner that there is a need to submit customs clearance with the LBD, respondent

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[45] Exhibit "R-4", CTA Docket, pp. 1840-1895.
[46] Exhibits "P-241" and "P-242", CTA Docket, pp. 1474 and 1475.
[47] Subject: Guidelines and Procedures for Refund (Tax Credit) of Unutilized Advance Deposit of Customs Duties with Authorized Agent Banks.
[48] III. <u>OPERATIONAL PROVISIONS</u>
xxx xxx xxx
C. <u>Clearance</u>
Clearances from Liquidation and Billing Division and Collection Service must have control numbers and shall be valid for a period of three (3) months, Annex "D". The Collection Division/Unit of the Port shall be furnished with a copy of the said clearance.

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failed to present any document to confirm that petitioner was notified of the invalidity of the clearances it submitted. Official actions of government on crucial matters cannot be binding on the affected parties *sans* basic documentation.

Moreover, respondent's witness, Atty. Clarence S. Dizon, also failed to establish that petitioner was given due process since there was no proof shown that any notice was sent to petitioner as to the invalidity of its claim:

"JUSTICE DEL ROSARIO:

You mentioned that the validly of the clearance that is submitted to the Liquidation and Billing Division is only for three (3) months?

ATTY. DIZON:

A. Your Honors, this is what stated in CAO No. 5-92 No. 3, letter c, Your Honors, "That the clearance shall be valid for a period of three (3) months".

JUSTICE DEL ROSARIO:

After the expiration of the three (3) months, is there any Notice being sent to the claimant as to the supposed invalidity of the claim?

In other words, is there a due process in the sense that the claimant is being notified that the claim can no longer be processed because there was already an expiration of the supposed clearances?

ATTY. DIZON:

A. Your Honors, in my experience the claimants are usually notified that they have to revalidate the clearance because as you know, in the Bureau of Customs there can be liabilities at any time.

So, the clearance for non-liability should be revalidated. In this case, based on CAO No. 5-92, every three (3) months.

JUSTICE DEL ROSARIO:

Based on your records, would you remember if there was an actual Notice sent to Toyota Motor Philippines that the claim can no longer be processed because the supposed clearance has already expired?

ATTY. DIZON:

A. Based on my interview with the Liquidation and Billing Division, they said that Mr. Rene notified the claimants.

JUSTICE DEL ROSARIO:

Do you have the copy of the document with you?
ATTY. DIZON:

A. **No. Your Honors**."[49] *(Boldfacing supplied)*

It is also interesting to note that the required Clearances were submitted to the BOC as attachments to petitioner's administrative claims for refund. If eventually, lapse of time resulted in their invalidation, should not the District Collector be responsible as it is the District Collector's inaction that triggered such consequence? Otherwise, what respondent is suggesting is for petitioner to submit every three (3) months a Certification, for four (4) years or so, until the District Collector acts on the claim -- as to when, he alone knows.

On cross-examination, Atty. Dizon agreed that the Certifications issued to petitioner would still have been valid had the prescribed timeframe for processing claim refunds under CAO No. 5-92 been followed:

"ATTY. ENDALUZ

Q: Ms. Witness assuming that you are correct that at that time, only CAO 592 only covers claims for refund because there are no other Memorandum Circulars or CAO from Bureau of Customs. How long according to the CAO 5-92 the claims for refund to process?

ATTY. DIZON:

A: Under no. 3 letter B, "where times schedule claims for refund under this order shall have a processing time schedule of then **(10) working days** of their offices under the District Collector of Customs and **another ten (10) working days** in offices under the Commissioner of Customs".

ATTY. ENDALUZ:

Q: Assuming that those time schedule was observed, would alleged expired Certification from the petitioner dated 2011 issues by Liquidation and Billing Division **would still be deemed valid**?

ATTY. DIZON:

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[49] TSN dated August 28, 2018, pp. 17-18.

A: At that time?

ATTY. ENDALUZ"

Q: Yes. If the work time scheduled as you mentioned, as you read from Section 3b of CAO 5-92. Would the petitioner Certification from the Liquidation and Billing Division be deemed valid if the work schedule was followed?

ATTY. DIZON:

A: **In an ideal situation, yes.**"[50] *(Boldfacing supplied)*

Records further reveal that petitioner actively followed up and pursued all available avenues to pursue its administrative claims for refund filed with the BOC. Petitioner actually filed letters with two (2) different Deputy Commissioners of the Revenue Collection Monitoring Group (who were under the direct supervision of the COC) to provide updates on the administrative claims for refund and to request for assistance in expediting the processing of the claims on May 8, 2015 and November 23, 2015.[51] These efforts notwithstanding, petitioner's fate appears to have been sealed. No action was ever taken by the District Collector on its claim.

"Judicial intervention" is an appropriate remedy whenever exhaustion of an administrative claim becomes unwarranted

Respondent insists that, in the absence of a decision rendered by the COC, this Court is bereft of jurisdiction over the present case.

The Court finds this untenable.

While jurisprudence abound stating that the CTA's appellate jurisdiction is limited to a review of the <u>decisions</u> of the COC,[52] such

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[50] TSN dated August 28, 2018, pp. 15-16.
[51] Exhibits "P-215" and "P-216", CTA Docket, pp. 1425-1428, and 1429-1432.
[52] Ace Publications, Inc. vs. The Commissioner of Customs and The Collector of Customs, G.R. No. L-18808, May 29, 1964; Southwest Agricultural Marketing Corporation vs. The Secretary of Finance, The Commissioner of Customs and Gustavo A. Suarez, G.R. No. L-24797, October 8, 1968.

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doctrine, however, should not be applied beyond its context and in cases where the factual scenario justifies the application of exceptions to the doctrine on exhaustion of administrative remedies. Truth to tell, in those cases, there is no instance when unreasonable delay in the processing of the taxpayer's claim for refund of customs duties by the Collector of Customs[53] or an instance where the taxpayer had taken the steps prescribed by law to prevent the collection of arrastre charges[54] are involved. Neither has there been an issue in those cases resolving CTA's jurisdiction to review by appeal "other matters arising under the Customs Law and other laws administered by the BOC."[55]

In the present case, the urgency of the need for judicial intervention cannot justly be ignored. It will be the height of injustice if petitioner will be left at the sole mercy of respondent and be deprived of any recourse aside from awaiting for the decision of respondent which may or may not be forthcoming.

The declaration in *Nestle Philippines, Inc. (formerly Filipro, Inc.) vs. Honorable Court of Appeals, Court of Tax Appeals and Commissioner of Customs*[56] anent the prejudice that the Collector of Customs' inaction can cause to taxpayers is enlightening:

> "Accordingly, once a written protest is seasonably filed with the Collector of Customs the **failure or inaction of the latter to promptly perform his mandated duty under the Tariff and Customs Code should not be allowed to prejudice the right of the party adversely affected thereby**. Technicalities and legalisms, however exalted, **should not be misused by the government to keep money not belonging to it, *if any is proven,* and thereby enrich itself at the expense of the tax payers**. If the State expects its taxpayers to observe fairness and honesty in paying their taxes, so must it apply the same standard against itself in refunding excess payments, *if any*, of such taxes. Indeed the State must lead by its own example of honor, dignity and uprightness." (Boldfacing supplied)

Worth noting is Article 10 of the Civil Code of the Philippines, which provides that *"[i]n case of doubt in the interpretation or*

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[53] In Ace Publications, Inc. vs. The Commissioner of Customs and The Collector of Customs, G.R. No. L-18808, May 29, 1964, the taxpayer filed an appeal to the CTA less than two (2) years from the filing of the claims for refund with the Collector of Customs.
[54] Southwest Agricultural Marketing Corporation vs. The Secretary of Finance, The Commissioner of Customs and Gustavo A. Suarez, G.R. No. L-24797, October 8, 1968 involves a case that in *esse* assails the legality of arrastre charges.
[55] Section 7(4), Republic Act No. 1125, as amended.
[56] G.R. No. 134114, July 6, 2001.

application of laws, it is presumed that the lawmaking body intended right and justice to prevail."

In interpreting the provision of Republic Act (RA) No. 1125, as amended, anent the CTA's exclusive appellate jurisdiction to review on appeal "other matters arising under the Customs Law and other laws administered by the BOC" the Legislature never intended to deprive taxpayers of any judicial recourse in the event that their claims for refund remain unacted upon by the BOC and the delay is so patently unreasonable, outrageous and shameful. To interpret otherwise would unlock the wellspring of prejudice, much more injustice, to taxpayers. On this score, the disquisition in *Carlos Alonzo and Casimira Alonzo vs. Intermediate Appellate Court and Tecla Padua*,[57] is enlightening:

> "Thus, **we interpret and apply the law not independently of but in consonance with justice. Law and justice are inseparable, and we must keep them so**. To be sure, there are some laws that, while generally valid, may seem arbitrary when applied in a particular case because of its peculiar circumstances. In such a situation, we are not bound, because only of our nature and functions, to apply them just the same, in slavish obedience to their language. What we do instead is **find a balance between the word and the will, that justice may be done even as the law is obeyed**.
>
> **As judges, we are not automatons. We do not and must not unfeelingly apply the law as it is worded, yielding like robots to the literal command without regard to its cause and consequence**. 'Courts are apt to err by sticking too closely to the words of a law,' so we are warned, by Justice Holmes again, 'where these words import a policy that goes beyond them.' While we admittedly may not legislate, we nevertheless have the power to interpret the law in such a way as to reflect the will of the legislature. While we may not read *into* the law a purpose that is not there, we nevertheless have the right to read *out of it* the reason for its enactment. In doing so, **we defer not to 'the letter that killeth' but to 'the spirit that vivifieth,' to give effect to the law maker's will**."
> *(Boldfacing supplied)*

In fine, the filing of the present Petition for Review before this Court is more than justified.

Prescriptive period

Section 1708 of the TCCP, as amended, neither provides for a prescriptive period within which to file an administrative claim or judicial

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[57] G.R. No. 72873 May 28, 1987.

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claim for refund of erroneously paid custom duties and taxes on importations nor does it provide for any period within which the District Collector and COC may act on petitioner's claim.

The prescriptive period provided in Section 1707[58] of the TCCP, as amended, is inapposite to petitioner's claims for refund because the present claims for refund do not pertain to correction of manifest clerical errors, errors in return of weight, measure and gauge, or errors in the distribution of charges on invoices not involving any question of law. Section 1707 of the TCCP only provides for the period to file a claim for refund of excess payments arising from the correction of aforesaid errors.

Likewise, the prescriptive period in Section 2308 of the TCCP, as amended, is inapplicable to petitioner. The provision reads:

> "Sec. 2308. Protest and Payment upon Protest in Civil Matters. — When a ruling or decision of the Collector is made whereby liability for duties, fees, or other money charge is determined, except the fixing of fines in seizure cases, the party adversely affected may protest such ruling or decision by presenting to the Collector at the time when payment of the amount claimed to be due the Government is made, or within thirty days thereafter, a written protest setting forth his objections to the ruling or decision in question, together with the reasons therefor. No protest shall be considered unless payment of the amount due after final liquidation has first been made."

Note that it is just so inconceivable for petitioner to file a protest within the period mandated in Section 2308 of the TCCP, as amended, as EO No. 905 (the issuance implementing the 0% duty rate agreed under the JPEPA), was not yet existing at the time of the CBU and KD Importations from January to June 2010.

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[58] SEC. 1707. Correction of Errors. - Refund of Excess Payments. - Manifest clerical errors made in an invoice or entry, errors in return of weight, measure and gauge, when duly certified to, under penalties of falsification or perjury, by the surveyor or examining official (when there are such officials at the port), and errors in the distribution of charges on invoices not involving any question of law and certified to, under penalties of falsification or perjury, by the examining official, may be corrected in the computation of duties, if such errors be discovered before the payments of duties, or if discovered within one year after the final liquidation, upon written request and notice of error from the importer, or upon statement of error certified by the Collector.
For the purpose of correcting errors specified in the next preceding paragraph the Collector is authorized to reliquidate entries and collect additional charges, or to make refunds on statement of errors within the statutory time limit.

In view of the silence of the TCCP, as amended, anent the prescriptive period which should be observed in applying for the claim, the provisions of the Civil Code on *solutio indebiti* shall be applied.

The pronouncement of the Supreme Court in *Commissioner of Customs vs. Philippine Phospate Fertilizer Corporation*[59] on the application of the provisions on *solutio indebiti* in cases of erroneously collected taxes is instructive:

> "This leads to another question well-worth resolving — what is the prescriptive period which a duly registered enterprise should observe in applying for a refund to which it is entitled under the EPZA Law? The EPZA Law itself is silent on the matter, and the prescriptive periods under the Tariff and Customs Code and other revenue laws are inapplicable, by specific mandate of Section 17(1) of the EPZA Law. This does not mean though that prescription will not lie, as the Civil Code provisions on *solutio indebit* may find application. The Civil Code is not a customs and internal revenue law. **The Court has in the past sanctioned the application of the provisions on *solutio indebiti* in cases when taxes were collected thru error or mistake**. *Solutio indebiti* is a quasi-contract, thus the claim for refund must be commenced within six (6) years from date of payment pursuant to Article 1145(2) of the New Civil Code. Clearly then, Philphos's right to refund has not yet prescribed." *(Boldfacing supplied)*

If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises. In that situation, a creditor-debtor relationship is created under a quasi-contract, whereby the payor becomes the creditor who then has the right to demand the return of payment made by mistake, and the person who has no right to receive the payment becomes obligated to return it. The quasi-contract of *solutio indebiti* is based on the ancient principle that no one shall enrich oneself unjustly at the expense of another.[60]

Under the principle of *solutio indebiti*, petitioner has a period of six (6) years from the time of payment within which to seek refund of the customs duties, excise tax and VAT paid on its CBU and KD importations from Japan from January to June 2010.

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[59] G.R. No. 144440, September 1, 2004.
[60] CBK Power Company Limited vs. Commissioner of Internal Revenue, G.R. Nos. 198729-30, January 15, 2014.

Records show that petitioner paid the customs duties, excise tax and VAT on its aforestated importations on various dates (details of which are shown hereunder) from January to June 2010.

Considering that the Petition for Review was timely filed with the CTA on January 28, 2016 or well within the six (6) year period from the dates of petitioner's payment of the customs duties, excise tax, and VAT, petitioner's cause of action as elevated to this Court has not prescribed.

Legal bases of petitioner's claims

The Court shall briefly discuss the JPEPA and EO No. 905 which is pertinent in the resolution of this case.

The JPEPA[61] is a bilateral trade agreement with Japan which, among others, aims to liberalize and facilitate trade between Japan and the Philippines.[62] This was signed by then President Gloria Macapagal Arroyo on September 9, 2006 and ratified by the Philippine Senate on October 8, 2008.

Article 18, Chapter 2 of the JPEPA calls for the elimination or reduction of the custom duties on originating goods of the other party, to wit:

> "Article 18
> Elimination of Customs Duties
>
> 1. Except as otherwise provided for in this Agreement, **each Party shall eliminate or reduce its customs duties on originating goods** of the other Party designated for such purposes in its Schedule in Annex 1, in accordance with the terms and conditions set out in such Schedule.
>
> 2. xxx xxx xxx
>
> 3. **Each Party shall eliminate other duties or charges of any kind imposed on or in connection with the importation of originating goods** of the other Party, customs duties of which shall be eliminated or reduced in accordance with paragraph 1 above, if any. **Neither Party shall introduce other duties or charges of any kind** imposed on or in connection with the importation of those originating goods of the other Party." *(Boldfacing supplied.)*

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[61] https://www.mofa.go.jp/region/asia-paci/philippine/epa0609/main.pdf; last accessed: June 10, 2020.
[62] Article 1 (a), Chapter 1 of the JPEPA.

Thus, under the JPEPA, both Japan and the Philippines committed to eliminate or reduce their respective customs duties on specified goods imported from the other country, to be implemented according to the schedule of duty rates annexed to the full text of the JPEPA. Both countries also agreed to eliminate other duties or charges imposed in connection with the importation of goods originating from the other country.

Among the goods which the Philippines agreed to eliminate or reduce duty rates on are motor vehicles and their parts imported from Japan.

Under Clause 7, Part 3 (Notes for Schedule of the Philippines) of Annex 1 to the JPEPA,[63] the applicable duty rate on motor vehicles with cylinder capacity of above 3,000 cc, or the items subject of petitioner's CBU Importation, shall be as follows:

> "7. (a) The customs duty shall be eliminated as follows:
>
> (i) 30.0 percent as from the date of entry into force of this Agreement; and
>
> (ii) **free as from January 1, 2010**." *(Boldfacing supplied)*

Meanwhile under Clause 4, Section 1, Part 3 (Notes for Schedule of the Philippines) of Annex I to the JPEPA,[64] the applicable duty rate of the items subject of petitioner's KD Importation, shall be eliminated as from the date of entry into force of the JPEPA, or on October 8, 2008. The said clause provides as follows:

> "4. (a) (i) The customs duty for the originating goods which are not specified for application of import duties in EO 262 shall be eliminated as from the date of entry into force of this Agreement.
>
> (ii) The customs duty for the originating goods which are specified for the application of import duties in EO 262 shall be eliminated as follows:
>
> (aa) the most-favored-nation applied rate at the time of importation in accordance with EO 262 as from the date of entry into force of this Agreement; and

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63 https://www.mofa.go.jp/region/asia-paci/philippine/epa0609/annex1.pdf; last accessed: June 10, 2020.

64 *Id.*

(bb) **free as from January 1, 2010.**" *(Boldfacing supplied)*

Furthermore, Tariff Item Number 8703.90 under the JPEPA also refers to "components, parts and/or accessories imported from one or more countries for assembly of motor vehicles by participants in the commercial motor vehicle development program" as among those covered by the KD Importation.

On November 7, 2008, EO No. 767[65] was signed into law, which modified the rates of duties on certain articles imported from Japan, in compliance with the JPEPA. Under EO No. 767, the rate of duties to be imposed on importations of motor vehicle components, parts and/or accessories for assembly will be 1% starting from April 1, 2008. However, EO No. 767 also provided that such rates will be subject to negotiation in 2009.

Thereafter, EO No. 905[66] was signed by the President on June 29, 2010 to implement the duty rate reductions on motor vehicles and components under the JPEPA. Section 1 of EO No. 905 provides:

> **"SECTION 1. The articles specifically listed in the Annex** (Articles Granted Concessions under the Agreement) hereof, as classified under Section 104 of the Tariff and Customs Code of 1978, as amended, **shall be subject to the rates of duty in accordance with the schedule indicated in Columns 3 to 6 of said Annex.** The rates of duty so indicated shall be accorded to imports coming from Japan as a Party to the Agreement." *(Boldfacing supplied.)*

According to the schedule in Column 5 of said Annex, motor vehicles "of a cylinder capacity exceeding 3,000 cc" shall be subject to a duty rate of 0% effective January 1, 2010.

EO No. 905 also provided for revised JPEPA rates of duty for motor vehicle components covered under AHTN Codes 8703.90.51B, 8703.90.52B, and 8703.90.53B. The description of and the applicable customs duty rates for such goods are provided in the Annex to EO No. 905 as follows:

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[65] https://www.officialgazette.gov.ph/2008/11/07/executive-order-no-767-s-2008/; last accessed June 10, 2020.
[66] https://tariffcommission.gov.ph/eo-905; last accessed June 10, 2020.

AHTN Codes	Description	Applicable JPEPA Rates of Duty as of December 11, 2008
8703.90.51B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity not exceeding 1,800 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0
8703.90.52B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity exceeding 1,800 cc but not exceeding 2,000 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0
8703.90.53B	Other components, parts and/or accessories imported from one or more countries for assembly of motor vehicles of cylinder capacity exceeding 2,000 cc but not exceeding 2,500 cc by participants in the Motor Vehicle Development Program with certificate from BOI	0

Clearly, it is the intent of EO No. 905 to implement the 0% duties on importations of motor vehicles with cylinder capacity exceeding 3,000 cc starting **January 1, 2010**. This is in consonance with the JPEPA which provided for the elimination of customs duties on motor vehicles with cylinder capacity of above 3,000 cc starting January 1, 2010. However, EO No. 905, which implemented said elimination of customs duties, came into existence only on June 29, 2010. Thus, petitioner's CBU and KD Importations made during January to June 2010 were subjected to the regular duty rates.

Substantiation of petitioner's claims

In order for petitioner to be entitled to refund of excess custom duties pursuant to the JPEPA and EO No. 905, the following requisites must be shown to exist:

1. The claimant should be a duly accredited importer and a taxpayer;

2. There must have been an importation of goods from Japan evidenced by valid certificates of origin;

3. The imported goods should be covered by a preferential custom duty rate and imported in the period when the applicable preferential rates were already applicable;

4. It must be shown that the importer paid the customs duties, excise tax and VAT based on the regular duty rate;

5. The administrative claim for refund must be filed within six (6) months from the issuance of the certificate of origin; and

6. The judicial claim for refund must be filed within six (6) years from time of the payment.

As discussed earlier, petitioner complied with the third, fifth and sixth requisites. At this juncture, the Court shall determine petitioner's compliance with the first, second and fourth requisites.

Anent the first requisite, the Court finds that petitioner is a registered taxpayer and a duly accredited importer, as reflected in the Online Cargo Releases (OLRs) and Statement of Duties and Taxes (SSDTs),[67] and a duly registered taxpayer with TIN 000-415-713-00. Moreover, petitioner is a BOC-accredited importer, as confirmed in BOC Certificate of Accreditation No. IM-0002958538 dated December 5, 2014.[68] Thus, petitioner was able to comply with the first requisite.

As to the second requisite that a claim for refund must be accompanied by a valid certificate of origin, petitioner presented COOs issued by the Japan Chamber of Commerce and Industry on December 14, 2010 (for the CBU Importations) and January 14, 2011 (for the KD Importations).[69] Petitioner also presented Exhibit "P-214"[70] as proof that it transmitted to the BOC the original Certificate of Origins. Considering that the COOs on petitioner's CBU and KD importations were offered and admitted in evidence, petitioner was able to prove its compliance with the second requisite.

As aforestated, the fourth requisite requires petitioner to establish that it paid the customs duties, excise tax and VAT based on the regular duty rate.

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[67] Exhibits "P-6" to "P-31", CTA Docket, pp. 292-329.
[68] Exhibit "P-1", CTA Docket, p. 1355.
[69] Exhibits "P-32" to "P-59" and "P-60-A" to "P-136-A", CTA Docket, pp. 330-357, and pp. 686-762.
[70] CTA Docket, p. 1424.

A perusal of petitioner's claim for refund shows that it consists of excess customs duties and the resulting excess VAT and excess excise taxes paid for the CBU and KD Importations amounting to ₱248,821,231.76, detailed as follows:[71]

Excess Payment Made	CBU importation	KD importation	Total
Customs Duties	₱ 168,013,521.00	₱ 14,701,753.00	₱ 182,715,274.00
Excise Taxes	38,824,877.00	-	38,824,877.00
VAT	24,820,607.76	2,460,473.00	27,281,080.76
Total	**₱ 231,659,005.76**	**₱ 17,162,226.00**	**₱ 248,821,231.76**

CBU Importation – Land Cruiser

Petitioner claims refund of customs duties, resulting excess excise tax and VAT for its importations of Land Cruiser for period January to June 30, 2010 in the total amount of ₱144,255,221.60, broken down as follows:

Import Entry No.	Exhibit Ref. No.	Date of Payment per SSDT	Customs Duties	Excise Tax	Excess VAT	Total
C983710	"P-6-A" to "P-6-H"	1/28/10	₱ 614,779.00	₱ 140,625.00	₱ 90,648.48	₱ 846,052.48
C983810	"P-7-A" to "P-7-H"	1/28/10	7,759,831.00	1,687,500.00	1,133,679.72	10,581,010.72
C1348610	"P-8-A" to "P-8-H"	2/6/10	5,836,312.00	1,265,625.00	852,232.44	7,954,169.44
C753510	"P-9-A" to "P-9-H"	2/17/10	5,203,681.00	1,125,000.00	759,441.72	7,088,122.72
C2232210	"P-10-A" to "P-10-H"	3/8/10	7,759,494.00	1,687,500.00	1,133,639.28	10,580,633.28
C2776210	"P-11-A" to "P-11-D"; "P-11-F" to "P-11-H"	3/23/10	3,206,779.00	703,125.00	469,188.48	4,379,092.48
C2776310	"P-12-A" to "P-12-D"; "P-12-F-1" to "P-12-H"	3/23/10	7,054,913.00	1,546,875.00	1,032,214.56	9,634,002.56
C3449210	"P-13-A" to "P-13-H"	4/12/10	8,811,981.00	1,968,750.00	1,293,687.72	12,074,418.72
C3994210	"P-14-A" to "P-14-D-2"; "P-14-F" to "P-14-H"	4/22/10	8,723,073.00	1,968,750.00	1,283,018.76	11,974,841.76
C994410	"P-15-A" to "P-15-D-2"; "P-15-F" to "P-15-H"	4/22/10	12,359,607.00	2,812,500.00	1,820,652.84	16,992,759.84
C4658710	"P-16-A" to "P-16-H"	5/11/10	20,836,195.00	4,640,625.00	3,057,218.40	28,534,038.40
C5375210	"P-17-A" to "P-17-H"	5/27/10	1,280,860.00	281,250.00	187,453.20	1,749,563.20
C5375910	N/A	N/A	588,646.00	75,000.00	79,637.52	743,283.52
C5375510	"P-18-A" to "P-18-F"; "P-18-G"	5/27/10	2,561,719.00	562,500.00	374,906.28	3,499,125.28
C5968610	"P-19-A" to "P-19-H"	6/11/10	11,637,601.00	2,531,250.00	1,700,262.12	15,869,113.12

[71] CTA Docket, p. 29.

C6598210	"P-20-A" to "P-20-H"	6/22/10	1,285,709.00	281,250.00	188,035.08	1,754,994.08
Total			**₱ 105,521,180.00**	**₱23,278,125.00**	**₱15,455,916.60**	**₱144,255,221.60**

However, upon examination of the submitted evidence, the Court shall disallow the following:

Import Entry No.	Exhibit Ref. No.	Amount	Ground for Disallowance
C983810	"P-7-A" to "P-7-H"	₱ 10,581,010.72	Import Entry and Internal Revenue Declaration (IEIRD) without machine validation
C1348610	"P-8-A" to "P-8-H"	7,954,169.44	Unreadable IEIRD, IEIRD without machine validation
C2232210	"P-10-A" to "P-10-H"	10,580,633.28	IEIRD without machine validation
C2776210	"P-11-A" to "P-11-D"; "P-11-F" to "P-11-H"	4,379,092.48	No IEIRD / Single Administrative Document (SAD) submitted
C2776310	"P-12-A" to "P-12-D"; "P-12-F-1" to "P-12-H"	9,634,002.56	No IEIRD/SAD submitted
C3994210	"P-14-A" to "P-14-D-2"; "P-14-F" to "P-14-H"	11,974,841.76	No IEIRD/SAD submitted
C994410	"P-15-A" to "P-15-D-2"; "P-15-F" to "P-15-H"	16,992,759.84	No IEIRD/SAD submitted
C5375910	N/A	743,283.52	No supporting documents submitted
Total		**₱ 72,839,793.60**	

For its claim on excess excise tax in the total amount of ₱38,824,877.00, petitioner contends that "the cost of the importation component of the net selling price to which the excise tax rates were applied included the customs duties paid on the CBU Importation" and "with the elimination of the customs duties on the CBU Importation pursuant to the JPEPA and EO No. 905, there was an overpayment by petitioner of excise taxes on the same."[72] In essence, petitioner requests a refund of the proportionate increase in total excise taxes which was attributable to the customs duties that should not have been included in the computation for excise taxes.

Under Section 149 of the NIRC of 1997, as amended, the excise tax on the importation of automobiles is based on the manufacturer's or importer's selling price, net of excise and value-added tax. Section 5 of Revenue Regulations (RR) No. 25-2003, as amended, similarly provides that:

> "**SEC. 5. MANUFACTURER'S OR IMPORTER'S SELLING PRICE.** The net manufacturer's or importer's selling price shall refer to the price, net of excise and value-added taxes, at which locally manufactured/assembled or imported automobiles are offered for sale by the manufacturer/assembler or importer to the dealers, or to

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[72] Petition for Review, CTA Docket, p. 28.

> the public directly or through their sales agents, as reflected in the manufacturer's/assembler's or importer's sworn statement duly filed with the BIR, or in their sales invoices/official receipts, whichever is higher[.] xxx" *(Underscoring supplied)*

Thus, the computation of excise taxes shall be based on the selling price of the manufacturer or importer as reflected in the manufacturer's/assembler's or importer's sworn statement (ISS). Section 13 of RR No. 25-2003 likewise provides for the procedure on the amendment of the ISS, as follows:

> **"SEC. 13. MANUFACTURER'S/ASSEMBLER'S OR IMPORTER'S SWORN STATEMENT.**
>
> xxx xxx xxx
>
> The manufacturer/assembler or importer shall file an amended sworn statement of the selling price of any brand/model of automobiles whenever there is a change on the actual selling price thereof. The amended sworn statement shall be filed before the said brand/s or model/s of automobiles may be removed from the place of production or assembly for sale to dealer or the public at the new selling price or before removal thereof from the customs custody. No changes in the selling price of the automobiles shall be allowed unless the corresponding amended sworn statement shall have been submitted to the Commissioner of Internal Revenue." (*Underscoring supplied)*

To show that petitioner effected a decrease in the selling price of its CBU importations of Land Cruiser due to the elimination of customs duties, petitioner offered in evidence an amended ISS as of July 5, 2010 (Exhibit "P-227"). Review thereof shows that the amended ISS as of July 5, 2010 was not signed by the representative of petitioner; neither was it sworn to before a notary public nor was there any indication that it was filed or submitted to the BIR, as required under Section 149 of the NIRC of 1997, as amended, and RR No. 25-2003. Thus, the amended ISS as of July 5, 2010 shall not be given due consideration by the Court. Since there is no basis for the computation of excess excise tax paid resulting from the submission of the invalid amended ISS, petitioner failed to adequately substantiate its claim for refund of excise tax.

As for the claim for refund of excess VAT, it must be noted that under Section 107(A) of the NIRC of 1997, as amended, the tax base for VAT on the importation of goods is the *"total value used by the Bureau of Customs in determining tariff and customs duties plus customs duties, excise taxes, if any, and other charges, such tax to be* *paid by the importer prior to the release of such goods from customs custody."* As such, a decrease in the customs duties paid should result to a corresponding decrease in the amount of VAT. Hence, the Court shall grant the refund of VAT equivalent to twelve percent (12%) of the amount pertaining to refund of customs duties.

Considering the foregoing, the Court finds sufficient basis to grant the refund of the following:

Import Entry No.	Exhibit Ref. No.	Customs Duties	Excise tax	Excess VAT	Total
C983710	"P-6-A" to "P-6-H"	₱ 614,779.08	-	₱ 73,773.49	₱ 688,552.57
C753510	"P-9-A" to "P-9-H"	5,203,681.14	-	624,441.74	5,828,122.88
C3449210	"P-13-A" to "P-13-H"	8,811,981.49	-	1,057,437.78	9,869,419.27
C4658710	"P-16-A" to "P-16-H"	20,836,196.02	-	2,500,343.52	23,336,539.54
C5375210	"P-17-A" to "P-17-H"	1,280,859.66	-	153,703.16	1,434,562.82
C5375510	"P-18-A" to "P-18-F"; "P-18-G"	2,561,719.33	-	307,406.32	2,869,125.65
C5968610	"P-19-A" to "P-19-H"	11,637,601.38	-	1,396,512.17	13,034,113.55
C6598210	"P-20-A" to "P-20-H"	1,285,709.08	-	154,285.09	1,439,994.17
Total		**₱ 52,232,527.18**	-	**₱ 6,267,903.26**	**₱ 58,500,430.44**

CBU Importation – Lexus

Petitioner claims for refund of customs duties, resulting excess excise tax and VAT for its CBU importations of Lexus for period January to June 30, 2010 in the total amount of ₱87,403,786.00, broken down as follows:

Import Entry No.	Exhibit Ref. No.	Date of Payment per SSDT	Customs Duties	Excise Tax	Excess VAT	Total
C991910	"P-21-A" to "P-21-F"	1/28/10	₱ 1,314,991.00	₱ 252,789.00	₱ 188,134.00	₱ 1,755,914.00
C1332710	"P-22-A" to "P-22-F"	2/8/10	9,116,488.00	2,167,700.00	1,354,103.00	12,638,291.00
C1781010	"P-23-A" to "P-23-F"	2/18/10	460,235.00	147,488.00	72,927.00	680,650.00
C1781110	"P-24-A" to "P-24-F"	2/18/10	3,058,766.00	592,967.00	438,208.00	4,089,941.00

C224310	"P-25-A" to "P-25-F"	3/8/10	3,507,245.00	1,070,596.00	549,341.00	5,127,182.00
C2797410	"P-26-A" to "P-26-F"	3/24/10	3,199,627.00	884,928.00	490,147.00	4,574,702.00
C2801510	"P-27-A" to "P-27-F"	3/24/10	6,845,709.00	1,603,090.00	1,013,856.00	9,462,655.00
C3404210	"P-28-A" to "P-28-E"	N/A	3,513,769.00	1,055,324.00	548,291.00	5,117,384.00
C3999310	"P-29-A" to "P-29-F"	4/22/10	747,548.00	310,248.00	126,936.00	1,184,732.00
C4001410	"P-30-A" to "P-30-F"	4/22/10	7,662,536.00	2,277,826.00	1,192,843.00	11,133,205.00
C4669810	"P-31-A" to "P-31-C-2"; "P-31-E" to "P-31-F"	5/11/10	4,573,022.00	881,917.00	654,593.00	6,109,532.00
C5976310	"P-217-A" to "P-217-F"	6/11/10	12,520,207.00	2,802,891.00	1,838,772.00	17,161,870.00
C6600110	"P-218-A" to "P-218-D"; "P-218-F"	6/28/10	5,972,198.00	1,498,988.00	896,542.00	8,367,728.00
Total			₱ 62,492,341.00	₱15,546,752.00	₱ 9,364,693.00	₱87,403,786.00

After a careful scrutiny of the evidence submitted by petitioner, the Court finds sufficient basis to disallow the following:

Import Entry No.	Exhibit Ref. No.	Amount	Ground for Disallowance
C3404210	"P-28-A" to "P-28-E"	₱ 5,117,384.00	No BOC Official Receipt / Statement of Settlement of Duties and Taxes (SSDT) / Certification from Authorized Agent Bank (AAB) submitted
C6600110	"P-218-A" to "P-218-D"; "P-218-F"	8,367,728.00	No IEIRD/SAD submitted
Total		₱ 13,485,112.00	

Anent the claim for refund of excess excise tax paid, petitioner offered in evidence six (6) amended ISS as of July 5, 2010 (Exhibits "P-228" to "P-233") for the six (6) models of Lexus to show that its selling price was decreased due to the elimination of customs duties. Review of the submitted pieces of evidence shows, however, that the six (6) amended ISS as of July 5, 2010 were not signed by the representative of petitioner; neither were they sworn to before a notary public nor was there any indication that they were filed or submitted to the BIR, as required under Section 149 of the NIRC of 1997, as amended, and RR No. 25-2003. Since there is no basis for the computation of excess excise tax paid resulting from the submission of the six (6) invalid amended ISS, the Court holds that petitioner failed to adequately substantiate its claim for refund of excise tax.

With regard to the refund of the erroneously paid VAT, as stated earlier, a decrease in the customs duties paid should result to a corresponding decrease in the amount of VAT; thus, the Court finds sufficient basis to grant the refund of VAT equivalent to twelve percent (12%) of the amount pertaining to refund of customs duties.

Considering the foregoing, the Court shall grant the refund of the following:

Import Entry No.	Exhibit Ref. No.	Customs Duties	Excise Tax	Excess VAT	Total
C991910	"P-21-A" to "P-21-F"	₱ 1,498,413.51	-	₱ 179,809.62	₱ 1,678,223.13
C1332710	"P-22-A" to "P-22-F"	9,255,294.70	-	1,110,635.36	10,365,930.06
C1781010	"P-23-A" to "P-23-F"	540,841.26	-	64,900.95	605,742.21
C1781110	"P-24-A" to "P-24-F"	3,445,542.39	-	413,465.09	3,859,007.48
C224310	"P-25-A" to "P-25-F"	3,507,245.17	-	420,869.42	3,928,114.59
C2797410	"P-26-A" to "P-26-F"	3,199,626.99	-	383,955.24	3,583,582.23
C2801510	"P-27-A" to "P-27-F"	6,981,095.76	-	837,731.49	7,818,827.25
C3999310	"P-29-A" to "P-29-F"	937,351.27	-	112,482.15	1,049,833.42
C4001410	"P-30-A" to "P-30-F"	7,662,536.44	-	919,504.37	8,582,040.81
C4669810	"P-31-A" to "P-31-C-2"; "P-31-E" to "P-31-F"	4,813,470.51		577,616.46	5,391,086.97
C5976310	"P-217-A" to "P-217-F"	12,942,233.19	-	1,553,067.98	14,495,301.17
Total		**₱ 54,783,651.19**	**-**	**₱ 6,574,038.14**	**₱ 61,357,689.33**

Knocked-Down Importation

The refund of customs duties, resulting excess excise tax and excess VAT pertaining to KD Importation in the total amount of ₱17,162,226.00 is broken down as follows:

Month	Customs Duties	Excess VAT	Total
January	₱ 2,032,586.00	₱ 243,906.00	₱ 2,276,492.00
February	1,247,139.00	184,104.00	1,431,243.00
March	2,627,185.00	496,983.00	3,124,168.00
April	2,452,568.00	508,804.00	2,961,372.00
May	2,437,024.00	576,066.00	3,013,090.00
June	2,367,890.00	266,131.00	2,634,021.00
July	1,537,361.00	184,479.00	1,721,840.00
Total	₱ 14,701,753.00	₱ 2,460,473.00	₱ 17,162,226.00

Upon examination of the evidence submitted by petitioner, the Court disallows the entire amount of ₱17,162,226.00 on the following grounds:

Month	Import Entry No.	Reference No.	Date of Payment per SSDT	Customs Duties	Excess VAT	Ground for Disallowance
January	C9011	"P-60-A" to "P-60-D-2"; "P-60-G"	1/18/10	₱ 28,659.00	₱ 3,439.00	No IEIRD/SAD submitted
	C11667	"P-61-A" to "P-61-E"; "P-61-G"	1/21/10	157,492.00	18,898.00	IEIRD without machine validation
	C15540	"P-62-A" to "P-62-D-4"; "P-62-G"	1/28/10	162,121.00	19,454.00	No IEIRD submitted
	C9001	"P-63-A" to "P-63-E"; "P-63-G"	1/18/10	78,269.00	9,392.00	IEIRD without machine validation
	C9020	"P-64-A" to "P-64-D-4"; "P-64-F" to "P-64-G"	1/18/10	168,602.00	20,232.00	Unreadable SAD; No Certification from AAB submitted
	C11666	"P-65-A" to "P-65-E"; "P-65-G"	1/21/10	248,229.00	29,787.00	IEIRD without machine validation
	C15541	"P-66-A" to "P-66-D-4"; "P-66-G"	1/24/10	250,575.00	30,069.00	No IEIRD submitted
	C16189	"P-67-A" to "P-67-E"; "P-67-G"	1/29/10	147,484.00	17,698.00	IEIRD without machine validation
	C18709	"P-68-A" to "P-68-G"	2/3/10	160,212.00	19,225.00	IEIRD without machine validation
	C22645	"P-69-A" to "P-69-G"	2/10/10	60,712.00	7,285.00	IEIRD without machine validation
	C21095	"P-70-A" to "P-70-E"; "P-70-G"	2/9/10	174,423.00	20,930.00	IEIRD without machine validation
	C18707	"P-71-A" to "P-71-E"; "P-71-G"	2/3/10	249,277.00	29,913.00	IEIRD without machine validation
	C12271	"P-72-A" to "P-72-E"; "P-72-G"	1/22/10	146,531.00	17,584.00	IEIRD without machine validation
February	C22643	"P-73-A" to "P-73-G"	2/10/10	75,080.00	9,009.00	IEIRD without machine validation
	C27678	"P-74-A" to "P-74-G"	2/18/10	138,762.00	16,651.00	IEIRD without machine validation
	C31204	"P-75-A" to "P-75-D"	2/25/10	139,177.00	16,701.00	Unreadable SAD; No Certification from AAB submitted

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	C34286	"P-76-A" to "P-76-E"; "P-76-G"	3/5/10	140,246.00	24,514.00	IEIRD without machine validation
	C37183	"P-77-A" to "P-77-D"; "P-77-F"		52,724.00	6,327.00	No SSDT / Certification from AAB submitted
	C22639	"P-78-A" to "P-78-G"	2/10/10	93,831.00	11,259.00	IEIRD without machine validation
	C24182	"P-79-A" to "P-79-G"	2/12/10	54,895.00	6,587.00	IEIRD without machine validation
	C27677	"P-80-A" to "P-80-G"	2/15/10	122,367.00	14,684.00	IEIRD without machine validation
	C28811	"P-81-A" to "P-81-D-2"; "P-81-F" to "P-81-G"	2/22/10	52,240.00	6,268.00	Unreadable SAD; No Certification from AAB submitted
	C31202	"P-82-A" to "P-82-D-2"; "P-82-F" to "P-82-G"	2/25/10	121,140.00	14,537.00	Unreadable SAD; No Certification from AAB submitted
	C31680	"P-83-A" to "P-83-D-3"; "P-83-G"	2/26/10	65,439.00	7,852.00	No IEIRD/SAD submitted
	C34285	"P-84-A" to "P-84-E"; "P-84-G"	3/5/10	107,790.00	19,939.00	IEIRD without machine validation
	C34958	"P-85-A" to "P-85-E"; "P-85-G"	3/5/10	83,448.00	29,776.00	IEIRD without machine validation
March	C37182	"P-86-A" to "P-86-D-2"; "P-86-F" to "P-86-G"	3/10/10	54,518.00	6,542.00	Unreadable SAD; No Certification from AAB submitted
	C41185	"P-87-A" to "P-87-D-2"; "P-87-F" to "P-87-G"	3/17/10	94,451.00	11,334.00	Unreadable SAD; No Certification from AAB submitted
	C46218	"P-88-A" to "P-88-D-3"; "P-88-F" to "P-88-G"	3/25/10	107,846.00	19,976.00	Unreadable SAD; No Certification from AAB submitted
	C49732	"P-89-A" to "P-89-D-3"; "P-89-F" to "P-89-G"	4/6/10	104,180.00	19,467.00	Unreadable SAD; No Certification from AAB submitted
	C52915	"P-90-A" to "P-90-D-3"; "P-90-F" to "P-90-G"	4/7/10	95,311.00	18,202.00	Unreadable SAD; No Certification from AAB submitted
	C37180	"P-91-A" to "P-91-D-3"; "P-91-F" to "P-91-G"	4/10/10	266,577.00	31,989.00	Unreadable SAD; No Certification from AAB submitted
	C39185	"P-92-A" to "P-92-D-4"; "P-92-F" to "P-92-G"	unreadable	184,893.00	23,866.00	Unreadable SAD; No Certification from AAB submitted
	C41188	"P-93-A" to "P-93-D-3"; "P-93-F" to "P-93-G"	3/17/10	279,020.00	62,528.00	Unreadable SAD; No Certification from AAB submitted
	C43040	"P-94-A" to "P-94-D-4"; "P-94-F" to "P-94-G"	3/22/10	179,038.00	40,002.00	Unreadable SAD; No Certification from AAB submitted
	C46222	"P-95-A" to "P-95-D-3"; "P-95-F" to "P-95-G"	unreadable	303,896.00	67,402.00	Unreadable SAD; No Certification from AAB submitted
	C46862	"P-96-A" to "P-96-D-4"; "P-96-F" to "P-96-G"	unreadable	181,650.00	40,342.00	Unreadable SAD; No Certification from AAB submitted
	C49740	"P-97-A" to "P-97-D-3"; "P-97-F" to "P-97-G"	4/5/10	331,601.00	74,856.00	Unreadable SAD; No Certification from AAB submitted
	C50360	"P-98-A" to "P-98-D-4";	unreadable	182,277.00	20,531.00	Unreadable SAD; No Certification from AAB submitted

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		"P-98-F" to "P-98-G"				
	C52907	"P-99-A" to "P-99-D-3"; "P-99-F" to "P-99-G"	4/7/10	261,927.00	59,946.00	Unreadable SAD; No Certification from AAB submitted
April	C58315	"P-100-A" to "P-100-D-3"; "P-100-F" to "P-100-G"	4/15/10	135,971.00	23,774.00	Unreadable SAD; No Certification from AAB submitted
	C63507	"P-101-A" to "P-101-D-3"; "P-101-F" to "P-101-G"	4/23/10	155,889.00	30,030.00	Unreadable SAD; No Certification from AAB submitted
	C67574	"P-102-A" to "P-102-D-3"; "P-102-F" to "P-102-G"	4/30/10	163,832.00	33,489.00	Unreadable SAD; No Certification from AAB submitted
	C70459	"P-103-A" to "P-103-D-3"; "P-103-F" to "P-103-G"	unreadable	135,501.00	23,701.00	Unreadable SAD; No Certification from AAB submitted
	C54830	"P-104-A" to "P-104-D-4"; "P-104-F" to "P-104-G"	4/12/10	186,407.00	40,557.00	Unreadable SAD; No Certification from AAB submitted
	C58305	"P-105-A" to "P-105-D-3"; "P-105-F" to "P-105-G"	4/16/20	277,721.00	61,181.00	Unsigned SAD; No Certification from AAB submitted
	C59614	"P-106-A" to "P-106-D-4"; "P-106-F" to "P-106-G"	N/A	184,544.00	22,145.00	Unreadable SAD; No SSDT/ Certification from AAB submitted
	C63506	"P-107-A" to "P-107-D-3"; "P-107-F" to "P-107-G"	4/23/10	276,839.00	61,589.00	Unsigned SAD; No Certification from AAB submitted
	C63372	"P-108-A" to "P-108-D-4"; "P-108-F" to "P-108-G"	4/23/10	187,583.00	40,524.00	Unsigned SAD; No Certification from AAB submitted
	C67568	"P-109-A" to "P-109-D-3"; "P-109-F" to "P-109-G"	4/30/10	277,004.00	65,607.00	Unsigned SAD; No Certification from AAB submitted
	C67562	"P-110-A" to "P-110-D-4"; "P-110-F" to "P-110-G"	unreadable	192,585.00	44,238.00	Unsigned SAD; No Certification from AAB submitted
	C70452	"P-111-A" to "P-111-D-2"; "P-111-F" to "P-111-G"	unreadable	278,692.00	61,969.00	Unsigned SAD; No Certification from AAB submitted
May	C80046	"P-112-A" to "P-111-D-3"; "P-112-F" to "P-112-G"	5/21/10	152,655.00	18,318.00	IEIRD without machine validation
	C83133	"P-113-A" to "P-113-G"	5/27/10	160,968.00	19,315.00	IEIRD without machine validation
	C87597	"P-114-A" to "P-114-G"	6/3/10	162,082.00	19,449.00	IEIRD without machine validation
	C92758	"P-115-A" to "P-115-B-2"; "P-115-D-1" to "P-115-G"	6/11/10	97,647.00	11,717.00	Unsigned SAD; No Certification from AAB submitted
	C76845	"P-116-A" to "P-116-D-3"; "P-116-F" to "P-116-G"	5/17/10	190,046.00	41,219.00	Unsigned SAD; No Certification from AAB submitted
	C80045	"P-117-A" to "P-117-D-3"; "P-117-F" to "P-116-G"	5/21/10	323,757.00	38,850.00	IEIRD without machine validation
	C80060	"P-118-A" to "P-118-D-4"; "P-118-G"	5/24/10	188,129.00	287,792.00	No IEIRD/SAD submitted

	C83125	"P-119-A" to "P-119-D-3"; "P-119-F" to "P-119-G"	5/27/10	321,787.00	38,614.00	Unsigned SAD; No Certification from AAB submitted
	C83931	"P-120-A" to "P-120-G"	5/28/10	194,855.00	23,382.00	IEIRD without machine validation
	C87594	"P-121-A" to "P-121-E"; "P-121-G"	6/3/10	332,941.00	39,952.00	IEIRD without machine validation
	C88935	"P-122-A" to "P-122-D-4"; "P-122-F" to "P-122-G"	6/7/10	196,722.00	23,606.00	Unsigned SAD; No Certification from AAB submitted
	C92757	"P-123-A" to "P-123-G"	6/11/10	115,435.00	13,852.00	IEIRD without machine validation
June	C92759	"P-124-A" to "P-124-G"	6/11/10	40,844.00	4,901.00	IEIRD without machine validation
	C96596	"P-125-A" to "P-125-G"	6/18/10	123,404.00	14,808.00	IEIRD without machine validation
	C100274	"P-126-A" to "P-126-G"	6/25/10	113,435.00	13,611.00	IEIRD without machine validation
	C103534	"P-127-A" to "P-127-G"	7/1/10	113,297.00	13,595.00	IEIRD without machine validation; out-of-period claim
	C108285	"P-128-B" to "P-128-G"	7/9/10	117,263.00	14,071.00	Out-of-period claim
	C92755	"P-129-A" to "P-129-G"	6/11/10	167,245.00	20,069.00	IEIRD without machine validation
	C92507	"P-130-A" to "P-130-G"	6/11/10	172,284.00	20,674.00	IEIRD without machine validation
	C96593	"P-131-A" to "P-131-D-6"; "P-131-F" to "P-131-G"	6/18/10	260,008.00	31,200.00	Unsigned SAD; No Certification from AAB submitted
	C97160	"P-132-A" to "P-132-G"	6/21/10	171,544.00	(1,277.00)	Unsigned SAD; No Certification from AAB submitted
	C100646	"P-133-A" to "P-133-G"	6/25/10	260,084.00	31,209.00	IEIRD without machine validation
	C101465	"P-134-A" to "P-134-G"	6/28/10	152,843.00	18,340.00	IEIRD without machine validation
	C103531	"P-135-A" to "P-135-E"; "P-135-G"	7/1/10	256,920.00	30,830.00	IEIRD without machine validation; out-of-period claim
	C106553	"P-136-A" to "P-136-G"	7/6/10	156,098.00	18,731.00	IEIRD without machine validation; out-of-period claim
	C108275	"P-219-A" to "P-219-D-3"; "P-219-F" to "P-219-G"	7/9/10	262,621.00	35,369.00	Unsigned SAD; No Certification from AAB submitted; out-of-period claim
July				1,537,361.00	184,479.00	Out-of-period claim
Total				**₱ 14,701,753.00**	**₱ 2,460,473.00**	

In summary, the petitioner has substantiated its claim for refund of customs duties and excess VAT on CBU Importations in the amount of ₱119,858,119.77, detailed as follows:

Excess Payment Made	CBU Importation - Land Cruiser	CBU Importation - Lexus	KD Importation	Total
Customs Duties	₱ 52,232,527.18	₱ 54,783,651.19	-	₱ 107,016178.37
Excise Taxes	-	-	-	-
VAT	6,267,903.26	6,574,038.14	-	12,841,941.40
Total	**₱ 58,500,430.44**	**₱ 61,357,689.33**	-	**₱ 119,858,119.77**

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WHEREFORE, in view of the foregoing, the present Petition for Review filed by Toyota Motor Philippines Corporation is hereby **PARTIALLY GRANTED**. Accordingly, respondent Commissioner of Customs is **ORDERED TO REFUND AND/OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner Toyota Motor Philippines Corporation in the amount of **₱119,858,119.77**, representing excess custom duties and value-added tax paid on its importations from Japan of Complete Built Up motor vehicles with a cylinder capacity above three thousand cubic centimeters (3,000 cc) for the period January 1 to June 30, 2010.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.

ROMAN G. DEL ROSARIO
Presiding Justice