REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus-

PILIPINAS SHELL PETROLEUM CORPORATION,
Respondent.

CTA EB No. 2934
(CTA Case No. 10279)

x- x

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB No. 2938
(CTA Case No. 10279)

Present:

RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JAN 09 2026 12:10pm

x- x

DECISION

REYES-FAJARDO, *J.*:

Before the Court *En Banc* are the Petitions for Review separately filed by the Commissioner of Internal Revenue (CIR) and Pilipinas

Shell Petroleum Corporation (Pilipinas Shell), assailing the Decision dated January 8, 2024[1] and Resolution dated May 30, 2024,[2] rendered by the Court's Special Third Division (Court in Division) in CTA Case No. 10279, entitled *"Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue."* The assailed rulings partially granted Pilipinas Shell's claim for a refund or issuance of tax credit certificate in the amount of ₱15,501,712.00, representing erroneously paid excise tax on its imported Jet A-1 fuel sold to international carriers during the period April to May 2018.

PARTIES

The CIR is the duly appointed Commissioner of Internal Revenue who holds office at the Bureau of Internal Revenue (BIR) National Office Building, located at Agham Road, Diliman, Quezon City, where he may be served with summons and other legal process.

Pilipinas Shell is a corporation duly organized and existing under the laws or the Philippines, with principal office at the 41st Floor, The Finance Center, 26th Street corner 9th Avenue, Bonifacio Global City, Taguig City 1634.

FACTS

The facts as found by the Court in Division are as follows:

Pilipinas Shell is an importer of Jet A-1 fuel. It operated its Tabangao product storage tanks as a Customs Bonded Warehouse (CBW) from July 2015, upon approval by the Bureau of Customs (BOC), until its closure in September 2018.

In April 2018, Pilipinas Shell paid the excise taxes amounting to ₱29,252,140.00 on its importations of Jet A-1 fuel, pursuant to Sections 129 and 131(A) of the National Internal Revenue Code of

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1 Assailed Decision, *Rollo* (CTA EB No. 2934), pp. 26 to 66; *Rollo* (CTA EB No. 2938), pp. 6 to 46.

2 Assailed Resolution, *Rollo* (CTA EB No. 2934), pp. 68 to 77; *Rollo* (CTA EB No. 2743), pp. 48 to 57.

1997, as amended (NIRC). The Jet A-1 fuel on which excise taxes had been paid was subsequently sold to tax-exempt international air carriers during the period April to May 2018

On March 10, 2020, Pilipinas Shell filed an administrative claim with the BIR Excise Law Taxpayers Audit Division II for a refund or issuance of tax credit certificate in the amount of ₱29,252,140.00. This amount allegedly represents excise taxes erroneously paid on its importations of Jet A-1 fuel sold to tax-exempt international air carriers.[3]

On June 9, 2020, Pilipinas Shell filed a Petition for Review before the Court in Division, docketed as CTA Case No. 10279.[4]

On January 8, 2024, the Court in Division rendered a Decision in CTA Case No. 10279, partially granting the petition, as follows:

> **WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of Php15,501,712.00, representing petitioner's erroneously paid excise taxes for its imported Jet A-1 fuel for the period covering April to May, 2018.
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> **SO ORDERED.**

Both the CIR and Pilipinas Shell filed their respective Motions for Partial Reconsideration of the Decision dated January 8, 2024 Decision, which were denied in the assailed Resolution of May 30, 2024.

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3 Division Docket, Volume II, *Joint Stipulation of Facts and Issues* (JSFI), Stipulation of Facts, Par. 3, pp. 572 to 573; Exhibits "P-8" and "P-9," pp. 758 to 761.

4 *Id.*, pp. 14 to 25.

On July 4, 2024, Pilipinas Shell filed its Petition for Review with the Court *En Banc*, docketed as CTA EB No. 2938,[5] *sans* comment from the CIR.[6]

On July 8, 2024, the CIR filed his Petition for Review with the Court *En Banc*, docketed as CTA EB No. 2934.[7] On September 30, 2024, Pilipinas Shell filed its Comment.[8]

In a Minute Resolution dated July 10, 2024, the above-captioned cases were consolidated pursuant to Section 1, Rule 31 of the Rules of Court, as amended.[9]

On December 5, 2025, the Court promulgated a Resolution submitting the consolidated cases for decision.[10]

ISSUE

> Did the Court in Division err in ruling that Pilipinas Shell was entitled to a partial refund of excise taxes erroneously paid on its importations of Jet A-1 fuel sold to tax-exempt international air carriers for the period April to May 2018?

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5 *Rollo* (CTA EB No. 2735), pp. 1-19. Pilipinas Shell had fifteen (15) days from the date of receipt of the resolution on June 5, 2024 or until June 20, 2024 within which to file a petition for review. On June 19, 2024, Pilipinas Shell filed a Motion for Extension of Time to File Petition for Review. On June 26, 2024, the Court *En Banc* issued a Minute Resolution giving the CIR until July 5, 2024 to file his Petition for Review. On July 4, 2024, Pilipinas Shell timely filed its Petition for Review within the extended period granted by the Court.

6 Records Verification dated October 22, 2024, Rollo (CTA EB No. 2934), unpaginated.

7 *Rollo* (CTA EB No. 2735), pp. 1-19. The CIR had fifteen (15) days from the date of receipt of the resolution on June 6, 2024 or until June 21, 2024 within which to file a petition for review. On June 18, 2024, the CIR filed a Motion for Extension of Time to File Petition for Review. On June 21, 2024, the Court *En Banc* issued a Minute Resolution giving the CIR until July 6, 2024 to file his Petition for Review. The CIR timely filed its Petition for Review within the extended period granted by the Court considering that July 6, 2024, fell on a Saturday.

8 *Rollo* (CTA EB No. 2934), pp. 80-99.

9 *Rollo* (CTA EB No. 2934), p. 78.

10 *Rollo* (CTA EB No. 2934), unpaginated.

ARGUMENTS

The CIR's Petition for Review (CTA EB No. 2934)

The CIR argues that tax refunds partake of the nature of tax exemptions, which result in a loss of revenue for the government. Hence, a tax refund should not be permitted absent a categorical and express provision of law authorizing it, citing dissenting opinions in *Pilipinas Shell Corporation v. Commissioner of Internal Revenue*.[11]

According to the CIR, the NIRC, contains no provision allowing the refund of excise tax except under Section 130 (D) thereof. Since Pilipinas Shell's claim does not fall within the ambit of this provision, it is not entitled to a refund of the excise taxes it paid.

The CIR further maintains that the petroleum products purchased by international carriers are exempt from excise tax, and therefore, the excise tax cannot be included in the purchase price charged by Pilipinas Shell. He further contends that Section 135 of the NIRC, cannot serve as the legal basis for Pilipinas Shell's claim for refund, since the exemption applies only to the statutorily identified tax exempt purchasers, the international air carriers, and does not extend to the importers of the petroleum products. Consequently, the excise tax paid upon importation was validly collected. In the absence of any erroneous payment, Pilipinas Shell is not entitled to the refund or credit sought.

In response, Pilipinas Shell counters that the CIR's arguments merely reiterate those raised in its Motion for Partial Reconsideration of the January 8, 2024 Decision, which were already resolved by the Court in Division in its May 30, 2024 Resolution. Pilipinas Shell further points out that, as settled in the *2021 Pilipinas Shell* case, it is the statutory taxpayer under Section 135 of the NIRC, who may claim a refund of the excise tax paid on its importation of petroleum products sold to tax-exempt international carriers.

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11 G.R. No. 211303, June 15, 2021.

Pilipinas Shell's Petition for Review (CTA EB No. 2938)

Pilipinas Shell argues that the Aviation Service Returns (ASRs) covering 439,814 liters of Jet-A 1 fuel, which were unreadable upon initial submission, were later resubmitted with clearer copies during its motion for reconsideration and should be considered in determining the refundable amount. It emphasizes that the clearer copies of the ASRs are not new evidence but are copies of exhibits already admitted in evidence. The failure to submit clear copies was due to inadvertence, not malice or intent to delay the proceedings.

Pilipinas Shell further maintains that the sale of Jet A-1 fuel to international carriers from April to May 2018, withdrawn from the Tabangao Refinery prior to April 26, 2018, is exempt from excise tax pursuant to Section 135 of the NIRC. It asserts that the imported Jet A-1 fuel sold to international air carriers was sourced from the same imported Jet A-1 fuel on which the claimed excise taxes had been paid.

RULING

The Petitions for Review are denied.

CIR's Petition for Review (CTA EB No. 2934)

Section 229 of the NIRC, allows taxpayers to recover taxes that were erroneously or illegally collected.[12] An "erroneous or illegal tax"

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12 SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
In any case, no such suit or proceeding shall be filed unless there is a full or partial denial of the claim for refund or credit by the Commissioner or there is a failure on the part of the Commissioner to act on the claim within the one hundred eighty (180)-day period under Section 204 of this Code; *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.

is defined as one levied without statutory authority, or upon property not subject to taxation or by some officer having no authority to levy the tax, or one which is by some other similar respect illegal.[13] Thus, when payment is not voluntary, it can then be recovered or refunded.[14]

In this regard, Pilipinas Shell, as importer of Jet A-1 fuel, is initially liable to pay excise taxes upon importation, pursuant to Section 131(A) of the NIRC, prior to the release of such articles from the customs house.[15] However, Pilipinas Shell's claim of erroneous or illegal payment of excise tax on the imported Jet A-1 fuel is anchored on the subsequent sale of Jet A-1 fuel to international air carriers, which fall under one of the three categories of entities to whom petroleum products must be sold to in order for the excise tax exemption to become operative under Section 135 (a) of the NIRC, which states.[16]

> **SEC. 135.** ***Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.*** — Petroleum products sold to the following are exempt from excise tax:
>
> (a) International carriers of Philippine or foreign registry directly importing petroleum products, 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:

In case of full or partial denial of the claim for tax refund, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred eighty (180)-day period, appeal the decision with the Court of Tax Appeals.

13 *Melco Resorts Leisure (Php) Corporation v. Commissioner of Internal Revenue,* G.R. No. 271261, April 02, 2025.

14 *Id.*

15 SEC. 131. Payment of Excise Taxes on Imported Articles. -

(A) Persons Liable. - Excise taxes on imported articles shall be paid by the owner or importer to the Custom Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customs house, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.

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16 *Pilipinas Shell Corporation v. Commissioner of Internal Revenue,* G.R. No. 211303, June 15, 2021.

> Suppliers of petroleum products to international carriers shall be allowed to file a claim for refund of excise tax paid on such products, upon presenting proof that the petroleum products were sold to international carriers of Philippine or foreign registry, for their use or consumption outside the Philippines, following the procedure under Section 135-A of this Code.
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> (b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use of 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
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> (c) Entities which are by law exempt from direct and indirect taxes.

In *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*,[17] the Supreme Court clarified that the statutory taxpayer in the case of indirect taxes such as excise tax remains the importer of the article who actually pays the excise tax and remits the returns incidental thereto, and who must correspondingly benefit from any tax exemption. The Supreme Court further explained that the tax exemption under Section 135 of the NIRC must correspondingly benefit the one who actually bears the liability to pay the same (*i.e.*, the importers/manufacturers of petroleum products sold to international carriers, among others), and not the one who simply bears the economic burden thereof (*i.e.*, the purchasers of the products, such as international carriers).

Accordingly, the excise tax exemption under Section 135 of the NIRC, must inure to the benefit Pilipinas Shell as the importer of the petroleum products, considering that it paid the excise tax on said products subsequently sold to international carriers.

Pilipinas Shell's Petition for Review (CTA EB No. 2938)

For the excise tax exemption under Section 135 (a) of the NIRC to apply, three (3) requisites must concur: *first*, the imported Jet A-1 fuel sold to international air carriers was stored in a bonded storage

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[17] *Supra*, note 17.

tank, and disposed of in accordance with the prescribed rules and regulations; *second,* international air carriers must be of foreign registry, or if Philippine-registered, must possess authority to operate international flights; and *third,* the imported Jet A-1 fuel was used or consumed outside the Philippines. Of these three (3) requisites, the resolution of these cases lie on whether the first and third requisites are satisfied.

₱11,132,948.00 disallowed for Jet A-1 fuel sales to international carriers made before importation and excise tax payment.

Pilipinas Shell contends that its April to May 2018 sales of Jet A-1 fuel to international carriers withdrawn from the Tabangao Refinery prior to April 26, 2018, should be exempt from excise tax under Section 135 of the NIRC because the fuel allegedly came from the same imported stocks on which excise taxes had already been paid.

The Court *En Banc* disagrees.

Evidence shows that the imported Jet A-1 fuel was withdrawn from Pilipinas Shell's Tabangao Refinery through the Tabangao Depot and delivered to the Joint Oil Company Aviation Storage Plant (JOCASP) at Ninoy Aquino International Airport or to Clark Aviation Service Inc. (CASI) at Clark International Airport, where it was stored until sold to international air carriers. The receipt and withdrawal movements of the Jet A-1 fuel were monitored in an Official Register Book signed by a Revenue Officer on premises and Pilipinas Shell's representative, showing receipts, removals, and running balance of the stored Jet A-1 fuel. These removals and deliveries to JOCASP and CASI for delivery to international air carriers were further supported by Daily Product Deliveries Report, Bulk Delivery Notes, and Certificates of Quantity Delivered, while final sales to international air carriers are documented through Aviation Service Returns (ASRs), which serve as acknowledgments of the delivery of the corresponding volume of Jet A-1 fuel.[18]

18 Pages 25-27 of the assailed Decision. *Rollo* (CTA EB No. 2934), pp. 50 to 52; *Rollo* (CTA EB No. 2938), pp. 30 to 32.

Here, the excise tax payments for the importation of the Jet A-1 fuel subject of the claim were supported by Authority to Release Imported Goods (ATRIG)[19] and Statement of Settlement of Duties and Taxes (SSDT),[20] both dated April 26, 2018. As testified by Pilipinas Shell's witness, Jet A-1 fuel cannot be withdrawn without an ATRIG, which constitutes as permission from the BIR to withdraw the Jet A-1 fuel from the CBW in Tabangao after the settlement of the taxes and duties due thereon.[21]

The Court in Division correctly disallowed ₱11,132,948.00 covering 2,783,237 liters of Jet A-1 fuel because the Certificates of Quantity Delivered (CQDs) and Bulk Delivery Notes supporting Pilipinas Shell's claim were dated before April 26, 2018.[22]

Since an ATRIG is required before any withdrawal of fuel can occur, any withdrawal made earlier than April 26, 2018, could not have been sourced from the importation covered by the ATRIG and SSDT. Thus, petitioner failed to prove that said liters sold formed part of the importation for which excise tax was paid and subsequently sold to international carriers subject of its claim.

₱1,759,256.00 disallowed due to unreadable ASRs supporting 439,814 liters of Jet A-1 fuel deliveries.

To recall, the Court in Division disallowed petitioner's excise tax payment of ₱1,759,256.00, as it could not ascertain the correctness of the relevant details in the Aviation Service Returns (ASRs) such as destination, customer name, and volume that would support the deliveries of 439,814 liters of Jet A-1 fuel. In particular, the Court in Division found Exhibits"P-80.10," "P-80.79," "P-80.80," "P-80.89," "P-80.90," "P-80.302," "P-80.303," "P-80.304," "P-80.309," and "P-80.347" to be unreadable. While these ASRs purport to indicate the details of Jet A-1 fuel deliveries to international air carriers, including their

19 Division Docket, Volume III, Exhibit "P-42," p. 1081.
20 *Id.*, Exhibit "P-45," p. 1088.
21 Pages 28 of the assailed Decision. Rollo (CTA EB No. 2934), p. 53; Rollo (CTA EB No. 2938), p. 33.
22 Refer to Exhibits "P-77," "P-85," and "P-86."

origin and destination, thereby establishing that the imported Jet A-1 fuel was sold or consumed outside the Philippines, their unreadable states prevented the Court in Division from giving them evidentiary weight.

Pilipinas Shell insists that the ASRs, though initially unreadable, were later resubmitted in clearer form during its motion for reconsideration and emphasizes that these are not new evidence but copies of exhibits already admitted.

The Court *En Banc* differs.

In *People v. Lastimosa,*[23] the Supreme Court held that mere admission of evidence does not guarantee its probative value:

> ...
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> Admissibility of evidence should not be confounded with its probative value.
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> The *admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade.* The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving at a decision as to the truth. The weight of evidence is not determined mathematically by the numerical superiority of the witnesses testifying to a given fact, but depends upon its practical effect in inducing belief on the part of the judge trying the case. *Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue. Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence. ...*

In the Resolution dated May 2, 2022, the Court in Division resolved Pilipinas Shell's Formal Offer of Evidence. One of its observations is that Exhibits "P-80.79," "P-80.80," "P-80.89," "P-80.90,"

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23 G.R. No. 265758, February 03, 2025. Citations omitted.

"P-80.302," "P-80.303," "P-80.304," "P-80.309," and "P-80.347" were partly or entirely blurred, unreadable, or improperly scanned.[24] Petitioner could have readily corrected these defects as early as May 2022, thereby allowing the Court in Division to receive and consider the corrected exhibits before the case was submitted for decision. However, it failed to do so.

For this reason, the Court in Division correctly disallowed the claimed excise tax payment of ₱1,759,256.00 related to the unreadable ASRs supporting the deliveries of 439,814 liters of Jet A-1 fuel, belatedly submitted for the first time in its Motion for Reconsideration. It is an important fundamental principle in the judicial system that every litigation must come to an end. Access to the courts is guaranteed. But there must be a limit thereto. Once a litigant's rights have been adjudicated in a valid and final judgment of a competent court, he should not be granted an unbridled license to come back for another try.[25]

Findings of fact by the Court in Division are not to be disturbed without any showing of grave abuse of discretion. The members of the Court in Division are in the best position to analyze the documents presented by the parties.[26]

In fine, Pilipinas Shell has demonstrated its entitlement to the excise tax exemption under Section 135 of the NIRC. The Court in Division is correct in partially granting Pilipinas Shell's claim for refund or issuance of a tax credit certificate to the extent of ₱15,501,712.00, representing erroneously paid excise tax on imported Jet A-1 fuel sold to international carriers during the period April to May 2018.

WHEREFORE, the Petition for Review filed by the Commissioner of Internal Revenue in CTA EB No. 2934, and the Petition for Review

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24 Division Docket, Volume III, pp. 1098-1101.

25 *Marilyn B. Montehermoso, et al. v. Romeo Batuto and Arnel Batuto*, G.R. No. 246553, December 02, 2020

26 See *Republic of the Philippines, Represented by the Commissioner of Internal Revenue, v. Team (PHILS.) Energy Corporation (formerly Mirant (PHILS.) Energy Corporation)*, G.R. No. 188016, January 14, 2015. (Citations omitted)

filed by Pilipinas Shell Petroleum Corporation in CTA EB No. 2938 are **DENIED** for lack of merit. Accordingly, the Decision dated January 8, 2024 and the Resolution dated May 30, 2024 in CTA Case No. 10279 are **AFFIRMED**.

SO ORDERED.

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

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

ON LEAVE
CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
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 consolidated cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice