REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10966

Members:

REYES-FAJARDO, *Acting Chairperson, and*
ANGELES, *JJ.*

Promulgated:

JAN 20 2026 3:58 p.m.

x - x

RESOLUTION

REYES-FAJARDO, *J.*:

We resolve:

1. petitioner's *Motion for Partial Reconsideration*[1] filed on August 29, 2025, with respondent's *Opposition (Re: Motion for Reconsideration of the Decision dated 12 August 2025)*[2] filed on October 16, 2025; and,

2. respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 12 August 2025)*[3] filed on August 27, 2025, with petitioner's *Comment/ Opposition [Re: Respondent's Motion for Partial Reconsideration dated August 22, 2025]*[4] filed on September 29, 2025.

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1 *Rollo*, pp. 880 – 886.
2 *Id.*, pp.908 - 911.
3 *Id.*, pp. 867 – 876.
4 *Id.*, pp. 843 – 901.

On August 12, 2025, the Court promulgated a Decision,[5] partially granting petitioner's claim for refund or issuance of a tax credit certificate in the reduced amount of ₱82,183,896.00 representing the excise taxes it paid on Jet A-1 fuel, imported on September and October 2020, which was subsequently sold and delivered to tax-exempt international air carriers from October to December 2020. The *fallo* of which reads:[6]

> **WHEREFORE**, the Petition for Review dated August 30, 2022, in CTA Case No. 10966 is **PARTIALLY GRANTED**. The Commissioner of Internal Revenue is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of Pilipinas Shell Petroleum Corporation, in the reduced amount of **₱82,183,896.00,** representing excise taxes it paid on Jet A-1 fuel, imported on September and October 2020, and subsequently sold to international air carriers from October to December 2020.
>
> **SO ORDERED**.

Undaunted, both parties filed their respective Motions for Partial Reconsideration.

Petitioner's Motion for Partial Reconsideration

Petitioner challenges the partial disallowance of its claim for refund or issuance of tax credit certificate in the amount of ₱1,311,624.00, representing excise taxes on Jet A-1 fuel sold to AirAsia Berhad and Deutsche Lufthansa AG, which the Court previously denied for absence of Foreign Air Carrier Permit (FACP) from the Civil Aeronautics Board (CAB).

It argues that, notwithstanding the absence of said permit, the Civil Aviation Authority of the Philippines (CAAP) Certification, Aviation Service Returns (ASRs), and Air Transport Agreements with Malaysia and Germany conclusively establish that both carriers are of foreign registry. Hence, it insists that the statutory requirement under Section 135(a) for an international carrier was substantially complied with, warranting the grant of the disallowed amount.

Respondent retorts that the petitioner has the burden of proof proving its right to tax refund, and the presence of a well-founded doubt is fatal to the claim.

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5 *Id.*, pp. 847 - 864.
6 *Id.*, p. 863.

Petitioner's argument is misplaced.

Foreign Air Carrier Permit or FACP is a permit issued by the Civil Aeronautics Board, and approved by the President of the Philippines, authorizing a foreign carrier to engage in foreign air transportation.[7] An FACP, as required by CAB Economic Regulation No. 1, is a condition *sine qua non* before any foreign carrier is granted operating rights.[8]

Petitioner seeks to impress upon the Court that the subject airlines are international carriers of foreign registry. However, under the statutory and regulatory framework governing air transport in the Philippines, the absence of FACP does not merely cast doubt on the carrier's foreign registry; it negates its legal status as an "international carrier" itself. Without an FACP, the carrier cannot be deemed an "international carrier" within the contemplation of Section 135(a) of the NIRC, regardless of its claimed foreign registration.

The burden of proof lies with the taxpayer-claimant to prove its entitlement to the refund. *Commissioner Internal Revenue v. Filminera Resources Corporation* (*Filminera*)[9] is on point:

> We stress that the taxpayer-claimant has the burden of proving the legal and factual bases of its claim for tax credit or refund. After all, tax refunds partake the nature of exemption from taxation, and as such, must be looked upon with disfavor... **The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.**[10]

In the absence of FACP, petitioner failed to discharge the burden imposed upon it by *Filminera*.

Accordingly, the sale of Jet A-1 fuel to the subject airlines does not qualify for excise tax exemption.

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7 Rule I, Par. 1.3.11, Implementing Rules and Regulations of Executive Order 29, Series of 2011 Re: Civil Aviation, IRR-EO 29, May 2, 2011.

8 *Id.*, Rule III, Par. 3.1.

9 G.R. No. 236325, September 16, 2020.

10 Emphasis Ours.

Respondent's Motion for Partial Reconsideration

Respondent avers that Section 135 of the NIRC cannot be used by petitioner to claim a refund of excise taxes because the exemption applies only to the international carriers, and excise tax remains the direct and valid liability of petitioner.

This position does not withstand scrutiny.

In *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue,*[11] the Supreme Court clarified the taxpayer's entitlement to tax exemption under Section 135 of the NIRC, *viz.*:

> Based on (a) the nature of excise taxes as a property tax and an indirect tax, and (b) the principle that a buyer, when shouldering the tax burden, does not become the statutory taxpayer, it is thus clear that the purchaser of local products (such as international carriers) cannot be deemed to have been conferred a tax exemption when it has not been imposed a tax liability. In the ordinary course of things, international carriers do not manufacture or import petroleum products and hence, are not statutory taxpayers to which the exemption under Section 135 could pertain. If anything, international carriers merely bear the tax burden when the costs therefor are passed on to them by the actual manufacturers or importers. However, as earlier discussed, the "passing on" of the tax burden is largely a contractual affair between the parties and should not determine the tax incidence imposed by law unless the contrary is provided. **As such, the tax exemption under Section 135 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).**[12]

Accordingly, petitioner, as the statutory taxpayer and not merely the economic bearer of the excise tax, is the party to whom the exemption under Section 135 of the NIRC attaches.

WHEREFORE, petitioner's *Motion for Partial Reconsideration,* and respondent's *Motion for Partial Reconsideration (Re: Decision promulgated 12 August 2025)* are **DENIED**. The Decision promulgated on August 12, 2025 is **AFFIRMED.**

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

12 Emphasis Ours.

SO ORDERED.

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

HENRY S. ANGELES
Associate Justice