REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

-*versus*-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case No. 10707

Members:

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

Promulgated:

APR 14 2025
11:46 a.m.

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DECISION

MANAHAN, *J.*:

Before this Court is a *Petition for Review* praying that judgment be rendered: (1) declaring petitioner entitled to a refund of, or issuance of a tax credit certificate for, the amount of ₱85,512,000.00, allegedly representing excise taxes paid by petitioner on fuel oil sold and delivered to Pioneer Float Glass Manufacturing, Inc. (PFGMI), a tax-exempt Philippine Economic Zone Authority (PEZA)-registered enterprise, during the period from January to June 2020; and (2) ordering respondent to grant petitioner a refund or tax credit in the said amount of ₱85,512,000.00.[1]

THE PARTIES

Petitioner Pilipinas Shell Petroleum Corporation (PSPC) is a corporation organized and existing under the laws of the Philippines, with office address at 41st Floor, The Finance Center, 26th Street corner 9th Avenue, Bonifacio Global City, Taguig City.[2]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR), vested by law to enforce and implement

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[1] Docket, CTA Case No. 10707, Vol. I, Prayer, *Petition for Review*, p. 24.
[2] *Id.*, Vol. 3, Exhibit "P-26", pp. 1235 to 1250.

the provisions of the 1997 National Internal Revenue Code of the Philippines (NIRC), as amended, as well as related statutes and their implementing rules and regulations. He holds office at the Bureau of Internal Revenue (BIR), and may be served court processes at Room 703, Litigation Division, BIR National Office Building, BIR Road, Diliman, Quezon City.[3]

THE FACTS

On March 18, 2021, petitioner filed two (2) separate administrative claims for refund or tax credit certificate, both dated February 24, 2021,[4] together with the corresponding *Application for Tax Credits/Refunds* (BIR Form No. 1914), at the Excise Large Taxpayers Audit Division II of the BIR,[5] seeking for the recovery of alleged excise taxes paid on fuel oil sold to PFGMI during the period from January to June 2020, in the aggregate amount of ₱85,512,000.00, computed as follows:

Claim	Product	Volume in Liters	Excise Tax Rate	Specific Tax Amount
1st	Fuel oil	1,426,000	₱4.50	₱6,417,000.00
2nd	Fuel oil	1,270,000	₱4.50	₱5,715,000.00
	Fuel oil	12,230,000	₱6.00	₱73,380,000.00
	Subtotal	13,500,000		₱79,095,000.00
	TOTAL			**₱85,512,000.00**

Petitioner filed the present *Petition for Review* on December 17, 2021.[6] The case was initially raffled to this Court's First Division.

On March 31, 2022, respondent transmitted the *BIR Records* of the case, consisting of two (2) folders.[7]

Respondent's *Answer* was filed on April 28, 2022,[8] interposing the following main special and affirmative defenses, to wit:

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[3] Docket, Vol. I, Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), p. 498.
[4] *Id.*, Vol. 3, Exhibits "P-24" and "P-25", pp. 1223 to 1224 and 1229 to 1230, respectively.
[5] *Id.*, Vol. 3, Exhibits "P-24-1" and "P-25-1", pp. 1225 and 1231, respectively.
[6] *Id.*, Vol. I, pp. 6 to 31.
[7] *Id.*, Vol. I, *Compliance* dated March 25, 2022, pp. 435 to 437.
[8] Docket, Vol. I, pp. 443 to 451.

1. Petitioner is not entitled to refund of excise taxes allegedly paid for the period December 2019 to June 2020, on its imported and locally-produced bunker fuel oil which were allegedly sold during the period January to June 2020 to Pioneer Float Glass Manufacturing, Inc., an entity allegedly exempted from excise tax in the amount of ₱85,512,000.00;

2. Claims for refund of excise taxes paid is authorized only by Section 130(D) of the 1997 NIRC, as amended.

The Pre-Trial Conference was initially set on July 14, 2022,[9] but was later reset to, and held on, August 10, 2022,[10] wherein respondent's counsel manifested that there being no report yet from the Revenue Officer who conducted the investigation/examination on petitioner's claim for refund, she will state in her comment to petitioner's Formal Offer of Evidence whether she will be presenting evidence in this case. Prior thereto, *Respondent's Pre-Trial Brief* was filed on May 25, 2022,[11] while the *Pre-Trial Brief for Petitioner* was submitted on July 8, 2022.[12]

On September 9, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[13] which was approved by the Court in the Resolution dated September 22, 2022,[14] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated November 18, 2022 was then issued by the Court.[15]

As trial ensued, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Ms. Anna Beatriz Vergel de Dios,[16] petitioner's Import/Additives Scheduler; (2) Mr. Jonathan Juanillo,[17] petitioner's Terminal Operations Manager at the

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[9] *Id.*, Vol. I, Notice of Pre-Trial Conference dated May 6, 2022, p. 453 (consisting of 3 pages).
[10] *Id.*, Vol. I, Notice of Resetting dated July 14, 2022, p. 478; Order dated August 10, 2022, Docket – Vol. I, pp. 480 to 482.
[11] *Id.*, Vol. I, pp. 454 to 456.
[12] *Id.*, Vol. I, pp. 460 to 474.
[13] *Id.*, Vol. I, pp. 498 to 512.
[14] *Id.*, Vol. I, p. 522.
[15] *Id.*, Vol. II, pp. 689 to 710.
[16] *Id.*, Vol. I, Exhibit "P-27", pp. 103 to 120; Docket, Vol. II, Order dated October 4, 2022, pp. 548 to 550.
[17] Docket, Vol. I, Exhibit "P-28", pp. 228 to 234; Docket, Vol. II, Order dated October 4, 2022, pp. 548 to 550.

Tabangao Depot; (3) Ms. Berenice Angelique L. Flores,[18] petitioner's Tax Advisor; and (4) Mr. Emmanuel Y. Mendoza,[19] the Court-commissioned Independent Certified Public Accountant (ICPA).[20]

The *Amended Report* of the ICPA was submitted on April 20, 2023.[21]

Thereafter, the present case was transferred to the Third Division of this Court pursuant to the Notice of Resolution dated June 2, 2023.[22]

On June 5, 2023, petitioner filed its *Formal Offer of Evidence with Manifestation I. On Offer of Exhibits P-18-1 and P-18-2 as Originals under Sec. 4 (b), Rule 130 of the Revised Rules of Court; and II. On Offer of Exhibits P-35-542b to P-35-544b as Secondary Evidence under Sec. 5, Rule 130 of the Revised Rules of Court,*[23] to which respondent filed a *Comment (Re: Formal Offer of Evidence with Manifestation)* on June 7, 2023.[24] In the Resolution dated July 18, 2023,[25] the Court noted petitioner's *Manifestation* and admitted petitioner's offered exhibits, *except* the following: (1) Exhibits "P-3-4" and "P-16-1", for failure of the exhibits formally offered to correspond with the documents marked; (2) Exhibits "P-18-1", "P-18-2", and "P-38-6a", for failure to present the originals for comparison; and (3) Exhibits "P-35-542b to P-35-544b", for being blurred/unreadable.

In the meantime, respondent filed a *Manifestation* on June 26, 2023,[26] stating that he will not be presenting any witness in the case.

Petitioner then filed its *Omnibus Motion with Manifestation I. For Partial Reconsideration of the Resolution dated July 18, 2023; and II. To Set Commissioner's Hearing* on August 4, 2023,[27] to which respondent filed his *Opposition (Re: Omnibus*

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[18] *Id.*, Vol. I, Exhibits "P-30" and "P-44", pp. 249 to 267 and Docket – Vol. II, pp. 766 to 773, respectively; Docket, Vol. II, Minutes of the hearing held on, and Order dated, February 15, 2023 and April 25, 2023, pp. 732 to 736 and 979 to 984, respectively.
[19] *Id.*, Vol. II, Exhibit "P-32", pp. 971 to 978; Docket, Vol. II, Minutes of the hearing held on, and Order dated, April 25, 2023, pp. 979 to 984.
[20] *Id.*, Vol. II, Order dated October 4, 2022, pp. 548 to 550.
[21] *Id.*, Vol. II, Exhibit "P-31", pp. 855 to 966.
[22] *Id.*, Vol. II, p. 1001.
[23] *Id.*, Vol. 3, pp. 1004 to 1033.
[24] *Id.*, Vol. 3, pp. 1251 to 1257.
[25] *Id.*, Vol. 3, pp. 1267 to 1274.
[26] *Id.*, Vol. 3, pp. 1261 to 1263.
[27] Docket, Vol. 3, pp. 1279 to 1289.

Motion with Manifestation I. For Partial Reconsideration of the Resolution dated July 18, 2023; and II. To Set Commissioner's Hearing) on August 11, 2023.[28] In the Resolution dated October 9, 2023,[29] the Court granted petitioner's *Motion To Set Commissioner's Hearing*, and granted it a period of five (5) days from the Commissioner's Hearing, within which to file a *Supplemental Formal Offer of Evidence*, and thereafter, its *Motion with Manifestation For Partial Reconsideration of the Resolution dated July 18, 2023* shall be submitted for resolution.

Hence, petitioner filed its *Supplemental Formal Offer of Evidence with Manifestation* on December 4, 2023,[30] to which respondent filed his *Comment (Re: Supplemental Formal Offer of Evidence)* on December 29, 2023.[31] In the Resolution dated March 1, 2024,[32] the Court, *inter alia*, admitted Exhibits "P-3-4", "P-10", "P-16-1", "P-18-1", and "P-18-2", and granted petitioner's *Omnibus Motion with Manifestation I. For Partial Reconsideration of the Resolution dated July 18, 2023.*

On August 9, 2023, respondent filed his *Memorandum*,[33] while the *Memorandum for Petitioner* was submitted on April 4, 2024.[34]

The present case was submitted for decision on April 15, 2024.[35]

ISSUE

> "WHETHER OR NOT PETITIONER IS ENTITLED TO THE RECOVERY OF EXCISE TAXES IN THE AMOUNT OF PHP 85,512,000.00 PAID ON IMPORTED AND LOCALLY PRODUCED OR MANUFACTURED FUEL OIL SOLD TO PFGMI FOR THE PERIOD FROM JANUARY TO JUNE 2020."[36]

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[28] *Id.*, Vol. 3, pp. 1302 to 1308.
[29] *Id.*, Vol. 3, pp. 1312 to 1315.
[30] *Id.*, Vol. 3, pp. 1319 to 1323.
[31] *Id.*, Vol. 3, pp. 1341 to 1343.
[32] *Id.*, Vol. 3, pp. 1347 to 1351.
[33] *Id.*, Vol. 3, pp. 1291 to 1299.
[34] *Id.*, Vol. 3, pp. 1352 to 1372.
[35] *Id.*, Vol. 3, Minute Resolution dated April 15, 2024, p. 1373.
[36] Docket, Vol. I, Par. 2. Stipulation of Issues, JSFI, pp. 498 to 499.

Petitioner's Arguments[37]

Petitioner argues that it is entitled to the recovery of excise taxes in the amount of ₱85,512,000.00 on imported and locally produced or manufactured fuel oil sold to PFGMI; that its sale of fuel oil to PFGMI is exempt from excise tax; that it previously paid excise taxes on the fuel oil sold to PFGMI and did not pass on said excise taxes to PFGMI; and that it is clearly entitled to a refund or the issuance of tax credit certificate for excise taxes paid on fuel oil sold to PFGMI in the whole amount of ₱85,512,000.00.

Respondent's Arguments[38]

Respondent contends that petitioner is not entitled to refund of excise taxes allegedly paid for the period from December 2019 to June 2020, on its imported and locally-produced bunker fuel oil which were allegedly sold during the period January to June 2020 to PFGMI, an entity allegedly exempt from excise tax in the amount of ₱85,512,000.00; and that claims for refund of excise taxes paid are authorized only by Section 130(D) of the 1997 NIRC, as amended.

RULING OF THE COURT

The present *Petition for Review* is partly meritorious.

Governing provisions for refund claims.

Sections 204(C) and 229 of the 1997 NIRC, as amended, read as follows:

> "SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
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> xxx xxx xxx
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> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his

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[37] *Supra*, Note 34.
[38] *Supra*, Note 33.

> discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a return filed showing an overpayment shall be considered as a written claim for credit or refund." *(Emphasis added)*

> "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 after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment**: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid." *(Emphases added)*

The aforequoted provisions are clear: within two (2) years from the date of payment of tax, the claimant must first file an administrative claim with respondent before filing its judicial claim with the courts of law. Both claims must be filed within a two (2)-year reglementary period. Timeliness of the filing of the claim is mandatory and jurisdictional, and thus the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time. It is worthy to stress that for the judicial claim, tax law even explicitly provides that it be filed within two (2) years from payment of the tax "regardless of any supervening cause that may arise after payment."[39]

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having

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[39] *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

no authority to levy the tax, or one which is *(sic)* some other similar aspect is illegal.[40] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[41]

Thus, in order that the present claim for refund or issuance of tax credit certificate can prosper, petitioner must not only establish that it timely filed its refund claim, it must likewise prove that the subject excise taxes paid are "erroneous or illegal".

Petitioner timely filed its administrative and judicial claims.

a. Excise Tax on Importation of Fuel Oil

Excise taxes on imported articles, in general, are paid by the owner or importer upon importation and prior to removal thereof from the customshouse as provided in Section 131(A) of the 1997 NIRC, as amended, to wit:

> "SEC. 131. *Payment of Excise Taxes on Imported Articles.* —
>
> (A) *Persons Liable.* — **Excise taxes on imported articles shall be <u>paid by the owner or importer</u> to the Customs Officers, conformably with the regulations of the Department of Finance and <u>before the release of such articles from the customshouse</u>**, 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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> xxx xxx xxx." *(Emphasis and underscoring added)*

Based on the foregoing provisions, the two (2)-year period prescribed in Sections 204(C) and 229 of the 1997 NIRC, as amended, in relation to the aforequoted provision of Section 131

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[40] *Commissioner of Internal Revenue vs. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

[41] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

of the same Code, should be reckoned from the date of actual payment of excise taxes.

Records show that from December 2019 to June 2020, petitioner imported fuel oil through its Tabangao Refinery, and paid the corresponding excise taxes thereon, as follows:

Vessel	SAD[42] No.	SAD Date	Volume in Liters	Rate	Amount of Excise Tax	Payment Date
MT Zhong Chi	C 18966[43]	December 18, 2019	32,005,417	₱4.50	₱144,024,376.00	December 19, 2019[44]
MT Ocean Mercury	C 1185[45]	January 22, 2020	35,460,372	₱6.00	₱212,762,232.00	January 23, 2020[46]
MT Silver Orla	C 2169[47]	February 11, 2020	44,897,330	₱6.00	₱269,383,980.00	February 12, 2020[48]
MT Yankul Silver	C 3176[49]	March 3, 2020	37,723,657	₱6.00	₱226,341,942.00	March 4, 2020[50]
MT Splendour	C 3949[51]	March 19, 2020	19,325,395	₱6.00	₱115,952,370.00	March 20, 2020[52]
MT Yankul Silver	C 1010727[53]	April 13, 2020	38,820,333	₱6.00	₱232,921,998.00	April 13, 2020[54]
MT Yankul Silver	C 1012716[55]	May 19, 2020	38,597,591	₱6.00	₱231,585,546.00	May 20, 2020[56]
MT Silver Entalina	C 1013921[57]	June 16, 2020	38,576,929	₱6.00	₱231,461,574.00	June 17, 2020[58]

Thus, the following are the pertinent dates relative to petitioner's claim for refund or tax credit, *viz.*:

Date of Payment	Two (2)-Year Prescriptive Period	Date of Administrative Claim	Date of Judicial Claim
December 19, 2019	December 19, 2021	March 18, 2021[59]	December 17, 2021[60]
January 23, 2020	January 23, 2022		
February 12, 2020	February 12, 2022		
March 4, 2020	March 4, 2022		
March 20, 2020	March 20, 2022		
April 13, 2020	April 13, 2022		
May 20, 2020	May 20, 2022		
June 17, 2020	June 17, 2022		

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42 That is, "Single Administrative Document".
43 Docket, Vol. 3, Exhibit "P-1-3", p. 1037.
44 *Id.*, Vol. 3, Exhibit "P-1-4", p. 1038.
45 *Id.*, Vol. 3, Exhibit "P-2-3", p. 1049.
46 *Id.*, Vol. 3, Exhibit "P-2-4", p. 1050.
47 *Id.*, Vol. 3, Exhibit "P-3-3", p. 1059.
48 *Id.*, Vol. 3, Exhibit "P-3-4", p. 1324.
49 *Id.*, Vol. 3, Exhibit "P-4-3", p. 1071.
50 *Id.*, Vol. 3, Exhibit "P-4-4", p. 1072.
51 *Id.*, Vol. 3, Exhibit "P-5-3", p. 1081.
52 Exhibit "P-38-5e", Amended USB marked as Exhibit "P-31-2".
53 Docket, Vol. 3, Exhibit "P-6-3", p. 1093.
54 *Id.*, Vol. 3, Exhibit "P-6-4", p. 1094.
55 *Id.*, Vol. 3, Exhibit "P-7-3", p. 1103.
56 *Id.*, Vol. 3, Exhibit "P-7-4", p. 1104.
57 *Id.*, Vol. 3, Exhibit "P-8-3", p. 1115.
58 *Id.*, Vol. 3, Exhibit "P-8-4", p. 1116.
59 *Id.*, Vol. 3, Exhibits "P-24", "P-24-1", "P-25" and "P-25-1", pp. 1223 to 1225 and 1229 to 1231, respectively.
60 *Id.*, Vol. I, pp. 6 to 31.

Upon verification, petitioner timely filed its administrative and judicial claims for refund within two (2) years from date of payment of the excise taxes on imported fuel oil in accordance with Sections 204(C) and 229 of the 1997 NIRC, as amended.

b. Excise Tax on Locally Produced or Manufactured Fuel Oil

On the other hand, excise taxes on locally produced or manufactured petroleum products are, in general, paid by the manufacturer or producer before the removal of the domestic products from the place of production pursuant to Section 130(A)(2) of the 1997 NIRC, as amended, to wit:

> "SEC. 130. *Filing of Return and Payment of Excise Tax on Domestic Products.* —
>
> (A) *Persons Liable to File a Return, Filing of Return on Removal and Payment of Tax.* —
>
> xxx xxx xxx
>
> (2) *Time for Filing of Return and Payment of the Tax.* — **Unless otherwise specifically allowed, the return shall be filed and the excise tax <u>paid by the manufacturer or producer before removal of domestic products from place of production</u>**: xxx." *(Emphasis and underscoring added)*

Pursuant to the aforequoted Sections 204(C) and 229 of the 1997 NIRC, as amended, in relation to the aforequoted provision of Section 130(A)(2) of the same Code, petitioner's administrative and judicial claims should be filed within two (2) years from the earliest date of removal of the locally produced petroleum products from the place of production.

In December 2019, petitioner paid excise taxes in advance on the locally produced or manufactured petroleum products (including fuel oil) withdrawn from its Tabangao Refinery, as follows:[61]

		Excise Tax Advance Payment	
Date Filed	**Date Paid**	**BIR Form 2200-P**	**Amount**
December 19, 2019	December 23, 2019	071900033661525	₱1,500,000,000.00

[61] Docket, Vol. 3, Exhibit "P-14", pp. 1144 to 1145; Exhibit "P-37-1a", Amended USB marked as Exhibit "P-31-2".

Likewise, in the same month of December 2019, petitioner produced or manufactured petroleum products, including fuel oil, in its Tabangao Refinery for sale and delivery to its customers.

Records reveal that the earliest removal of petitioner's locally produced or manufactured fuel oil from Tabangao Refinery to Tabangao Terminal as per Withdrawal Certificate (WC) No. WCP201800606322[62] was made on January 2, 2020. Petitioner paid excise taxes thereon prior to withdrawal from Tabangao Refinery by applying the excise taxes paid in advance, as follows:[63]

	Excise Tax Applied	
Date Filed	**BIR Form 2200-P**	**Amount**
December 30, 2019	071900033714836	₱704,449,900.25

Based on the foregoing, the filing of petitioner's administrative claims on March 18, 2021,[64] as well as the filing of judicial claim for refund on December 17, 2021,[65] were made within the two (2)-year prescriptive period provided under Sections 204(C) and 229, in relation to Section 130(A)(2), of the 1997 NIRC, as amended.

In sum, petitioner timely filed its administrative and judicial claims for refund or tax credit of excise taxes paid on imported and locally produced or manufactured fuel oil.

Under the law, the excise taxes paid on imported and locally produced or manufactured fuel oil sold to PFGMI, a PEZA-registered entity, are erroneously or illegally collected.

Respondent avers that petitioner, being a manufacturer and importer of bunker fuel oil sold to an exempt entity, is liable to pay excise taxes due thereon. In other words, according to respondent, petitioner is liable to pay the excise tax upon the bunker fuel oil it manufactured as soon as they are in existence.

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62 Exhibit "P-34-1a", Amended USB marked as Exhibit "P-31-2".
63 Docket, Vol. 3, Exhibit "P-15", pp. 1146 to 1147; Exhibit "P-37-1b", Amended USB marked as Exhibit "P-31-2".
64 *Id.*, Vol. 3, Exhibits "P-24", "P-24-1", "P-25" and "P-25-1", pp. 1223 to 1225 and 1229 to 1231, respectively.
65 *Id.*, Vol. I, pp. 6 to 31.

Respondent claims that the only instance that petitioner may invoke a claim for refund is the erroneous payment of the excise tax. However, respondent concludes that the excise tax paid by petitioner was legally and validly collected since it is indeed liable to pay such tax.

Here, petitioner sold fuel to a tax-exempt entity. Applying Section 135 of the 1997 NIRC, as amended, in this case, respondent argues that the transaction of buying fuel oil is exempt from excise tax. As such, the buyer of the fuel is not liable to pay the excise tax due thereon or, in other words, the excise tax due on the said transaction cannot be included in the purchase price as the buyer is already a tax-exempt entity.

Respondent insists that Section 135 of the 1997 NIRC, as amended, does not grant exemption to sellers, rather it provides for an enumeration wherein petroleum products when sold to international carriers and entities enumerated therein are exempt from excise tax. To be sure, petitioner was anchoring its claim for refund on Section 135 of the 1997 NIRC, as amended. However, respondent claims that Section 135 cannot be a source for petitioner's claim for refund and it cannot be invoked by the sellers like herein petitioner, but only by the buyers who are exempt entities. Thus, respondent is of the view that petitioner cannot invoke the exemption granted to this exempt entity as a ground to claim for refund of the excise tax paid.

The Court disagrees.

Plainly, the present claim for refund or issuance of a tax credit certificate is governed by the following provisions of the 1997 NIRC, as amended:

> "SEC. 129. *Goods Subject to Excise Taxes.* — **Excise taxes apply to goods manufactured or produced in the Philippines for domestic sale or consumption or for any other disposition and to things imported**. The excise tax imposed herein shall be in addition to the value-added tax imposed under Title IV.
>
> xxx xxx xxx." *(Emphasis and underscoring added)*
>
> "SEC. 135. *Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.* — **<u>Petroleum products</u> sold to the following are <u>exempt</u> from excise tax:**

(a) International carriers of Philippine or foreign registry on their use or consumption outside the Philippines: *Provided,* That the petroleum products sold to these international carriers shall be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner;

(b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use or consumption: *Provided, however,* That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and

(c) **Entities which are by law exempt from direct and indirect taxes**." *(Emphases and underscoring added)*

A plain reading of the foregoing provision reveals that the words *"petroleum products"* were never qualified. The law did not distinguish whether the petroleum products sold were locally-manufactured or were imported, in order for there to be an excise tax exemption. Where the law does not distinguish, courts should not distinguish.[66] Thus, the exemption given under Section 135 of the 1997 NIRC, as amended, may be resorted or invoked, regardless of whether the subject fuel oil was locally manufactured or imported, so long as the conditions therein are complied with by the refund-claimant.

In *Chevron Philippines, Inc. vs. Commissioner of Internal Revenue (Chevron),*[67] the Supreme Court held that excise tax paid by the statutory taxpayer on petroleum products sold to any of the entities or agencies named in Section 135 of the NIRC exempt from excise tax is **deemed illegal or erroneous**, to wit:

"Excise tax on petroleum products is essentially a tax on property, the direct liability for which pertains to the statutory taxpayer (*i.e.*, manufacturer, producer or importer). **Any excise tax paid by the statutory taxpayer on petroleum products sold to any of the entities or agencies named in Section 135 of the *National Internal Revenue Code* (NIRC) exempt from excise tax is deemed illegal or**

[66] *Manila International Airport Authority vs. Court of Appeals, et al.*, G.R. No. 155650, July 20, 2006.
[67] G.R. No. 210836, September 1, 2015.

> **<u>erroneous</u>; and should be credited or refunded to the payor pursuant to Section 204 of the NIRC. This is because the exemption granted under Section 135 of the NIRC must be construed in favor of the property itself, that is, the petroleum products**." *(Emphasis and underscoring added)*

Also, as clarified by the Supreme Court in *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue*,[68] "[c]onsidering that the status of the petroleum products as tax-exempt solidifies upon the sale to any of the entities enumerated under Section 135, any excise taxes which were previously paid thereon would then be considered as '**erroneously or illegally collected**,' and therefore, subject to refund." Moreover, in the same case, "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)."

Pursuant to Section 135(c) of the 1997 NIRC, as amended, petroleum products sold to entities that are by law exempt from direct and indirect taxes are exempt from excise tax. The phrase "*which are by law exempt from direct and indirect taxes*" describes the entities to whom the petroleum products must be sold in order to render the exemption *operative*. The said Section 135(c) should thus be construed as an exemption in favor of the petroleum products on which the excise tax was levied in the first place. The exemption cannot be granted to the buyers – that is, the entities that are by law exempt from direct and indirect taxes – because they are not under any legal duty to pay the excise tax.[69]

Clearly, upon petitioner's sale of petroleum products to entities that are by law exempt from direct and indirect taxes, the status of the said sold petroleum product as tax-exempt solidifies. Consequently, the excise taxes it previously paid on the said petroleum products became erroneously or illegally collected taxes that are proper subject of a claim for refund or credit under Sections 204(C) and 229 of the 1997 NIRC, as amended.

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

[69] Refer to *Chevron Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 210836, September 1, 2015.

As can be gleaned from the above disquisitions, to be entitled for refund or issuance of tax credit certificate, it must also be shown that: (1) the entity to which the petitioner sold the petroleum products is an entity exempt by law from indirect and direct taxes; and (2) petitioner, as the statutory taxpayer, paid the claimed excise taxes on the same petroleum products sold to the exempt entity.

Relative thereto, Section 24 of Republic Act (RA) No. 7916,[70] or "The Special Economic Zone Act of 1995," as amended by RA No. 8748,[71] provides as follows:

> "SEC. 24. *Exemption from National and Local Taxes.* – Except for real property taxes on land owned by developers, no taxes, local and national, shall be imposed on business establishments operating within the ECOZONE. In lieu thereof, five percent (5%) of the gross income earned by all business enterprises within the ECOZONE shall be paid and remitted as follows:
>
> (a) Three percent (3%) to the National Government;
>
> (b) Two percent (2%) which shall be directly remitted by the business establishments to the treasurer's office of the municipality or city where the enterprise is located."

Pursuant to the aforequoted provision, business establishments operating within the ECOZONE are exempt from national and local taxes. In lieu thereof, the said enterprises shall pay five percent (5%) of its gross income to the national government and the municipality or city where it is located.

In this case, petitioner presented the PEZA Certificate of Registration No. 18-143 of PFGMI as an Ecozone Export Enterprise at the Asahi Special Economic Zone (ASEZ) issued on November 22, 2018[72] to prove that its customer, PFGMI, is a PEZA-registered entity.

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[70] AN ACT PROVIDING FOR THE LEGAL FRAMEWORK AND MECHANISMS FOR THE CREATION, OPERATION, ADMINISTRATION, AND COORDINATION OF SPECIAL ECONOMIC ZONES IN THE PHILIPPINES, CREATING FOR THIS PURPOSE, THE PHILIPPINE ECONOMIC ZONE AUTHORITY (PEZA), AND FOR OTHER PURPOSES.
[71] AN ACT AMENDING REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE "SPECIAL ECONOMIC ZONE ACT OF 1995."
[72] Docket, Vol. 3, Exhibit "P-19", p. 1205.

Being a PEZA-registered entity, PFGMI enjoys fiscal incentives pursuant to Section 23 of RA No. 7916, to wit:

> "SEC. 23. *Fiscal Incentives.* — **Business establishments operating within the ECOZONES shall be entitled to the fiscal incentives** as provided for under Presidential Decree No. 66, the law creating the Export Processing Zone Authority, or those provided under Book VI of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987." *(Emphasis added)*

Relative thereto, Section 1, Rule XV of the Rules and Regulations to Implement RA No. 7916, Otherwise Known as "The Special Economic Zone Act of 1995" (IRR of RA No. 7916), Section 17 of the Presidential Decree No. 66, and Article 77(1), Book VI of Executive Order No. 226, states that merchandise or supplies brought into the ECOZONE are not subject to customs and internal revenue laws and regulations, to wit:

Rule XV of the IRR of RA No. 7916

> "SECTION 1. *Exemption from Duties and Taxes on Merchandise.* — Merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description brought into the ECOZONE Restricted Area by an ECOZONE Export or Free Trade Enterprise to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, **shall not be subject to customs and internal revenue laws and regulations of the Philippines** nor to local tax ordinances. xxx" *(Emphasis added)*

Presidential Decree No. 66

> "Section 17. *Tax Treatment of Merchandise in the Zone.* — (1) Except as otherwise provided in this Decree, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the Zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise or used whether directly or indirectly in such activity, **shall not be subject to customs and internal revenue laws and regulations** nor to local tax ordinances, the provisions of law to the contrary notwithstanding." *(Emphasis added)*

Executive Order No. 226

> "Article 77. *Tax Treatment of Merchandise in the Zone.* — (1) Except as otherwise provided in this Code, foreign and domestic merchandise, raw materials, supplies, articles, equipment, machineries, spare parts and wares of every description, except those prohibited by law, brought into the zone to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise whether directly or indirectly related in such activity, **shall not be subject to customs and internal revenue laws and regulations** nor to local tax ordinances, the provisions of law to the contrary notwithstanding." *(Emphasis added)*

It is clear from the foregoing provisions that supplies brought into the ECOZONE by a duly-registered PEZA export or free trade enterprise, and to be sold, stored, broken up, repacked, assembled, installed, sorted, cleaned, graded, or otherwise processed, manipulated, manufactured, mixed with foreign or domestic merchandise, whether directly or indirectly related in such activity, shall ***not*** be subject to customs and internal revenue laws and regulations.

Petitioner likewise presented the following documents to support that the fuel oil purchased from petitioner were actually delivered to ASEZ, thereby showing that the imported and locally manufactured fuel oil sold to PFGMI were used and consumed inside the PEZA Zone for use in the latter's PEZA registered operations, particularly, the manufacture and production of float glass for export, *viz.*:

Particulars	Exhibit No.
Application for Permit to Bring Goods from the Customs Territory into the Zone filed by PFGMI with PEZA to authorize delivery of Fuel Oil from petitioner	"P-35-1c" to "P-35-83c"[73]
Supply Agreement entered into by petitioner and PFGMI	"P-18"[74]
Amendment to the Supply Agreement entered into by petitioner and PFGMI	"P-18-1"[75]; "P-18-2"[76]
Certification from PFGMI that "purchases of fuel oil made by Pioneer Float Glass Manufacturing Inc. from Pilipinas Shell Petroleum Corporation from January to June 2020 was used in the production of	"P-20"[77]

[73] Amended USB marked as Exhibit "P-31-2".
[74] Docket, Vol. 3, pp. 1167 to 1195.
[75] *Id.*, Vol. 3, pp. 1334 to 1336.
[76] *Id.*, Vol. 3, pp. 1337 to 1339.
[77] *Id.*, Vol. 3, p. 1206.

float glass to supply heat to furnace for melting of raw materials and cullet"	
Sworn Declaration of PFGMI's Finance and Accounting Manager confirming that PFGMI did not shoulder the excise tax on its purchases from petitioner effective January 2020	"P-41"[78]
Sworn Declaration of petitioner's former Commercial Fuels Account Manager confirming the price reduction in the Sales Issued Invoice to address PFGMI's tax exemption on purchased bunker fuel oil	"P-42"[79]
BIR Ruling No. OT-195-2020 dated February 19, 2020 issued by Commissioner of Internal Revenue to PFGMI	"P-43"[80]

Correspondingly, it is clear that PFGMI is indeed an entity exempt by law from direct and indirect taxes. Thus, the excise taxes paid by petitioner to the Government, as the statutory taxpayer, on petroleum products sold to PFGMI are considered as erroneously or illegally collected, and may be refunded by petitioner.

Petitioner sufficiently proved that it had erroneously paid excise taxes on imported and locally produced or manufactured fuel oil sold to PFGMI, a tax-exempt PEZA-registered enterprise, but only in the amount of ₱84,972,000.00.

The total excise tax claimed for refund or issuance of tax credit certificate amounting to ₱85,512,000.00 is broken down as follows:[81]

Period of Sales	Bunker Fuel sold in Liters	Excise Tax Rate	Amount of Excise Tax
Sourced from imported Bunker Fuel Oil			
January 2020 to June 2020	1,270,000	₱4.50	₱ 5,715,000.00
	12,230,000	6.00	73,380,000.00
Subtotal	13,500,000		₱79,095,000.00
Sourced from locally manufactured Bunker Fuel Oil			
January 1 – 30, 2020	1,426,000	₱4.50	₱6,417,000.00
Total	**14,926,000**		**₱85,512,000.00**

[78] Amended USB marked as Exhibit "P-31-2".
[79] Amended USB marked as Exhibit "P-31-2".
[80] Amended USB marked as Exhibit "P-31-2".
[81] Docket, Vol. 3, Exhibits "P-24", "P-24-1", "P-25", "P-25-1", pp. 1223 to 1225 and 1229 to 1231, respectively; Docket, Vol. II, Table 3, Exhibit "P-31", p. 858.

Records show that from December 2019 to June 2020, petitioner imported fuel oil through its Tabangao Refinery, and paid the corresponding excise taxes thereof, as follows:[82]

Single Administrative Document (SAD) (Exhibits "P-38-1d" to "P-38-8d")[83]			Statement of Settlement of Duties and Taxes (SSDT)			
			Tentative SSDT (Exhibits "P-38-1e" to "P-38-8e")[84]		Final SSDT (Exhibits "P-38-1f" to "P-38-8f")[85]	
Volume in Liters	**Volume at MT**	**Excise Tax Paid**	**Volume in Liters**	**Excise Tax Paid**	**Volume in Liters**	**Excise Tax Paid**
32,005,417	30,819	144,024,376	32,005,417	144,024,376	32,056,241	144,253,084
35,460,372	34,246	212,762,232	35,460,372	212,762,232	35,460,372	212,762,232
44,897,330	43,609	269,383,980	44,897,330	269,383,980	44,897,330	269,383,980
37,723,657	36,633	226,341,942	37,723,657	226,341,942	37,723,657	226,341,942
19,325,395	18,706	115,952,370	19,325,395	115,952,370	19,325,395	115,952,370
38,820,333	37,545	232,921,998	38,820,333	232,921,998	38,848,499	233,090,994
38,597,591	37,227	231,585,546	38,597,591	231,585,546	38,761,914	232,571,484
38,576,929	37,300	231,461,574	38,576,929	231,461,574	38,576,929	231,461,574
285,407,024	**276,085**	**₱1,664,434,018**	**285,407,024**	**₱1,664,434,018**	**285,650,337**	**₱1,665,817,660**

The foregoing importations of fuel oil are supported by the following documents, to wit:

	Description	Exhibit No.[86]	Annexes[87]
1	Commercial Invoice	"P-38-1a" to "P-38-5a"; "P-38-7a" to "P-38-8a"	A-1, A-2
2	Bill of Lading	"P-38-1b" to "P-38-8b"	A-1
3	Load Port Survey Report	"P-38-1c" to "P-38-8c"	A-1
4	SAD	"P-38-1d" to "P-38-8d"	A-2, A-3
5	SSDT	"P-38-1e" to "P-38-8e"; "P-38-1f" to "P-38-8f"	A-3, A-4
6	Authority to Release Imported Goods	"P-38-1g" to "P-38-8g"	A-4
7	Certificate of Quantity Received	"P-38-1h" to "P-38-8h"	A-4

Moreover, as already shown earlier, in December 2019, petitioner paid excise taxes in advance on locally produced or manufactured petroleum products (including fuel oil) withdrawn from its Tabangao Refinery, as follows:[88]

Date Filed	Date Paid	Excise Tax Advance Payment	
		BIR Form No. 2200-P	**Amount**
December 19, 2019	December 23, 2019	071900033661525	₱1,500,000,000.00

[82] Docket, Vol. II, Annex A-3, Exhibit "P-31", p. 880.
[83] Amended USB marked as Exhibit "P-31-2".
[84] Amended USB marked as Exhibit "P-31-2".
[85] Amended USB marked as Exhibit "P-31-2".
[86] Amended USB marked as Exhibit "P-31-2".
[87] Docket, Vol. II, Exhibit "P-31", pp. 878 to 881.
[88] *Id.*, Vol. 3, Exhibit "P-14", pp. 1144 to 1145; Exhibit "P-37-1a", Amended USB marked as Exhibit "P-31-2".

Likewise, as already pointed out, in December 2019, petitioner produced or manufactured petroleum products, including fuel oil, in its Tabangao Refinery for sale and delivery to its customers. Petitioner paid excise taxes thereon prior to withdrawal from Tabangao Refinery applying the excise taxes paid in advance, as follows:[89]

Date Filed	Excise Tax Applied	
	BIR Form No. 2200-P	**Amount**
December 30, 2019	071900033714836	₱704,449,900.25

From the foregoing importations/production and withdrawals of petroleum products, petitioner avers that it sold a total of 14,926,000 liters of bunker fuel oil, with excise tax payments of ₱85,512,000.00, to PFGMI from January to June 2020 for use in its PEZA-registered operations, as follows:[90]

1. Excise tax on importation being claimed for refund				
Arrival Date	**Date of Payment of Excise Tax**	**Reference**[91]	**Volume in liters**	**Amount of Excise Tax**
December 2019 to June 2020	December 2019 to June 2020	Annex A-2	285,407,024	₱1,664,434,018
Add (Deduct)				
In Transit Gain - Net		Tables 8 and 9[92]	93,562	485,136
Unsold bunker fuel as of June 30, 2020 (Table 4)		Table 4	(25,158,563)	(150,951,375)
Transferred to other refinery (Plant to Plant Transfer)		Annex B-3	(94,462,013)	(548,561,647)
Directly delivered from Tabangao Refinery to Customer		Annex B-3	(68,476,254)	(400,045,485)
Bunker fuel oil transferred to Tabangao Terminal and subsequently sold to other customer		Annex B-3	(83,903,756)	(486,265,647)
Subtotal			(271,907,024)	(1,585,339,018)
Imported Bunker Fuel Transferred to Tabangao Terminal and subsequently sold to PFGMI from January 2020 – June 2020 for use in its PEZA registered operations			**13,500,000**	**₱79,095,000**
2. Excise tax on locally manufactured bunker fuel oil being claimed for refund				
Date Withdrawn from Tabangao Refinery	**Date of Excise Tax Payment**	**Excise Tax Rate**	**Volume in Liters**	**Amount of Excise Tax**
30 December 2019	30 December 2019		129,040,090	₱704,449,900[93]
Less: Type of petroleum products other than Bunker Fuel Oil				
Unleaded Premium Gasoline		₱9.00	9,646,687	86,820,183
Regular Gasoline		9.00	17,909,132	161,182,188
Kerosene		4.00	2,201,922	8,807,688
Diesel Fuel Oil and CME		4.50	80,085,005	360,382,520
LPG		2.00	3,758,638	7,517,276
Asphalt		9.00	2,281,304	20,531,736
Subtotal			115,882,688	645,241,591
Bunker Fuel Oil		4.50	13,157,402	59,208,309
Less: Bunker fuel oil sold to domestic customers or non-PEZA registered customers		4.50	11,731,402	52,791,309

[89] Docket, Vol. 3, Exhibit "P-15", pp. 1146 to 1147; Exhibit "P-37-1b", Amended USB marked as Exhibit "P-31-2".
[90] *Id.*, Vol. II, Tables 1, 2, 4, 4.A and 5, Exhibit "P-31", pp. 857 and 864.
[91] *Id.*, Vol. II, Exhibit "P-31", pp. 864, 866, 879 and 898.
[92] *Id.*, Vol. II, Exhibit "P-31", p. 866.
[93] *Id.*, Vol. 3, Exhibit "P-15", pp. 1146 to 1147; Exhibit "P-37-1b", Amended USB marked as Exhibit "P-31-2".

Locally Manufactured Bunker Fuel sold to PFGMI from January 1, 2020 to January 30, 2020 for use in its PEZA registered operations	4.50	**1,426,000**	**₱6,417,000**
Total Imported and Locally Manufactured Bunker Fuel Transferred to Tabangao Terminal and subsequently sold to PFGMI from January 2020 – June 2020		**14,926,000**	**₱85,512,000**

Also as stated earlier, to prove that its customer, PFGMI, is a PEZA-registered entity exempt by law from direct and indirect taxes, petitioner presented the PEZA Certificate of Registration No. 18-143 of PFGMI as an Ecozone Export Enterprise at the ASEZ issued on November 22, 2018.[94]

Moreover, petitioner likewise presented various documents enumerated earlier to support that the fuel oil purchased from petitioner were actually delivered to ASEZ, thereby evidencing that the imported and locally manufactured fuel oil sold to PFGMI were used and consumed inside PEZA Zone for use in the latter's PEZA registered operations, particularly, the manufacture and production of float glass for export.

Hence, the excise taxes paid by petitioner on the fuel oil sold to PFGMI, a tax-exempt entity, under Section 135(C) of the 1997 NIRC, as amended, are considered as erroneously or illegally collected and subject to refund.

Moreover, petitioner also presented, among others, the following documentary evidence, to prove the sale and delivery of fuel oil to PFGMI, which were duly examined by the Court-commissioned ICPA, Mr. Emmanuel Y. Mendoza of Mendoza Querido & Co.:

	Description	**Exhibit No.**[95]	**Annexes**[96]
1	Official Register Books (ORBs)	"P-33-1a" to "P-33-7a"; "P-33-1b" to "P-33-7b"	B-1; B-2; B-4
2	WCs	"P-34-1a" to "P-34-141a"; "P-35-1a" to "P-35-544a"	C; D
3	Delivery Notes (DNs)	"P-35-1b" to "P-35-544b"	D; F
4	Permit to Bring Goods from Customs Territory into the Zone	"P-35-1c" to "P-35-83c"	D
5	Sales Invoices	"P-36-1a" to "P-36-24a"	E; F; G; H; I
6	Printouts of petitioner's Global System Application Product System (GSAP) Showing "Overview	"P-36-1b" to "P-36-545b"	G; I-1 to I-5

[94] Docket, Vol. 3, Exhibit "P-19", p. 1205.
[95] Amended USB marked as Exhibit "P-31-2".
[96] Docket, Vol. II, Exhibit "P-31", pp. 883 to 964.

	of Billing Items" and "Pricing Details" (F4 Display Printouts)		
7	Bank Statements and Advice	"P-36-1c" to "P-36-8c"	H
8	Credit Note	"P-36-1d" to "P-36-6d"	I-2; I-4
9	Journal Entries Generated from GSAP	"P-36-1e" to "P-36-12e"	I-2; I-4; I-5
10	Initial Sales Invoice Issued to PFGMI	"P-36-1f" to "P-36-4f"	I-4
11	Customer Ledger of PFGMI generated from GSAP	"P-36-1e" to "P-36-12e"	I-2

As ascertained by the ICPA, out of the total claim of ₱85,512,000.00, only the amount of ₱84,972,000.00, as summarized below, was properly substantiated by relevant documents:[97]

Reference	Findings and Observations	Volume Liters	Excise Tax Amount
Annex I-1[98]	Sales and deliveries to PFGMI are properly supported by Sales Invoice, Delivery Notes and ZF2 Display Screenshots, and the amount billed are exclusive of excise tax.	6,320,000	₱37,920,000
Annex I-2[99]	Sales and deliveries to PFGMI are properly supported by Sales Invoice, Delivery Notes and ZF2 Display Screenshots, and the amount billed are inclusive of excise tax, but the excise tax was subsequently returned by the Petitioner thru issuance of credit note.	2,696,000	*12,132,000
Annex I-4[100]	Sales and deliveries to PFGMI are supported by Sales Invoice inclusive of excise tax, but subsequently cancelled and rebilled at sales amount exclusive of excise tax.	2,412,000	14,472,000
Annex I-5[101]	Sales and deliveries to PFGMI are supported by Sales Invoice and DNs using the reduced selling price to exclude the effect of excise tax from the original agreed selling price.	3,408,000	20,448,000
	Total properly substantiated	**14,836,000**	**₱84,972,000**

**Excise tax rate applied for importation of bunker fuel oil is ₱4.50.*

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[97] Docket, Vol. II, Table 24, Exhibit "P-31", p. 874.
[98] *Id.*, Vol. II, Exhibit "P-31", pp. 955 to 958.
[99] *Id.*, Vol. II, Exhibit "P-31", pp. 959 to 960.
[100] *Id.*, Vol. II, Exhibit "P-31", pp. 962.
[101] *Id.*, Vol. II, Exhibit "P-31", pp. 963 to 964.

On the other hand, the remaining amount of ₱540,000.00 consisting of 90,000 liters of bunker fuel oil, which pertains to sales and deliveries to PFGMI supported by delivery notes which were denied[102] admission by the Court in the Resolution dated July 18, 2023 for being blurred/unreadable, should be denied, to wit:[103]

Exhibit No.[104]	Delivery Note No.	Volume in Liters	Excise Tax Equivalent
"P-35-544b"	711599632	30,000	₱ 180,000.00
"P-35-542b"	711637905	30,000	180,000.00
"P-35-543b"	711637997	30,000	180,000.00
Total		**90,000**	**₱540,000.00**

In sum, petitioner sufficiently proved that the excise taxes it paid on the 14,836,000 liters of fuel oil that it imported and locally manufactured, and subsequently sold and delivered to PFGMI, a tax-exempt PEZA-registered entity, were erroneous, and thus, refundable, pursuant to Sections 204(C) and 229 of the 1997 NIRC, as amended, but in the reduced amount of ₱84,972,000.00.

WHEREFORE, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, respondent should be **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱84,972,000.00**, representing excise taxes paid by petitioner on fuel oil sold and delivered to PFGMI, a tax-exempt PEZA-registered enterprise, during the period from January to June 2020.

SO ORDERED.

Catherine T. Manahan

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

Marian Ivy F. Reyes-Fajardo

MARIAN IVY F. REYES-FAJARDO
Associate Justice

102 Docket, Vol. 3, p. 1272.
103 *Id.*, Vol. II, Table 24, Exhibit "P-31", p. 874.
104 Amended USB marked as Exhibit "P-31-2".

HENRY S. ANGELES
Associate Justice

ATTESTATION

I attest 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's Division.

CATHERINE T. MANAHAN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice