REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

PHILIPPINE AIRLINES, INC.,
Petitioner,

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA Case Nos. 8708 and 8770

Members:

DEL ROSARIO, *Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JAN 13 2017 ; 2:28 p.m.

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DECISION

***DEL ROSARIO, P.J.*:**

This is a consolidation of two (2) Petitions for Review filed by Philippine Airlines, Inc. against the Commissioner of Internal Revenue, seeking the refund of the aggregate amount of Thirty Million Ninety-Nine Thousand One Hundred and Ninety-Three Pesos and Eighty-Two Centavos (₱30,099,193.82), allegedly representing excise taxes paid for its importation of alcohol and tobacco products used as commissary supplies for its international flight covering transactions made in the years 2006, and 2008 to 2012,[1] broken down as follows:

CTA CASE NO.	AMOUNT OF CLAIM
8708	₱ 26,502,912.76
8770	₱ 3,596,281.06
Total	**₱ 30,099,193.82**

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[1] Brief Statement of the Case, Joint Stipulation of Facts and Issues ("JSFI"), CTA Docket, p. 2105.

PARTIES

Petitioner Philippine Airlines, Inc. ("PAL") is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with registered address at PNB Financial Center, President Diosdado P. Macapagal Avenue, CCP Complex 1307, Pasay City.[2]

On the other hand, respondent is the Commissioner of the Bureau of Internal Revenue ("BIR"), the government agency tasked with the assessment and collection of all national internal revenue taxes, fees and charges, including excise taxes paid on wines, liquors, and cigarettes under Sections 142 and 145 of the National Internal Revenue Code of 1997, as amended ("NIRC"). The Commissioner of Internal Revenue ("CIR") holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City, where papers, pleadings, notices, orders, judgments, summons and other processes may be served.[3]

FACTS

On June 11, 1978, by virtue of Presidential Decree No. 1590 ("PD 1590") otherwise known as "*An Act Granting a New Franchise to Philippine Airlines, Inc. to Establish, Operate and Maintain Air-Transport Services in the Philippines and Between the Philippines and Other Countries*", PAL was granted a franchise to operate and maintain air transport services domestically and internationally.[4]

Under Section 13 of its franchise, PAL must comply with certain conditions to be entitled to exemption from the payment of specific taxes on all its importation of cigarettes, liquor, and wine for its commissary and catering supplies for international consumption.[5]

On January 1, 2005, Republic Act No. 9334 ("RA 9334") otherwise known as "*An Act Increasing the Excise Tax Rates Imposed on Alcohol and Tobacco Products, Amending for the Purpose Sections 131, 141, 142, 143, 144, 145 and 288 of the National Internal Revenue*

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[2] Par. 1, Stipulation of Facts, JSFI, CTA Docket, p. 2105.
[3] Par. 2, Stipulation of Facts, JSFI, CTA Docket, p. 2106.
[4] Par. 3, Stipulation of Facts, JSFI, CTA Docket, p. 2106.
[5] Par. 4, Stipulation of Facts, JSFI, CTA Docket, p. 2106.

Code of 1997, as amended" took effect.[6] Section 6 of RA 9334 provides:

> "SEC. 6. Section 131 of the National Internal Revenue Code of 1997, as amended, is hereby amended to read as follows:
>
> > "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 Customs Officers, conformably with the regulations of the Department of Finance and before the release of such articles from the customshouse, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption.
> >
> > In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non-exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.
> >
> > The provision of any special or general law to the contrary notwithstanding, the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon. This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: *Provided, further,* That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government-owned and operated duty-free shop, like the Duty-Free Philippines (DFP), shall be exempted from all applicable duties only: *Provided, still further,* That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided, finally,* That the removal and transfer of tax and duty-free goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed an introduction into the Philippine customs territory."

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[66] Par. 5, Stipulation of Facts, JSFI, CTA Docket, p. 2106.

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> Cigars and cigarettes, distilled spirits and wines within the premises of all duty-free shops which are not labelled as hereinabove required, as well as tax and duty-free articles obtained from a duty-free shop and subsequently found in a non-duty-free shop to be offered for resale shall be confiscated, and the perpetrator of such non-labelling or re-selling shall be punishable under the applicable provisions of this Code.
>
> Articles confiscated shall be disposed of in accordance with the rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioners of Customs and Internal Revenue, upon consultation with the Secretary of Tourism and the General Manager of the Philippine Tourism Authority.
>
> The tax due on any such goods, products, machinery, equipment or other similar articles shall constitute a lien on the article itself, and such lien shall be superior to all other charges or liens, irrespective of the possessor thereof.
>
> (B) *Rate and Basis of the Excise Tax on Imported Articles.* - Unless otherwise specified, imported articles shall be subject to the same rates and basis of excise taxes applicable to locally manufactured articles."

On July 1, 2005, Republic Act No. 9337 ("RA 9337") otherwise known as "*An Act Amending Sections 27, 28, 34, 106, 107, 108, 109, 110, 111, 112, 113, 114, 116, 117, 119, 121, 148, 151, 236, 237 and 288 of the National Internal Revenue Code of 1997, as amended, and for other purposes*", expressly and specifically amended the franchise of PAL and subjected it to value-added registration and payment requirements.[7]

On various dates during the years 2006, and 2008 to 2012, PAL's importations of assorted cigarettes, liquor and wines, covered by various Informal Import Declaration and Entries ("IIDE"),[8] Air Waybills/Bills of Lading[9] and Authority to Release Imported Goods ("ATRIG"),[10] arrived in Manila. PAL allegedly paid under protest the excise taxes on its importation of assorted liquor, wine, and cigarettes, in the amount of ₱30,099,193.82, *viz.*:

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[7] Par. 6, Stipulation of Facts, JSFI, CTA Docket, p. 2106.
[8] Exhibits "P-47" to "P-169" and "P-631" to "P-655".
[9] Exhibits "P-170" to "P-293" and "P-656" and "P-680".
[10] Exhibits "P-294" to "P-416" and "P-681" to "P-705".

	DATE OF PAYMENT	OFFICIAL RECEIPT NUMBER	AMOUNT
CTA Case No. 8708	September 23, 2011	01821203445	879,380.41
	September 23, 2011	01821203423	976,037.39
	September 23, 2011	01821203401	1,436,872.69
	September 23, 2011	01821203388	1,572,300.88
	December 9, 2011	01823441058	2,913,490.60
	December 9, 2011	01823441070	1,858,869.93
	December 9, 2011	01823441092	3,851,455.73
	December 9, 2011	01823441036	1,543,708.44
	December 29, 2011	01824011164	2,213,166.08
	December 29, 2011	01824011007	1,030,098.94
	December 29, 2011	01824011041	851,018.92
	December 29, 2011	01824011063	681,073.31
	December 29, 2011	01824011119	2,259,632.96
	December 29, 2011	01824011142	2,221,205.44
	December 29, 2011	01824010938	2,214,601.04
CTA Case No. 8770	March 7, 2012	01825602914	959,747.90
	April 13, 2012	01826711769	810,564.49
	October 16, 2012	01831236149	1,825,968.67
TOTAL			**₱30,099,193.82**

On various dates, Gilda L. Cinco, the Acting Chief of the Warehousing Assessment Unit ("WAU") of the Bureau of Customs ("BOC"), forwarded to Silveria Salazar, the Chief of the Collection Division of the Ninoy Aquino International Airport ("NAIA") Customshouse, the documents covering PAL's payment of duties, taxes and other charges pursuant to Customs Memorandum Order ("CMO") No. 13-2005 and Revenue Regulation ("RR") No. 3-2006.

On September 12, 2013, PAL filed with the BIR its administrative claim for refund in the amount of ₱26,502,912.76, seeking the recovery of excise taxes paid under protest on its importation of alcohol and tobacco products for use in international flights covering payments made on September 23, 2011, December 9, 2011, and December 29, 2011.[11]

On February 13, 2014, PAL filed with the BIR its administrative claim for refund in the amount of ₱3,596,281.06 for the excise taxes paid under protest on March 7, 2012, April 13, 2012 and October 16, 2012.[12]

Due to the inaction of the CIR on PAL's administrative claims for refund, PAL filed Petitions for Review with this Court on September 19,

[11] Exhibit "P-46", CTA Docket, p. 45.
[12] Exhibit "P-630", CTA Docket, p. 7164.

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2013 and February 20, 2014, which were docketed as CTA Case Nos. 8708[13] and 8770,[14] respectively.

The CIR filed his Answer on January 6, 2014 for CTA Case No. 8708[15] and on April 21, 2014 for CTA Case No. 8770.[16] The two cases were later consolidated on July 21, 2014.[17]

The CIR filed his Pre-Trial Brief on February 20, 2014,[18] while PAL filed its Consolidated Pre-Trial Brief on September 18, 2014.[19] The Pre-Trial Conference was held on September 25, 2014.[20]

The parties submitted a Joint Stipulation of Facts and Issues on October 27, 2014,[21] which the Court approved in the Resolution promulgated on November 7, 2014.[22]

During trial, PAL presented the following witnesses:

1. Mr. Jonathan Castillo Lee – Manager of Company Materials Handling Division of PAL;[23]

2. Mr. Emmanuel Y. Mendoza – Court-commissioned Independent Certified Public Accountant ("ICPA");[24]

3. Ms. Cheryl Imelda V. Capinpin – Manager of In-flight and Commissary Materials Purchasing Division, Corporate Logistics and Services Department of PAL;[25]

4. Mr. Ruel Ryan O. Julian – Manager of Tax Services Division of PAL;[26] and

[13] Exhibit "P-417".
[14] Exhibit "P-731".
[15] CTA Docket, pp. 554-573.
[16] CTA Docket, pp. 185-199; 203-219.
[17] Resolution dated July 21, 2014, CTA Docket, pp. 1730-1731.
[18] Respondent's Pre-Trial Brief, CTA Docket, pp. 579-582.
[19] CTA Docket, pp. 2045-2066.
[20] Minutes of the Hearing dated September 25, 2014, CTA Docket, pp. 2069-2070.
[21] CTA Docket, pp. 2105-2126.
[22] CTA Docket, p. 2130.
[23] Minutes of the Hearing dated January 20, 2015, CTA Docket, pp. 2154-2156.
[24] Id.
[25] Minutes of the Hearing dated February 17, 2015, CTA Docket, pp. 2165-2169.
[26] Minutes of the Hearing dated February April 28, 2015, CTA Docket, pp. 2310-2315.

5. Mr. Gilbert M. Galedo – Senior Planning and Purchasing Specialist of In-flight Commissary Materials Purchasing Division of PAL.[27]

PAL formally offered its documentary evidence on June 26, 2015.[28] The CIR filed his Comment (Re: Petitioner's Formal Offer of Evidence) on July 15, 2015.[29] The Court admitted PAL's offered documentary evidence in a Resolution dated September 17, 2015.[30]

During the hearing dated October 8, 2015, the CIR's counsel manifested that he would not be presenting any evidence as there is no report of investigation.[31]

As directed by the Court, the CIR and PAL filed their memoranda on December 7, 2015[32] and December 14, 2015,[33] respectively.

Hence, the case was deemed submitted for decision on December 18, 2015.[34]

ISSUE

The sole issue submitted for the resolution of this Court is whether PAL is entitled to a refund or tax credit of excise taxes in the amount of ₱26,502,912.56 paid on September 23, 2011, December 9, 2011, and December 29, 2011; and in the amount of ₱3,596,281.06 paid on March 7, 2012, April 13, 2012 and October 16, 2012, or an aggregate amount of ₱30,099,193.82, on the importation of cigarettes, liquor, and wine for its in-flight and catering supplies for international consumption.

PARTIES' ARGUMENTS

PAL contends that under its franchise pursuant to PD 1590, it is exempt from payment of excise taxes on all its importations of cigarettes, liquor, and wine for its catering and commissary supplies

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[27] Id.
[28] Formal Offer of Evidence, CTA Docket, pp. 2349-2388.
[29] CTA Docket, pp. 2426-2427.
[30] CTA Docket, pp. 2445-2446.
[31] Minutes of the Hearing dated October 8, 2015, CTA Docket, pp. 2447-2448.
[32] CTA Docket, pp. 2465-2466.
[33] CTA Docket, pp. 2496-2516.
[34] Resolution dated December 18, 2015, CTA Docket, p. 2518.

for international consumption.[35] PAL also argues that it has exhausted all administrative and judicial remedies, and complied with the requirements for filing a claim for refund or tax credit under the provisions of the NIRC.[36] PAL further claims that it has shown its compliance with the conditions laid out in PD 1590, and is thus entitled to a refund or tax credit in the total amount of ₱30,099,193.82.

On the other hand, the CIR insists that RA 9334 revoked the exemption granted to PAL.[37]

THE COURT'S RULING

PAL's exemption from taxes granted under PD 1590 was not repealed by Section 6 of RA 9334

The issue on PAL's tax exemption under its franchise, PD 1590, is not novel. No less than the Supreme Court has settled the same in the consolidated cases of *Republic of the Philippines rep. by the Commissioner of Customs vs. Philippine Airlines, Inc. (PAL)* and *Commissioner of Internal Revenue vs. Philippine Airlines, Inc. (PAL)*[38] in this wise:

> "In CIR v. PAL, the Supreme Court has already passed upon the very same issues raised by the same petitioners. The only differences are the taxable period involved and the amount of refundable tax.
>
> We have held in that case that it is a basic principle in statutory construction that a later law, general in terms and not expressly repealing or amending a prior special law, will not ordinarily affect the special provisions of the earlier statute. A reading of the pertinent provisions of P.D. 1590 and R.A. 9334 shows that there was no express repeal of the grant of exemption:
>
> **PRESIDENTIAL DECREE NO. 1590**
>
> x x x x
>
> SECTION 13. In consideration of the franchise and rights hereby granted, the grantee shall pay to the

[35] Memorandum, CTA Docket, p. 2501.
[36] Memorandum, CTA Docket, p. 2506.
[37] Answer, CTA Docket, p. 555; Answer, CTA Case No. 8770 Docket, p. 204.
[38] G.R. Nos. 209353-54 and G.R. Nos. 211733-34, July 6, 2015.

Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:

(a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or

b) A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or nontransport operations; provided, that with respect to international airtransport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:

x x x x

(2) **All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of** aircraft, engines, equipment, machinery, spare parts, accessories, **commissary and catering supplies**, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; ***provided*****, that such articles or supplies or materials are imported for the use of the grantee in its transport and nontransport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price;**

x x x x

SECTION 24. This franchise, as amended, or any section or provision hereof may only be modified, amended, or repealed expressly by a special law or decree that shall specifically modify, amend, or repeal this franchise or any section or provision thereof. (Emphasis supplied)

REPUBLIC ACT NO. 9334

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SECTION 6. Section 131 of the National Internal Revenue Code of 1997, is amended, is hereby amended to read as follows:

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 Customs 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.

In the case of tax-free articles brought or imported into the Philippines by persons, entities, or agencies exempt from tax which are subsequently sold, transferred or exchanged in the Philippines to non- exempt persons or entities, the purchasers or recipients shall be considered the importers thereof, and shall be liable for the duty and internal revenue tax due on such importation.

The provision of any special or general law to the contrary notwithstanding, **the importation of cigars and cigarettes, distilled spirits, fermented liquors and wines into the Philippines, even if destined for tax and duty-free shops, shall be subject to all applicable taxes, duties, charges, including excise taxes due thereon.** This shall apply to cigars and cigarettes, distilled spirits, fermented liquors and wines brought directly into the duly chartered or legislated freeports of the Subic Special Economic and Freeport Zone, created under Republic Act No. 7227; the Cagayan Special Economic Zone and Freeport, created under Republic Act No. 7922; and the Zamboanga City Special Economic Zone, created under Republic Act No. 7903, and such other freeports as may hereafter be established or created by law: *Provided, further,* That importations of cigars and cigarettes, distilled spirits, fermented liquors and wines made directly by a government owned and operated duty-free shop, like the Duty- Free Philippines (DFP), shall be exempted from all applicable duties only: *Provided, still further,* That such articles directly imported by a government-owned and operated duty-free shop, like the Duty-Free Philippines, shall be labeled 'duty-free' and 'not for resale': *Provided, finally,* That the removal and transfer of tax and duty-free

> goods, products, machinery, equipment and other similar articles other than cigars and cigarettes, distilled spirits, fermented liquors and wines, from one freeport to another freeport, shall not be deemed on introduction into the Philippine customs territory.
>
> x x x x
>
> SECTION 10. Repealing Clause. - All laws, decrees, ordinances, rules and regulations, executive or administrative orders, and such other presidential issuances as are inconsistent with any of the provisions of this Act are hereby repealed, amended or otherwise modified accordingly.

The Court has exhaustively discussed all issues similar to those in the present case in this wise:

> Indeed, as things stand, **PD 1590 has not been revoked by the NIRC of 1997, as amended. Or to be more precise, the tax privilege of PAL provided in Sec. 13 of PD 1590 has not been revoked by Sec. 131 of the NIRC of 1997, as amended by Sec. 6 of RA 9334**. We said as much in *Commissioner of Internal Revenue v. Philippine Air Lines, Inc.*:
>
>> That the Legislature chose not to amend or repeal [PD] 1590 even after PAL was privatized reveals the intent of the Legislature to let PAL continue to enjoy, as a private corporation, the very same rights and privileges under the terms and conditions stated in said charter. x x x
>
> To be sure, the manner to effectively repeal or at least modify any specific provision of PAL's franchise under PD 1590, as decreed in the aforequoted Sec. 24, has not been demonstrated. And as aptly held by the CTA *En Banc*, borrowing from the same *Commissioner of Internal Revenue* case:
>
>> "While it is true that Sec. 6 of RA 9334 as previously quoted states that *'the provisions of any special or general law to the contrary notwithstanding.'* **such phrase left alone cannot be considered as an express repeal of the exemptions granted under PAL' s franchise because it fails to specifically identify PD 1590 as one of**

> **<u>the acts intended to be repealed</u>**....
> (Emphasis supplied)
>
> Noteworthy is the fact that PD 1590 is a special law, which governs the franchise of PAL. Between the provisions under PD 1590 as against the provisions under the NIRC of 1997, as amended by 9334, which is a general law, the former necessary prevails. This is in accordance with the rule that on a specific matter, the special law shall prevail over the general law, which shall be resorted only to supply deficiencies in the former. In addition, where there are two statutes, the earlier special and the later general - the terms of the general broad enough to include the matter provided for in the special - the fact that one is special and other general creates a presumption that the special is considered as remaining an exception to the general, one as a general law of the land and the other as remaining an exception to the general, one as a general law of the land and the other as the law of a particular case.

In other words, the franchise of PAL remains the governing law on its exemption from taxes. Its payment of either basic corporate income tax or franchise tax - whichever is lower - shall be in lieu of all other taxes, duties, royalties, registrations, licenses, and other fees and charges, except only real property tax. The phrase 'in lieu of all other taxes' includes but is not limited to taxes, duties, charges, royalties, or fees due on all importations by the grantee of the commissary and catering supplies, provided that such articles or supplies or materials are imported for the use of the grantee in its transport and nontransport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price.

However, upon the amendment of the 1997 NIRC, Section 22 of R.A. 9337 abolished the franchise tax and subjected PAL and similar entities to corporate income tax and value-added tax (VAT). PAL nevertheless remains exempt from taxes, duties, royalties, registrations, licenses, and other fees and charges, provided it pays corporate income tax as granted in its franchise agreement. Accordingly, PAL is left with no other option but to pay its basic corporate income tax, the payment of which shall be in lieu of all other taxes, except VAT, and subject to certain conditions provided in its charter.

In this case, the CTA found that PAL had paid basic corporate income tax for fiscal year ending 31 March 2006. Consequently, PAL may now claim exemption from taxes, duties, charges, royalties, or fees due on all importations of its commissary and catering supplies, provided it shows that 1) such articles or supplies or materials are imported for use in its transport and nontransport operations and other activities incidental thereto; and 2) they are not locally available in reasonable quantity, quality, or price." (Emphases supplied)

From all the foregoing, the exemption granted to PAL under PD 1590 remains and therefore PAL may still be entitled to refund or credit of the excise taxes paid on its commissary supplies used in international flights.

PAL is entitled to a partial refund of the excise taxes paid

Under its franchise, particularly pursuant to Section 13 of PD 1590, as amended by RA 9337, PAL is obliged to pay the corporate income tax and the value-added tax, in lieu of all other taxes, including taxes on commissary and catering supplies, provided that such articles, supplies or materials are imported for its use in its transport and non-transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality or price.

Thus, in order to be exempted from taxes, duties, charges, royalties, or fees on the importation of its commissary and catering supplies, PAL must prove the following:

1. it paid its corporate income tax and VAT liabilities for the subject period of importation;

2. the imported articles, supplies or materials are intended to be used in its transport and non-transport operations and other activities incidental thereto; and

3. the imported articles, supplies or materials are not locally available in reasonable quantity, quality or price.

With regard to the first requisite, PAL submitted its Annual Income Tax Returns for the fiscal years ended March 2006, March 2007, March 2008, March 2009, March 2010, March 2011, March 2012 and March 2013 to prove payment of income tax.[39] Also, PAL proved that it is a VAT-registered entity and that it accounted and paid for the VAT on its sales/receipts as evidenced by its BIR Certificates of

[39] Exhibits "P-598" to "P-610", CTA Docket, pp. 2226-2264.

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Registration,[40] Payment Forms No. 0605,[41] and VAT Returns[42] for fiscal years 2006 to 2012.

As to the second requisite, the imported articles were described as "Inflight Materials" under the column "Description of Articles of the IIDE documents" submitted by PAL.[43] Similarly, in the ATRIGs issued by CIR addressed to the Collector of Customs, it was indicated that "the shipment to be released at the Port of Manila consisting of the above described articles, will be used exclusively for international inflight consumption."[44]

With reference to the third requisite, records show that the excise taxes paid by PAL on September 23, 2011, December 9, 2011, December 29, 2011, March 7, 2012, April 13, 2012 and October 16, 2012 totalling to ₱30,099,193.82[45] pertain to its importation in the years 2006, 2008 to 2012 of assorted liquor, wine and cigarettes constituting its commissary and catering supplies for international flight consumption, detailed as follows:

Date of Arrival	Informal Import Declaration and Entry (IIDE) Exh. Ref.	Air Waybill / Bill of Lading Exh. Ref.	Exhibit of Authority to Release Imported Goods (ATRIG) Exh. Ref.	Description	Excise Tax Paid
CTA CASE NO. 8708					
13-Feb-10	"P-47"	"P-170"	"P-294"	Asahi Super Beer	₱ 4,800.60
25-Feb-10	"P-48"	"P-171"	"P-295"	Ballantines Scotch Whisky	38,211.55
28-Feb-08	"P-49"	"P-172"	"P-296"	Asahi Super Dry, Beer Sake Wine	7,801.74
07-Apr-10	"P-50"	"P-173"	"P-297"	Volupta Rosso, Volupta Blanco	366,840.00
15-Apr-10	"P-51"	"P-174"	"P-298"	Camus XO Cognac Elegance	12,933.14
17-Apr-10	"P-52"	"P-175"	"P-299"	Asahi Super Dry Beer	480.06
28-Apr-10	"P-53"	"P-176"	"P-300"	Absolute Vodka	95,233.32
04-Jun-10	"P-54"	"P-177"	"P-301"	West Ice, West Menthol	353,080.00
04-Jun-10	"P-55"	"P-178"	"P-302"	Lindemans Premier Shiraz Cabernet, Penfolds Shiraz Cabernet	49,981.95
22-Jun-10	"P-56"	"P-179"	"P-303"	Volupta Rosso	183,420.00
30-Jul-10	"P-57"	"P-180"	"P-304"	Johnnie Walker Black Label	220,153.57
11-Aug-10	"P-58"	"P-181"	"P-305"	Volupta Rosso, Volupta Blanco	366,840.00
28-Aug-10	"P-59"	"P-182"	"P-306"	Ballantines Scotch Whisky 21 YO	38,211.55
11-Sep-10	"P-60"	"P-183"	"P-307"	Penfolds Chardonnay, Lindemans Premier Chardonnay	35,950.32
14-Sep-10	"P-61"	"P-184"	"P-308"	West Menthol	81,480.00

40 Exhibits "P-587" to "P-589".
41 Exhibits "P-590" to "P-597".
42 Exhibits "P-611" to "P-618", "P-740" to "P-747", and "P-784" to "P-785".
43 Exhibits "P-47" to "P-169" and "P-631" to "P-655".
44 Exhibits "P-294" to "P-416" and "P-681" to "P-705".
45 Exhibits "P-31" to "P-45" and "P-627" to "P-629".

21-Aug-10	"P-62"	"P-185"	"P-309"	Lindemans Premier Shiraz Cabernet Penfolds Shiraz Cabernet	49,981.95
31-Aug-10	"P-63"	"P-186"	"P-310"	West Menthol	162,960.00
03-Sep-10	"P-64"	"P-187"	"P-311"	Gordon's Gin	28,512.18
05-Sep-10	"P-65"	"P-188"	"P-312"	Patron Silver Tequila	63,489.96
19-Sep-10	"P-66"	"P-189"	"P-313"	Chivas Regal Whisky, Royal Salute Whisky	447,950.38
19-Sep-10	"P-67"	"P-190"	"P-314"	Camus XO Cognac Elegance	28,217.76
24-Sep-10	"P-68"	"P-191"	"P-315"	Ballantines Scotch Whisky, Absolute Vodka	379,171.29
30-Sep-10	"P-69"	"P-192"	"P-316"	Camus VSOP Cognac Elegance	56,435.52
01-Oct-10	"P-70"	"P-193"	"P-317"	Johnnie Walker Black Label	220,153.57
13-Jan-06	"P-71"	"P-194"	"P-318"	Japanese Sake Wine, Japanese Beer	7,001.64
01-Nov-06	"P-72"	"P-195"	"P-319"	Vin de Table Blanc, Vin de Table Rouge	187,088.40
02-Oct-10	"P-73"	"P-196"	"P-320"	Penfolds Chardonnay, Lindemans Premier Shiraz Cabernet, Penfolds Shiraz Cab	100,881.00
12-Oct-10	"P-74"	"P-197"	"P-321"	Camus VSOP Cognac Elegance	284,529.08
12-Oct-10	"P-75"	"P-198"	"P-322"	Asahi Super Dry Beer	6,400.80
16-Oct-10	"P-76"	"P-199"	"P-323"	Volupta Rosso	183,420.00
23-Oct-10	"P-77"	"P-200"	"P-324"	Patron Silver Tequila	42,326.64
25-Oct-10	"P-78"	"P-201"	"P-325"	Absolute Vodka	95,233.32
28-Oct-10	"P-79"	"P-202"	"P-326"	West KS, West Ice, West Menthol	665,420.00
29-Oct-10	"P-80"	"P-203"	"P-327"	Davidoff Classic, Davidoff Lights	271,600.00
31-Oct-10	"P-81"	"P-204"	"P-328"	Piper Heidsieck	687,798.00
01-Nov-10	"P-82"	"P-205"	"P-329"	Piper Heidsieck	229,266.00
06-Nov-10	"P-83"	"P-206"	"P-330"	Penfolds Shiraz Cabernet, Lindemans Premier	91,710.00
12-Nov-10	"P-84"	"P-207"	"P-331"	Volupta Blanco, Volupta Rosso	365,097.51
14-Nov-10	"P-85"	"P-208"	"P-332"	Piper Heidsieck Brut	458,532.00
14-Nov-10	"P-86"	"P-209"	"P-333"	Piper Heidsieck Brut	687,798.00
21-Nov-10	"P-87"	"P-210"	"P-334"	Ballantines Scotch Whisky 21 YO & 17 YO	93,471.33
23-Nov-10	"P-88"	"P-211"	"P-335"	Camus XO Cognac Elegance	28,217.76
28-Nov-10	"P-89"	"P-212"	"P-336"	Grappa Red Rose/ Perla Blanca	29,981.37
01-Dec-10	"P-90"	"P-213"	"P-337"	Martini Dry/Sweet Vermouth	3,912.96
03-Dec-10	"P-91"	"P-214"	"P-338"	Asahi Super Dry Beer	6,400.80
10-Dec-10	"P-92"	"P-215"	"P-339"	Camus VSOP Cognac Elegance	284,529.08
11-Dec-10	"P-93"	"P-216"	"P-340"	Penfolds Chardonnay White, Penfolds Shiraz Cab Red, Lindemans Chardonnay White, Lindemans Shiraz Red	114,637.50
14-Dec-10	"P-94"	"P-217"	"P-341"	Royal Salute Scotch Whisky, Chivas Regal Scotch Whisky, Martell VSOP	335,905.89
16-Dec-10	"P-95"	"P-218"	"P-342"	Patron Silver Tequila	148,143.24
16-Dec-10	"P-96"	"P-219"	"P-343"	Johnnie Walker Black Label	177,533.72
17-Dec-10	"P-97"	"P-220"	"P-344"	Ballantines Scotch Whisky 17 YO & 21 YO, Absolute Vodka	336,845.37
21-Dec-10	"P-98"	"P-221"	"P-345"	West KS, Davidoff Lights	420,980.00
30-May-10	"P-99"	"P-222"	"P-346"	Volupta Blanco	160,584.21
19-Jan-11	"P-100"	"P-223"	"P-347"	Ballantines Scotch Whisky 17 YO & 21 YO, Absolute Vodka	281,256.02
28-Jan-11	"P-101"	"P-224"	"P-348"	Chivas Regal Whisky, Royal Salute Whisky, Martell VSOP Cognac	582,190.34
26-Jan-11	"P-102"	"P-225"	"P-349"	Penfolds Chardonnay	29,713.50
27-Jan-11	"P-103"	"P-226"	"P-350"	Camus VSOP, XO, Cognac Elegance	584,742.90

21-Jan-11	"P-104"	"P-227"	"P-351"	Davidoff Classic/Lights, West Menthol/Ice	566,000.00
08-Feb-11	"P-105"	"P-228"	"P-352"	Asahi Super Dry	6,911.52
23-Feb-11	"P-106"	"P-229"	"P-353"	Ballantines Scotch Whisky 17 & 21 YO, Royal Salute Whisky 21YO	283,165.40
25-Feb-11	"P-107"	"P-230"	"P-354"	Piper Hiedsieck	495,216.00
24-Feb-11	"P-108"	"P-231"	"P-355"	Charles Heidsieck	861,675.84
12-Mar-11	"P-109"	"P-232"	"P-356"	Penfolds Shiraz Cabernet Lindemans Premier Chardonnay	113,901.75
24-Mar-11	"P-110"	"P-233"	"P-357"	Camus Grand VSOP Cognac, Camus VSOP Cognac Elegance	212,691.50
27-Mar-11	"P-111"	"P-234"	"P-358"	Davidoff Lights	113,200.00
06-Apr-11	"P-112"	"P-235"	"P-359"	JW Black Label	245,698.56
07-Apr-11	"P-113"	"P-236"	"P-360"	Queen Adelaide Cab Sauvignon, Queen Adelaide Chardonnay	67,449.65
08-Apr-11	"P-114"	"P-237"	"P-361"	Asahi Super Dry Japanese Beer	7,948.24
09-Apr-11	"P-115"	"P-238"	"P-362"	Remy Martin VSOP	64,124.90
15-Apr-11	"P-116"	"P-239"	"P-363"	Camus VSOP Cognac Elegance	307,291.60
21-Apr-11	"P-117"	"P-240"	"P-364"	Chivas Regal Whisky	411,402.24
09-Sep-06	"P-118"	"P-241"	"P-365"	Salem Lights BOS	260,600.00
19-Nov-06	"P-119"	"P-242", "P-243"	"P-366"	Vin de Table Blanc, Vin de Table Rogue	160,374.60
23-Mar-08	"P-120"	"P-244"	"P-367"	Ballantines Scotch Whisky 17 YO, Royal Salute Whisky, Carlos Brandy	564,943.07
29-Sep-09	"P-121"	"P-245"	"P-368"	Camus Cognac VSOP Elegance	78,774.58
09-Feb-11	"P-122"	"P-246"	"P-369"	Ballantines Scotch 17 YO, Absolute Vodka	239,987.52
12-Feb-11	"P-123"	"P-247"	"P-370"	Queen Adelaide Cabernet Sauv/Chardonnay	37,538.05
15-Feb-11	"P-124"	"P-248"	"P-371"	Patron Silver Tequila	182,851.20
18-Feb-11	"P-125"	"P-249"	"P-372"	Charles Heidsieck, Remy Martin VSOP	688,097.06
11-Mar-11	"P-126"	"P-250"	"P-373"	J&B Rare Scotch Whisky, Gordon's Gin	154,277.78
02-Mar-11	"P-127"	"P-251"	"P-374"	Lindemans Premier Shiraz Cab.	34,665.75
01-Apr-11	"P-128"	"P-252"	"P-375"	Camus Cognac XO Elegance	60,950.40
23-Apr-11	"P-129"	"P-253"	"P-376"	Royal Salute Whisky 21 YO, Martell VSOP Cognac, Absolute Vodka	353,633.54
24-Apr-11	"P-130"	"P-254"	"P-377"	Queen Adelaide Cab Sauv, Queen Adelaide Chardonnay	74,283.75
30-Apr-11	"P-131"	"P-255"	"P-378"	Penfolds Shiraz Ca, Penfolds Chardonnay, Lindemans Premier Chardonnay/Cabernet	146,586.60
06-May-11	"P-132"	"P-256"	"P-379"	Absolute Vodka	205,701.12
28-May-11	"P-133"	"P-257"	"P-380"	Remy Martin VSOP	64,124.90
28-May-11	"P-134"	"P-258"	"P-381"	Martell VSOP Cognac	102,218.90
02-Jun-11	"P-135"	"P-259"	"P-382"	Queen Adelaide Cab Sauv, Queen Adelaide Chardonnay	91,121.40
04-Jun-11	"P-136"	"P-260"	"P-383"	Remy Martin VSOP	106,663.20
15-Jun-11	"P-137"	"P-261"	"P-384"	Camus Cognac XO Elegance, Camus VSOP Cognac Elegance	92,695.40
16-Jun-11	"P-138"	"P-262"	"P-385"	Patron Silver Tequila	137,138.40
17-Jun-11	"P-139"	"P-263"	"P-386"	Chivas Regal Whisky, Ballantines Scotch Whisky, Royal Salute Whisky	250,145.20
18-Jun-11	"P-140"	"P-264"	"P-387"	Asahi Super Dry Beer	6,911.52
20-Feb-09	"P-141"	"P-265"	"P-388"	Carlsberg Beer	81,457.20
21-Feb-09	"P-142"	"P-266"	"P-389"	Asahi Beer	6,047.58
27-Feb-09	"P-143"	"P-267"	"P-390"	Carlsberg Beer	81,457.20
09-Mar-09	"P-144"	"P-268"	"P-391"	Sky Grappa Alexander	19,681.90

06-May-09	"P-145"	"P-269"	"P-392"	Carlsberg Beer	97,748.64
19-May-09	"P-146"	"P-270"	"P-393"	Asahi Super Dry Beer, Hakutsuru Sake Wine	8,424.66
19-Jun-09	"P-147"	"P-271"	"P-394"	Carlsberg Beer	90,417.49
25-Dec-09	"P-148"	"P-272"	"P-395"	Mayne Cour Red Table Wine	198,090.00
03-Apr-09	"P-149"	"P-273"	"P-396"	Carlsberg Beer	97,748.64
09-Apr-11	"P-150"	"P-274"	"P-397"	Volupta Blanco, Volupta Rosso	396,180.00
15-Apr-11	"P-151"	"P-275"	"P-398"	West KS/Menthol/Ice	297,150.00
14-May-11	"P-152"	"P-276"	"P-399"	West Light/Menthol/Ice, Davidoff Classic/Lights	622,600.00
02-Jun-11	"P-153"	"P-277"	"P-400"	Gordon's Gin, JW Black Label	194,592.66
23-Jun-11	"P-154"	"P-278"	"P-401"	Sky Grappa Alexander Red and White	8,253.70
24-Jun-11	"P-155"	"P-279"	"P-402"	Discipulus Syrah / Blanc	198,090.00
30-Jun-11	"P-156"	"P-280"	"P-403"	Penfolds Chardonnay/Shiraz/Cab, Lindemans Premier Chardonnay/Premier Shiraz Cab	146,586.60
05-Jul-11	"P-157"	"P-281"	"P-404"	Volupta Blanco, Volupta Rosso	396,180.00
07-May-10	"P-158"	"P-282"	"P-405"	Johnnie Walker Black	173,639.68
09-Jun-11	"P-159"	"P-283"	"P-406"	Volupta Blanco, Volupta Rosso	396,180.00
25-Jun-11	"P-160"	"P-284"	"P-407"	West Ice, Davidoff Classic	254,700.00
09-Jul-11	"P-161"	"P-285"	"P-408"	Charles Heidsieck	1,386,604.80
19-Aug-11	"P-162"	"P-286"	"P-409"	Asahi Super Dry Beer	6,911.52
29-Aug-11	"P-163"	"P-287"	"P-410"	Martini Dry/Sweet Vermouth	3,169.44
10-Jul-11	"P-164"	"P-288"	"P-411"	Chivas Regal Whisky 12YO, Ballantines Scotch Whisky 21YO/17YO, Royal Salute Whisky 21YO	520,610.44
26-Jul-11	"P-165"	"P-289"	"P-412"	Ballantines Scotch Whisky 17 & 21YO, Absolute Vodka	421,344.36
04-Aug-11	"P-166"	"P-290"	"P-413"	J&B Rare Scotch Whisky, JW Black Label	287,283.20
05-Aug-11	"P-167"	"P-291"	"P-414"	Winston Lights, Davidoff Classic	198,100.00
12-Aug-11	"P-168"	"P-292"	"P-415"	Royal Salute Whisky 21YO, Chivas Regal Whisky 12YO	479,971.44
16-Aug-11	"P-169"	"P-293"	"P-416"	Camus VSOP Cognac Elegance	307,291.60
Subtotal					***₱26,502,912.68***
CTA CASE NO. 8770					
25-Feb-11	"P-631"	"P-656"	"P-681"	Volupta Rosso, Volupta Blanco	₱ 396,180.00
20-May-11	"P-632"	"P-657"	"P-682"	Patron Silver Tequila	91,425.60
01-Jul-11	"P-633"	"P-658"	"P-683"	West Menthol, Davidoff Lights	268,850.00
14-Sep-11	"P-634"	"P-659"	"P-684"	Sky Grappa Alexander	8,888.60
18-Sep-11	"P-635"	"P-660"	"P-685"	Volupta Rosso	118,160.68
16-Oct-11	"P-636"	"P-661"	"P-686"	Penfolds Shiraz Cab, Penfolds Chardonnay, Lindemans Premier Chardonnay, Lindemans Shiraz Cab	69,331.50
01-Nov-11	"P-637"	"P-662"	"P-687"	Asahi Super Dry Beer	6,911.52
20-Nov-11	"P-638"	"P-663"	"P-688"	Volupta Rosso	282,278.25
09-Dec-11	"P-639"	"P-664"	"P-689"	Penfolds Shiraz Cab, Penfolds Chardonnay	69,331.50
09-Dec-11	"P-640"	"P-665"	"P-690"	Absolute Vodka	205,701.12
18-Dec-11	"P-641"	"P-666"	"P-691"	Queen Adelaide Cabernet, Queen Adelaide Chardonnay	148,567.50
30-Dec-11	"P-642"	"P-667"	"P-692"	Hennessy Prive Cognac, Glenmorangie, Wenjun Super	97,774.60
07-Jan-12	"P-643"	"P-668"	"P-693"	Asahi Super Dry Beer	6,911.52

07-Jan-12	"P-644"	"P-669"	"P-694"	Queen Adelaide Cabernet/Sauvignon, Queen Adelaide Chardonnay	128,758.50
14-Mar-12	"P-645"	"P-670"	"P-695"	Camus VSOP Cognac Elegance	307,291.60
16-Mar-12	"P-646"	"P-671"	"P-696"	Queen Adelaide Cabernet, Queen Adelaide Chardonnay	98,945.96
24-Mar-12	"P-647"	"P-672"	"P-697"	Charles Heidsieck Brut Reserve	49,521.60
29-Mar-12	"P-648"	"P-673"	"P-698"	Piper Heidsieck	148,564.80
30-Mar-12	"P-649"	"P-674"	"P-699"	J&B Rare Scotch Whisky	82,216.96
02-Apr-12	"P-650"	"P-675"	"P-700"	Volupta Blanco	198,090.00
04-Apr-12	"P-651"	"P-676"	"P-701"	Stolichnaya Gold 70cl	72,376.32
10-Apr-12	"P-652"	"P-677"	"P-702"	Piper Heidsieck Brut	371,412.00
17-Apr-12	"P-653"	"P-678"	"P-703"	Camus Cognac XO Elegance, Patron Silver Tequila	129,519.60
17-Apr-12	"P-654"	"P-679"	"P-704"	Penfolds Chardonnay, Lindemans Shiraz Cab/Lindemans Chardonnay	75,472.29
19-Apr-12	"P-655"	"P-680"	"P-705"	Johnnie Walker Black Label	163,799.04
Subtotal					***₱ 3,596,281.06***
TOTAL					**₱30,099,193.74**[46]

To prove that the imported articles were not locally available in reasonable quantity, quality or price, PAL submitted the Judicial Affidavit of Ms. Cheryl Capinpin[47], PAL's Manager for In-flight and Commissary Materials Purchasing Division, Corporate Logistics and Services Department, Philippine Wine Merchants ("PWM") Price Lists for the years 2006[48], 2008[49], 2009[50], 2010[51], 2011[52] and 2012[53], Future Trade International ("FTI") Price Lists dated April 8, 2009[54], October 1, 2010[55] and for the years 2006 to 2013[56], the 2010 BIR Price Survey[57] and the report[58] of the Court-commissioned Independent Certified Public Accountant ("ICPA").[59]

It is noted that the BIR Price Survey Computation submitted by PAL was based on the 2010 Price Survey conducted and published by the BIR in its Revenue Memorandum Circular 90-2012.

With respect to the document described as the Price Lists from the Philippine Wine Merchants, the same was given probative value in

[46] With minimal difference of ₱.08. as compared to the total claim of ₱30,099,193.82.
[47] Exhibits "P-750" and "P-751".
[48] Exhibit "P-418".
[49] Exhibit "P-419".
[50] Exhibit "P-420".
[51] Exhibit "P-421".
[52] Exhibit "P-422".
[53] Exhibit "P-732".
[54] Exhibit "P-423".
[55] Exhibit "P-424".
[56] Exhibit "P-425".
[57] Exhibit "P-783".
[58] Exhibit "P-755".
[59] Mendoza, Querido & Co., through its Partner, Mr. Emmanuel Y. Mendoza.

the earlier cases[60] brought by petitioner before the Court, albeit involving different taxable periods, in arriving at the conclusion that the costs of importing the articles are lower than purchasing them locally.

A perusal of the aforesaid Price Lists from PWM and FTI as well as the 2010 BIR Price Survey shows that the following imported liquor, wine and cigarette products with excise tax payment of ₱14,172,530.08 do not have corresponding local prices, to wit:

IIDE Exh Ref	ATRIG Exh Ref	Commercial Invoice Exh Ref	Description	Excise Tax Paid
CTA Case No. 8770				
"P-48"	"P-295"	"P-428"	Ballantines Scotch Whisky	₱ 38,211.55
"P-49"	"P-296"	"P-429"	Japanese Sake Wine	2,201.04
"P-50"	"P-296"	"P-430"	Volupta Rosso	183,420.00
			Volupta Blanco	183,420.00
"P-53"	"P-300"	"P-434"	Absolute Vodka	95,233.32
"P-54"	"P-301"	"P-435"	West Ice, West Menthol	353,080.00
"P-55"	"P-302"	"P-436"	Penfolds Shiraz Cabernet	26,137.35
"P-56"	"P-303"	"P-437"	Volupta Rosso	183,420.00
"P-58"	"P-305"	"P-439"	Volupta Rosso, Volupta Blanco	366,840.00
"P-59"	"P-306"	"P-440"	Ballantines Scotch Whisky 21 YO	38,211.55
"P-60"	"P-307"	"P-441"	Penfolds Chardonnay	15,774.12
"P-61"	"P-308"	"P-442"	West Menthol	81,480.00
"P-62"	"P-309"	"P-443"	Penfolds Shiraz Cabernet	26,137.35
"P-63"	"P-310"	"P-444"	West Menthol	162,960.00
"P-64"	"P-311"	"P-445"	Gordons Gin	28,512.18
"P-65"	"P-312"	"P-446"	Patron Silver Tequila	63,489.96
"P-68"	"P-315"	"P-449"	Ballantines Scotch Whisky (17 & 21 YO)	93,471.33
"P-68"	"P-315"	"P-450"	Absolute Vodka	285,699.96
"P-71"	"P-318"	"P-453"	Japanese Sake Wine	2,201.04
"P-73"	"P-320"	"P-455"	Penfolds Chardonnay	27,513.00
			Penfolds Shiraz Cabernet	36,684.00
"P-76"	"P-323"	"P-458"	Volupta Rosso	183,420.00
"P-77"	"P-324"	"P-459"	Patron Silver Tequila	42,326.64
"P-78"	"P-325"	"P-460"	Absolute Vodka	95,233.32
"P-79"	"P-326"	"P-461"	West KS, West Ice, West Menthol	665,420.00
"P-80"	"P-327"	"P-462"	Davidoff Classic, Davidoff Lights	271,600.00
"P-83"	"P-330"	"P-465"	Penfolds Shiraz Cabernet	55,026.00
"P-84"	"P-331"	"P-466"	Volupta Blanco, Volupta Rosso	365,097.51
"P-87"	"P-334"	"P-469"	Ballantines Scotch Whisky 21 YO & 17 YO	93,471.33
"P-89"	"P-336"	"P-471"	Grappa Red Rose	14,108.88

[60] CTA Case No. 7677, 7685 and 7746 [(Decision and Amended Decision) affirmed with modifications in CTA EB 954 & 1046, October 14, 2014]; CTA Case No. 8153, January 17, 2013 (affirmed in CTA EB Nos. 1029, 1031 and 1032, April 30, 2014); CTA Case No. 7935, December 20, 2012; CTA Case No. 8236, December 18, 2013.

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			Perla Blanca	15,872.49
"P-93"	"P-340"	"P-475"	Penfolds Chardonnay, Penfolds Shiraz Cab	114,637.50
"P-95"	"P-342"	"P-477"	Patron Silver Tequila	148,143.24
"P-97"	"P-344"	"P-479"	Ballantines Scotch Whisky 17 YO & 21 YO	93,471.33
		"P-480" to "P-481"	Absolute Vodka	243,374.04
"P-98"	"P-345"	"P-482"	West KS	366,660.00
			Davidoff Lights	54,320.00
"P-99"	"P-346"	"P-483"	Volupta Blanco	160,584.21
"P-100"	"P-347"	"P-484"	Ballantines Scotch Whisky 17 YO	91,425.60
			Ballantines Scotch Whisky 21 YO	41,268.50
		"P-485"	Absolute Vodka	148,561.92
"P-102"	"P-349"	"P-487"	Penfolds Chardonnay	29,713.50
"P-104"	"P-351"	"P-492"	Davidoff Classic/Lights, West Menthol/West Ice	566,000.00
"P-106"	"P-353"	"P-494"	Ballantines Scotch Whisky 17 YO	91,425.60
			Ballantines Scotch Whisky 21 YO	123,805.50
"P-109"	"P-356"	"P-497"	Penfolds Shiraz Cabernet	89,140.50
"P-111"	"P-358"	"P-498"	Davidoff Lights	113,200.00
"P-113"	"P-360"	"P-502"	Queen Adelaide Cab Sauvignon	46,947.33
			Queen Adelaide Chardonnay	20,502.32
"P-118"	"P-365"	"P-507"	Salem Lights BOS	260,600.00
"P-120"	"P-367"	"P-509"	Ballantines Scotch Whisky 17 YO	106,404.47
"P-122"	"P-369"	"P-511"	Ballantines Scotch 17 YO	91,425.60
		"P-512"	Absolute Vodka	148,561.92
"P-123"	"P-370"	"P-513"	Queen Adelaide Cabernet Sauv/Chardonnay	37,538.05
"P-124"	"P-371"	"P-514"	Patron Silver Tequila	182,851.20
"P-126"	"P-373"	"P-517"	Gordon's Gin	30,793.62
"P-129"	"P-376"	"P-521"	Absolute Vodka	182,845.44
"P-130"	"P-377"	"P-523"	Queen Adelaide Cab Sauv, Queen Adelaide Chardonnay	74,283.75
"P-131"	"P-378"	"P-524"	Penfolds Shiraz Cabernet	59,427.00
			Penfolds Chardonnay	22,780.35
"P-132"	"P-379"	"P-525"	Absolute Vodka	205,701.12
"P-135"	"P-382"	"P-528"	Queen Adelaide Cabernet	55,465.20
			Queen Adelaide Chardonnay	35,656.20
"P-138"	"P-385"	"P-531"	Patron Silver Tequila	137,138.40
"P-139"	"P-386"	"P-532"	Ballantines Scotch Whisky 21 YO	48,887.30
"P-144"	"P-391"	"P-537"	Sky Grappa Alexander	19,681.90
"P-146"	"P-393"	"P-539"	Japanese Sake Wine	2,377.08
"P-148"	"P-395"	"P-541"	Mayne Cour Red Table Wine	198,090.00
"P-150"	"P-397"	"P-543"	Volupta Blanco, Volupta Rosso	396,180.00
"P-151"	"P-398"	"P-544"	West KS/Menthol/Ice	297,150.00
"P-152"	"P-399"	"P-545"	West Ice	113,200.00
			West Menthol	169,800.00
			Davidoff Lights	113,200.00
			Davidoff Classic	84,900.00
"P-153	"P-400"	"P-546"	Gordon's Gin	30,793.62

"P-154	"P-401"	"P-548"	Sky Grappa Alexander Red and White	8,253.70
"P-155	"P-402"	"P-549"	Discipulus Syrah / Blanc	198,090.00
"P-156	"P-403"	"P-550"	Penfolds Shiraz Cabernet	59,427.00
			Penfolds Chardonnay	22,780.35
"P-157	"P-404"	"P-551"	Volupta Blanco, Volupta Rosso	396,180.00
"P-159	"P-406"	"P-553"	Volupta Blanco, Volupta Rosso	396,180.00
"P-160	"P-407"	"P-554"	West Ice, Davidoff Classic	254,700.00
"P-164	"P-411"	"P-558"	Ballantines Scotch Whisky 21 YO	64,124.90
			Ballantines Scotch Whisky 17 YO	109,837.70
"P-165	"P-412"	"P-559"	Ballantines Scotch Whisky 17 YO	91,730.35
			Ballantines Scotch Whisky 21 YO	146,768.56
			Absolute Vodka	182,845.44
"P-167"	"P-414"	"P-562"	Davidoff Classic	84,900.00
Subtotal				***₱11,760,405.23***
CTA Case No. 8770				
"P-631	"P-681"	"P-706"	Volupta Rosso, Volupta Blanco	₱ 396,180.00
"P-632	"P-682"	"P-707"	Patron Silver Tequila	91,425.60
"P-633	"P-683"	"P-708"	West Menthol	124,258.43
			Davidoff Lights	144,591.57
"P-634	"P-684"	"P-709"	Perla Bianca Grappa Alexandre	4,444.30
"P-634	"P-684"	"P-709"	Red Rose Grappa Alexander	4,444.30
"P-635	"P-685"	"P-710"	Volupta Rosso	118,160.68
"P-636	"P-686"	"P-711"	Penfolds Shiraz Cab	24,761.25
			Penfolds Chardonnay	19,809.00
"P-638	"P-688"	"P-713"	Volupta Rosso	282,278.25
"P-639	"P-689"	"P-714"	Penfolds Shiraz Cabernet	24,227.60
			Penfolds Chardonnay	45,103.90
"P-640	"P-690"	"P-715"	Absolute Vodka	205,701.12
"P-641	"P-691"	"P-716"	Queen Adelaide Cabernet	104,162.06
			Queen Adelaide Chardonnay	44,405.44
"P-642	"P-692"	"P-717"	Glenmorangie 18 YO	33,256.68
			Hennessy Prive Cognac	37,912.56
			Wenjun Super	26,605.36
"P-644	"P-694"	"P-719"	Queen Adelaide Cabernet/Sauvignon, Queen Adelaide Chardonnay	128,758.50
"P-646	"P-696"	"P-721"	Queen Adelaide Cabernet, Queen Adelaide Chardonnay	98,945.96
"P-647	"P-697"	"P-722"	Charles Heidsieck Brut Reserve	49,521.60
"P-650	"P-700"	"P-725"	Volupta Blanco	198,090.00
"P-651	"P-701"	"P-726"	Stolichnaya Gold 70cl	72,376.32
"P-653	"P-703"	"P-728"	Patron Silver Tequila	114,282.00
-	"P-704"	"P-729"	Penfolds Chardonnay	18,422.37
Subtotal				***₱ 2,412,124.85***
TOTAL				**₱14,172,530.08**

Thus, only the importation cost of the following liquor, wine and cigarette products, as computed by the ICPA, can be compared with the local prices for the same liquor, wine and cigarette products reflected in the PWM and FTI Price Lists and BIR Price Survey Computation presented by PAL:

				Importation Cost per Bottle/Can/Pack (in PHP) per Annex E of the ICPA Report[61]		Retail Price if Purchased Domestically (in PHP)			
IIDE	**ATRIG**	**Invoice**	**Description**	**Without Excise Tax**	**With Excise Tax**	**Per BIR Price Survey**	**FTI**	**PWM**	**Excise Tax Paid (in PHP)**
CTA CASE NO. 8708									
"P-47"	"P-294"	"P-428"	Asahi Super Beer	22.36	29.03	99.47			4,800.60
"P-49"	"P-296"	"P-430"	Asahi Super Dry	30.34	37.01	99.47			5,600.70
"P-51"	"P-298"	"P-432"	Camus Cognac XO Elegance	1,565.52	1,800.66			4,200.00	12,933.14
"P-52"	"P-299"	"P-433"	Asahi Super Dry Beer	238.80	245.47	99.47			480.06
"P-55"	"P-302"	"P-436"	Lindemans Premier Shiraz	170.98	186.27		360.00		23,844.60
"P-57"	"P-304"	"P-438"	Johnnie Walker Black Label	403.93	580.16			1,003.00	220,153.57
"P-60"	"P-307"	"P-441"	Lindemans Premier Chardonnay	163.26	178.54		360.00		20,176.20
"P-62"	"P-309"	"P-443"	Lindemans Premier Shiraz Cabernet	166.10	181.38		360.00		23,844.60
"P-66"	"P-313"	"P-447"	Chivas Regal Whisky	497.86	674.22			1,100.00	380,933.20
			Royal Salute Whisky	1,958.24	2,287.45			6,400.00	67,017.18
"P-67"	"P-314"	"P-448"	Camus Cognac VSOP Elegance	1,538.46	1,773.61			4,200.00	28,217.76
"P-69"	"P-316"	"P-451"	Camus Cognac VSOP Elegance	630.67	865.82			1,800.00	56,435.52
"P-70"	"P-317"	"P-452"	Johnnie Walker Black Label	387.12	563.48			1,003.00	220,153.57
"P-71"	"P-318"	"P-453"	Asahi Super Dry	36.44	43.11	99.47			4,800.60
"P-72"	"P-319"	"P-454"	Vin de Table Blanc	89.85	105.14		275.00		82,539.00
			Vin de Table Rogue	89.85	105.14		275.00		104,549.40
"P-73"	"P-320"	"P-455"	Lindemans Premier Shiraz Cabernet	162.42	177.70		360.00		36,684.00
"P-74"	"P-321"	"P-456"	Camus Cognac VSOP Elegance	443.52	772.72			1,800.00	284,529.08
"P-75"	"P-322"	"P-457"	Asahi Super Dry Beer	21.00	27.67	99.47			6,400.80
"P-81"	"P-328"	"P-463"	Piper Heidsieck Brut	877.95	1,260.06	1,984.83	2,150.00	2,540.00	687,798.00
"P-82"	"P-329"	"P-464"	Piper Heidsieck Brut	877.95	1,260.06	1,984.83	2,150.00	2,540.00	229,266.00
"P-83"	"P-330"	"P-465"	Lindemans Shiraz Cabernet	159.77	175.06		360.00		36,684.00
"P-85"	"P-332"	"P-467"	Piper Heidsieck Brut	866.27	1,248.38	1,984.83	2,150.00	2,540.00	458,532.00

[61] Exhibit "P-755".

"P-86"	"P-333"	"P-468"	Piper Heidsieck Brut	866.27	1,248.38	1,984.83	2,150.00	2,540.00	687,798.00
"P-88"	"P-335"	"P-470"	Camus Cognac XO Elegance	1,506.02	1,741.16			4,200.00	28,217.76
"P-90"	"P-337"	"P-472"	Martini Dry/Sweet Vermouth	47.68	49.72		430.00	400.00	3,912.96
"P-91"	"P-338"	"P-473"	Asahi Super Dry Beer	19.84	26.51	99.47			6,400.80
"P-92"	"P-339"	"P-474"	Camus Cognac VSOP Elegance	448.02	777.22			1,800.00	284,529.08
"P-94"	"P-341"	"P-476"	Royal Salute Scotch Whisky	2,020.73	2,349.94			6,400.00	63,489.96
			Chivas Regal Scotch Whisky	491.86	656.46			1,100.00	177,768.86
			Martell VSOP	612.09	941.30			1,620.00	94,647.07
"P-96"	"P-343"	"P-478"	Johnnie Walker Black Label	386.38	575.97			1,003.00	177,533.72
"P-101"	"P-348"	"P-486"	Chivas Regal Whisky 12 YO	499.73	690.19			1,100.00	411,402.24
			Royal Salute Whisky 21 YO	2,146.83	2,502.38			6,400.00	68,569.20
			Martell VSOP Cognac	621.88	977.42			2,200.00	102,218.90
"P-103"	"P-350"	"P-488"	Camus Cognac VSOP Elegance	600.94	854.90			2,200.00	76,188.00
		"P-489"	Camus Cognac XO Elegance	1,529.68	1,783.64			6,900.00	30,475.20
		"P-490"	Camus Cognac VSOP Elegance	455.70	811.25			2,200.00	170,788.10
		"P-491"	Camus Cognac VSOP Elegance	455.70	811.25			2,200.00	307,291.60
"P-105"	"P-352"	"P-493"	Asahi Super Dry	21.04	28.24	100.00			6,911.52
"P-106"	"P-353"	"P-494"	Royal Salute Whisky	2,107.54	2,463.08			6,400.00	67,934.30
"P-107"	"P-354"	"P-495"	Piper Hiedsieck	881.14	1,293.82	2,015.40	2,150.00	2,500.00	495,216.00
"P-108"	"P-355"	"P-496"	Charles Heidsieck	1,760.33	2,173.01	2,047.88			861,675.84
"P-109"	"P-356"	"P-497"	Lindemans Premier Chardonnay	160.62	177.12		360.00		24,761.25
"P-110"	"P-357"	"P-498"	Camus Cognac VSOP Elegance	451.29	806.83			2,200.00	136,503.50
		P-499	Camus Cognac VSOP Elegance	600.79	854.75			2,200.00	76,188.00
"P-112"	"P-359"	"P-501"	JW Black Label	282.39	418.89			1,050.00	245,698.56
"P-114"	"P-361"	"P-503"	Asahi Super Dry Japanese Beer	21.76	28.96	100.00			7,948.24
"P-115"	"P-362"	"P-504"	Remy Martin VSOP	747.78	1,103.32		2,250.00	2,350.00	64,124.90
"P-116"	"P-363"	"P-505"	Camus Cognac VSOP Elegance	461.23	816.78			2,200.00	307,291.60
"P-117"	"P-364"	"P-506"	Chivas Regal Whisky	486.07	867.01			1,100.00	411,402.24
"P-119"	"P-366"	"P-508"	Vin de Table Blanc, Vin de Table Rogue	91.49	104.59		275.00		160,374.60
"P-120"	"P-367"	"P-509"	Royal Salute Whisky	1,924.96	2,254.17			6,400.00	63,489.96
			Carlos I Brandy	413.16	742.37			1,099.00	395,048.64
"P-121"	"P-368"	"P-510"	Camus Cognac VSOP Elegance	647.70	976.91			1,800.00	78,774.58
"P-125"	"P-372"	"P-515"	Charles Heidsieck	1,773.98	2,186.66	2,047.88			623,972.16
		"P-516"	Remy Martin VSOP	752.74	1,108.29		2,250.00	2,350.00	64,124.90

"P-126"	"P-373"	"P-517"	J&B Rare Scotch Whisky	175.01	365.48			910.50	123,484.16
"P-127"	"P-374"	"P-518"	Lindemans Shiraz Cabernet	160.84	177.36		360.00		34,665.75
"P-128"	"P-375"	"P-519" to "P-520"	Camus Cognac XO Elegance	1,516.62	1,770.58			6,900.00	60,950.40
"P-129"	"P-376"	"P-522"	Royal Salute Whisky 21 YO	2,088.16	2,443.70			6,400.00	68,569.20
			Martell VSOP Cognac	604.88	960.43			2,200.00	102,218.90
"P-131"	"P-378"	"P-524"	Lindemans Premier Chardonnay	159.84	176.35		360.00		24,761.25
			Lindemans Shiraz Cabernet	159.84	176.35		360.00		39,618.00
"P-133"	"P-380"	"P-526"	Remy Martin VSOP	747.23	1,102.77		2,250.00	2,350.00	64,124.90
"P-134"	"P-381"	"P-527"	Martell VSOP Cognac	608.10	963.65			2,200.00	102,218.90
"P-136"	"P-383"	"P-529"	Remy Martin VSOP	745.44	1,100.98		2,250.00	2,350.00	106,663.20
"P-137"	"P-384"	"P-530"	Camus Cognac XO Elegance	864.16	1,118.12			6,900.00	54,601.40
			Camus Cognac VSOP Elegance	1,296.24	1,550.20			2,200.00	38,094.00
"P-139"	"P-386"	"P-532"	Chivas Regal Whisky 12 YO	542.08	732.54			1,100.00	171,417.60
			Royal Salute Whisky 21 YO	2,312.71	2,668.25			6,400.00	29,840.30
"P-140"	"P-387"	"P-533"	Asahi Super Dry Beer	22.29	29.49	100.00			6,911.52
"P-141"	"P-388"	"P-534"	Carlsberg Beer	14.03	20.82	159.75			81,457.20
"P-142"	"P-389"	"P-535"	Asahi Super Dry Beer	43.78	50.97	100.00			6,047.58
"P-143"	"P-390"	"P-536"	Carlsberg Beer	15.34	22.13	159.75			81,457.20
"P-145"	"P-392"	"P-538"	Carlsberg Beer	15.33	22.12	159.75			97,748.64
"P-146"	"P-393"	"P-539"	Asahi Super Dry Beer	41.85	49.05	100.00			6,047.58
"P-147"	"P-394"	"P-540"	Carlsberg Beer	15.45	22.24	159.75			90,417.49
"P-149"	"P-396"	"P-542"	Carlsberg Beer	15.55	22.34	159.75			97,748.64
"P-152"	"P-399"	"P-545"	West Lights	19.33	47.63	40.88			141,500.00
"P-153"	"P-400"	"P-547"	Johnnie Walker Black Label	281.09	417.59			1,050.00	163,799.04
"P-156"	"P-403"	"P-550"	Lindemans Chardonnay	161.17	177.68		360.00		24,761.25
			Lindemans Shiraz Cabernet	161.17	177.68		360.00		39,618.00
"P-158"	"P-405"	"P-552"	Johnnie Walker Black Label	409.88	600.34			1,003.00	173,639.68
"P-161"	"P-408"	"P-555"	Charles Heidsieck	1,765.86	2,178.54	2,047.88			1,386,604.80
"P-162"	"P-409"	"P-556"	Asahi Super Dry Beer	21.76	28.96	100.00			6,911.52
"P-163"	"P-410"	"P-557"	Martini Dry/Sweet Vermouth	51.69	53.89		430.00	395.00	3,169.44
"P-164"	"P-411"	"P-558"	Chivas Regal Whisky 12 YO	443.62	824.56			1,100.00	239,984.64
			Royal Salute Whisky 21YO	2,010.12	2,365.67			6,400.00	106,663.20
"P-166"	"P-413"	"P-560"	J&B Rare Scotch Whisky	169.60	360.06			910.50	123,484.16
		"P-561"	Johnnie Walker Black Label	273.44	409.93			1,050.00	163,799.04

"P-167"	"P-414"	"P-562"	Winston Lights	19.00	47.30	60.23			113,200.00
"P-168"	"P-415"	"P-563"	Royal Salute Whisky 21 YO	2,052.73	2,408.28			6,400.00	68,569.20
			Chivas Regal Whisky 12 YO	477.82	668.29			1,100.00	411,402.24
"P-169"	"P-416"	"P-564"	Camus Cognac VSOP Elegance	460.51	816.05			2,200.00	307,291.60
Subtotal									***14,742,507.44***
CTA CASE NO. 8770									
"P-636"	"P-686"	"P-711"	Lindemans Premier Chardonnay	160.20	176.71		360.00		9,904.50
			Lindemans Shiraz Cabernet	160.20	176.71		360.00		14,856.75
"P-637"	"P-687"	"P-712"	Asahi Super Dry Beer	22.24	29.44	100.00			6,911.52
"P-643"	"P-693"	"P-718"	Asahi Super Dry Beer	22.47	29.67	100.00			6,911.52
"P-645"	"P-695"	"P-720"	Camus VSOP Cognac Elegance	451.59	807.14			2,200.00	307,291.60
"P-648"	"P-698"	"P-723"	Piper Heidsieck Brut	953.71	1,366.39	2,015.40	2,150.00	2,500.00	148,564.80
"P-649"	"P-699"	"P-724"	J&B Rare Scotch Whisky	173.10	363.56			910.50	82,216.96
"P-652"	"P-702"	"P-727"	Piper Heidsieck Brut	946.76	1,359.44			2,015.40	371,412.00
"P-653"	"P-703"	"P-728"	Camus Cognac XO Elegance	1,712.41	1,966.37			6,900.00	15,237.60
-	"P-704"	"P-729"	Lindemans Shiraz Cabernet	158.19	174.69		360.00		35,656.20
			Lindemans Chardonnay	158.19	174.69		360.00		21,393.72
-	"P-705"	"P-730"	Johnnie Walker Black Label	277.60	414.10			1,050.00	163,799.04
Subtotal									***1,184,156.21***
TOTAL									**15,926,663.65**

Clearly, from the foregoing table, the cost of importing the above-enumerated liquor, wine and cigarette products is lower than purchasing them locally, except for the following:

				Cost per Bottle/Can/Pack in Peso per Annex E of the ICPA Report			
IIDE	**ATRIG**	**Invoice**	**Description**	**Without Excise Tax**	**With Excise Tax**	**Retail Price if Purchased Domestically per RR 22-2003 and RMC 90-2012**	**Excise Tax Paid**
CTA CASE NO. 8708							
"P-52"	"P-299"	"P-433"	Asahi Super Dry Beer	238.80	245.47	99.47	₱ 480.06
"P-108"	"P-355"	"P-496"	Charles Heidsieck	1,760.33	2,173.01	2,047.88	861,675.84
"P-125"	"P-372"	"P-515"	Charles Heidsieck	1,773.98	2,186.66	2,047.88	623,972.16
"P-152"	"P-399"	"P-545"	West Lights	19.33	47.63	40.88	141,500.00
"P-161"	"P-408"	"P-555"	Charles Heidsieck	1,765.86	2,178.54	2,047.88	1,386,604.80
			TOTAL				**₱3,014,232.86**

OM

Thus, the Court finds that PAL has sufficiently proven its exemption from the payment of excise taxes only in the amount of ₱12,912,430.88, computed as follows:

	CTA Case No. 8708	**CTA Case No. 8770**	**Total**
Excise Taxes Paid per Claim	**₱26,502,912.76**	**₱ 3,596,281.06**	**₱30,099,193.82**
Less: Disallowances			
Excise tax on imported liquor, wine and cigarette products wherein no price comparison was presented	₱ 11,760,405.23	₱ 2,412,124.85	₱ 14,172,530.08
Excise tax on imported liquor, wine and cigarette products where cost of importation is higher than the available local price	3,014,232.86	-	3,014,232.86
Total Disallowances	₱ 14,774,638.09	₱ 2,412,124.85	₱ 17,186,762.94
Refundable Excise Taxes Paid	**₱11,728,274.67**	**₱ 1,184,156.21**	**₱12,912,430.88**

Evidently, the amount of ₱12,912,430.88 constitutes erroneously paid excise tax which is refundable pursuant to Sections 204 and 229(C) of the NIRC of 1997, as amended.

WHEREFORE, premises considered, the present consolidated Petitions for Review are hereby **PARTIALLY GRANTED**. The **COMMISSIONER OF INTERNAL REVENUE** is hereby **ORDERED** to refund in favor of **PHILIPPINE AIRLINES, INC**. the amount of Twelve Million Nine Hundred Twelve Thousand Four Hundred Thirty Pesos and Eighty-Eight Centavos (₱12,912,430.88) representing erroneously paid excise tax on its importation in the years 2006, 2008 to 2012 of assorted liquor, wine and cigarettes constituting its commissary and catering supplies for international flight consumption.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
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