**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

*EN BANC*

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| **COMMISSIONER OF INTERNAL REVENUE**, Petitioner, | **CTA EB NO. 2256** (CTA Case No. 8220) |
| | Present: |
| - versus - | Del Rosario, *PJ*, Castañeda, Jr., Uy, Ringpis-Liban, Manahan, Bacorro-Villena, Modesto-San Pedro, Reyes-Fajardo, and Cui-David, *JJ.* |
| **PHILIPPINE AIRLINES, INC.**, Respondent. | Promulgated: MAR 17 2022 3:13 pm |

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## RESOLUTION

**CASTAÑEDA, JR., *J.*:**

For resolution of the Court *En Banc* is petitioner's Motion for Reconsideration (Re: Decision promulgated 9 June 2021) filed on June 28, 2021, with respondent's Comment/Opposition (On the CIR's Motion for Reconsideration dated 23 June 2021) filed through private courier on November 22, 2021.

For easy reference, the dispositive portion of the assailed Decision reads:

"**WHEREFORE**, the instant Petition for Review is **DENIED**, for lack of merit.

**SO ORDERED.**"[1]

In his motion, petitioner asserts that the Authority to Release Imported Goods (ATRIGs) and the certifications from the Air Transportation Office (ATO) are insufficient to verify that respondent's Jet A-1 aviation fuel was actually used in its transport and non-transport operations. Petitioner further asserts that the Court in Division should have considered the testimony of a certain Ms. Glendalyn P. Dela Cruz.

On the other hand, respondent counters that it did not solely rely on the ATRIGs to prove that actual use of the imported Jet A-1 aviation fuel. Further, respondent sufficiently proved that Jet A-1 aviation fuel is not locally available in reasonable quantity, quality and price.

After considering the arguments of the parties, the Court *En Banc* resolves to deny the instant motion.

A perusal of the records shows that aside from the ATRIGs, respondent was able to prove that its importations of Jet A-1 fuel were used for its transport and non-transport operations. This was clearly addressed in the assailed Decision, as follows:

> "Upon revisiting the records of the instant case, the Court *En Banc* found that respondent was able to prove the said requisite through the testimony of Mr. Roberto R. Razal – respondent's Manager for Fuel Supply and Operations — Fuel Management Department. Further, the witness' testimony was supported by documents and was corroborated by the ICPA's findings, thus:
>
> > 'To show compliance with the second requisite, *i.e.*, that subject seven (7) shipments of imported Jet A-1 fuel were used for its transport and non-transport operations, petitioner presented its Manager for Fuel Supply and Operations — Fuel Management Department, Roberto R. Razal, who described in detail the movement of the subject imported Jet A-1 fuel from the primary depot where they were stored after their release from the BOC until they were uplifted into the aircraft, to wit:
> >
> > [4] Q: In the course of your duties as former Supervising Fuel Technical Specialist, do you remember purchases

[1] Decision, Court *En Banc* Docket, p. 94.

made by PAL of Jet A-1 aviation fuel during the period involved in this case, *i.e.*, January to November 2009?

A: Yes. PAL made several purchases of Jet A-1 aviation fuel and had them imported into the Philippines. During the period of January to November 2009, there were a total of seven (7) importations of Jet A-1 aviation fuel.

[5] Q: What happened to the Jet A-1 aviation fuel purchased and imported by PAL?

A: PAL consumed all the fuel that it imported for its domestic flight operations.

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[18] Q: What document, if any, proves that all importations of Jet A-1 aviation fuel during the period of January to November 2009 were accounted for and used for PAL's flight operations?

A: I reviewed Stock Status Reports which reflect the details relating to the movement of the imported fuel from the primary depot to JOCASP/PAL owned airport depots. The Stock Status Report is a daily record of the amount of imported fuel that arrived at the JOCASP/PAL owned airport depots, the amount of imported fuel that is withdrawn and loaded into PAL aircrafts.

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[22] Q: Are there any other document which proves that all importations of Jet A-1 aviation fuel during the period of January to November 2009 were accounted for and used for PAL's flight operations?

A: Yes, I also reviewed the monthly BIR Official Registry Book (ORBs) which contains, among others, the total monthly volumes of imported fuel received by the primary depot and those issued to the secondary/airport depots for eventual loading to PAL's aircrafts. **It is an official document, the entries of which are certified by the BIR as an accurate and true representation of all transactions for the covered period.** ge xxx xxx xxx

[26] Q: What is the basis of the data appearing on the Jet A-1 Stock Status Reports?

A: The data reflected in the Stock Status Reports are gathered from the Stock Transfer Tickets, Jet A-1 Release Certificates, BIR Withdrawal Certificates, Hydrant Issue Slips, and Fuel Issue Slips prepared and issued by PAL personnel.

[27] Q: Can you briefly explain the purpose of these documents you have just mentioned?

A: A Stock Transfer Ticket serves as proof that the imported fuel has been transferred from the primary depot to the secondary/airport depots. This Stock Transfer Ticket is accompanied by a Jet A-1 Release Certificate which, in turn, certifies that the fuel has undergone quality testing, meets industry standards, and is fit for consumption.

A BIR Withdrawal Certificate serves as proof that a withdrawal of the imported fuel from the primary depot has been authorized by the BIR. It is also an attestation by the BIR that the imported fuel withdrawn is exempt from payment of excise tax.

A Hydrant Issue Slip serves as proof that the fuel has been withdrawn from the secondary/airport depots and issued to refueler trucks, for eventual loading into PAL's aircrafts.

Lastly, a Fuel Issue Slip serves as proof that the fuel, as cleared for consumption, was in fact loaded into PAL's aircrafts.

The ICPA confirmed the foregoing information by describing the details of his verification and examination of petitioner's supporting documents pertaining to the subject shipments of imported Jet A-1 fuel resulting in the conclusion that petitioner fully consumed the subject imported Jet A-1 fuel on its domestic operations. The relevant portion of his testimony reads: 9r

16. A: To determine that there was importation of Jet A-1 Fuel by PAL and verify whether the imported Jet A-1 Fuel were consumed for its domestic operations, we performed the following:

1. We reviewed and verified the Jet A-1 Fuel importations made by PAL for the period January 5, 2009 to November 24, 2009 to ascertain that there were indeed importations of the said fuel and payments of specific taxes thereon.

2. We verified and validated the imported Jet A-1 Fuel inventory beginning balance by examining PAL's Inventory record generated from its Inventory System — the Oracle. We also verified that the imported Jet A-1 Fuel inventory as well as transfers and issuances measured on per US Gallon (USG) were converted into liters using the standard conversion rate of 1 gallon: 3.78541 liters.

3. We verified and validated that there were beginning balances of imported Jet A-1 fuel recorded and reported in its various deposts, in the primary depots (Pinamucan, Batangas and Subic Bay) and in the secondary depots (Joint Oil Companies Aviation Fuel Storage Plant (JOCASP) and NICHOLS depots), and that such beginning balances were subsequently issued.

4. We verified the Official Registry Books ('ORBs') to ascertain that the imported Jet A-1 fuel stock transfers and issuances from PAL depots to PAL aircrafts were duly attested by the BIR Revenue Officer and the representative of PAL. We also verified the imported Jet A-1 Fuel's Stocks Status Reports (SSR), Stock Transfer Tickets ('STT'), Release Certificate ('RC'), Fuel Issue Slips ('FIS'), Hydrant Issue Slip ('HIS') and the BIR Withdrawal Certificates ('BIR-WCP') to ascertain that such transfers and issuances of imported Jet A-1 fuel were used for PAL's domestic flight operations.

5. We verified and validated that the movement of imported Jet A-1 fuel on PAL Inventory records were accounted on a first-in, first-out basis of accounting.

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18. Q: From your verification procedures, what is your observation regarding PAL's method of accounting in its inventory records?

    A: PAL maintains records of its imported Jet A-1 fuel on the basis of first-in, first-out ('FIFO') method of accounting in its Fuel Inventory records — 'the Jet A-1 Fuel first purchased are first issued' — the inventory at the end of the period are those most recently purchased. This method is in accordance with Philippine Accounting Standards No. 2 (PAS 2) — Inventory.

19. Q: How did you verify and validate the amount of the beginning balances of imported Jet A-1?

    A: We verified the beginning (January 4, 2009) inventory balance of the Jet A-1 Fuel at the Primary Depot by walking-through PAL's Inventory System — the Oracle. The computer printout of the Jet A-1 Fuel Inventory balance at the two primary (2) depots, namely: Pinamucan, Batangas and Subic, Zambales x x x.

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20. Q: Can you explain how you verified the quantity of Jet A-1 Fuel that was withdrawn and transferred from various primary depots (delivered via their tankers) and delivered to PAL's secondary depots?

    A: We examined and tallied the amount of Jet A-1 Fuel delivered from the primary depots of PAL to the secondary depots in the SSR for receipts of Jet A-1 Fuel at the secondary depot, and traced the same to the Jet A-1 Release Certificates, the SST, and BIR-WCP issued and attested by the BIR at every withdrawal from the primary depot.

21. Q: On the other hand, can you explain how you verified the quantity of Jet A-1 fuel that was issued and consumed by PAL for its domestic operations?

    A: We examined and tallied the amount of Jet A-1 Fuel loaded into the aircrafts of PAL for domestic flights as reflected in the SSRs for withdrawals from the secondary depot, and traced the same to the FIS, HIS, and the BIR-WCPs issued and attested by the BIR at every loading/uplifting of Jet A-1 Fuel for PAL domestic flights.

Also, we reviewed, verified and validated the corresponding ORBs which was prepared by PAL and duly attested to by the assigned BIR Revenue Officer, to ascertain that the January 4, 2009 inventory of Jet A-1 at the Primary Depot amounting to 22,137,149 liters were fully delivered and received by PAL at the Secondary Depot and consequently consumed for its domestic flights during those months.

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23. Q: x x x. How did you verify that the aggregate amount of Jet A-1 Fuel imported from January to November 2009 was fully consumed by July 26, 2010?

A: We examined and tallied the amount of Jet A-1 Fuel loaded into the aircrafts of PAL for domestic flights as reflected in the SSRs for withdrawals from the secondary depot, and traced the same to the FIS, HIS and the BIR-WCPs issued and attested by the BIR at every loading/uplifting of Jet A-1 Fuel for PAL domestic flights for the months subsequent to the period subject of the claim for refund or issuance of tax credit certificate *i.e.*, January to November 2009. x x x.

To substantiate the foregoing declaration, petitioner offered in evidence the following documents, to wit: (1) ATRIGS issued by Olivia O. Lao, OIC-Head Revenue Executive Assistant, Large Taxpayer Service — Excise, which provides: 'x x x please be informed that according to the documents submitted by abovementioned importer, the shipment to be released at the Port of Batangas consisting of the above described articles, **will be used exclusively for its daily domestic flight operations**'; and (2) Air Transportation Office (ATO) Certifications that the imported Jet A-1 Aviation Fuel: 'x x x is necessary/incidental for the operation of Philippine Airlines.'

Based on the foregoing, respondent sufficiently proved that its importations of Jet A-1 fuel were used in its transport and non-transport operations through the following: (1) **Jet A-1 Stock Status Reports**, which reflect the data gathered from Stock Transfer Tickets, Jet A-1 Release Certificates, BIR Withdrawal Certificates, Hydrant Issue Slips, and Fuel Issue Slips prepared and issued by PAL personnel; (2) monthly **BIR Official Registry Book (ORBs);** (3) **ATRIGs**; and (4) **ATO Certifications**. These pieces of evidence sufficiently showed how respondent utilized its importations."[2]

Thus, aside from the ATRIGs and ATO Certifications, respondent was able to substantiate its assertions on the actual use of its Jet A-1 aviation fuel importations through the said pieces of evidence. As such, the Court *En Banc* finds no merit to petitioner's arguments.

As to petitioner's assertion that the Court *En Banc* should have considered the testimonies of a certain Ms. Glendalyn P. Dela Cruz, the Court *En Banc* notes that there is no such witness presented during the hearing.

Considering the foregoing, the Court *En Banc* finds the denial of the instant motion in order.

**WHEREFORE**, the instant Motion for Reconsideration (Re: Decision promulgated 9 June 2021) is **DENIED**, for lack of merit.

**SO ORDERED.**

Juanito C. Castañeda, Jr.
**JUANITO C. CASTAÑEDA, JR.**
Associate Justice

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ERLINDA P. UY**
Associate Justice

Ma. Belen
**MA. BELEN M. RINGPIS-LIBAN**
Associate Justice

[2] Please see Note 1, pp. 85-90.

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice

**JEAN MARIE A. BACORRO-VILLENA**
Associate Justice

**MARIA ROWENA MODESTO-SAN PEDRO**
Associate Justice

Marian Ivy F. Reyes-Fajardo

**MARIAN IVY F. REYES-FAJARDO**
Associate Justice

Lanee Cui-David

**LANEE S. CUI-DAVID**
Associate Justice