REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

PILIPINAS SHELL PETROLEUM CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 11086

Members:

RINGPIS-LIBAN, *P.J., Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *JJ.*

Promulgated:

3:20 pm

x -- x

RESOLUTION

RINGPIS-LIBAN, P.J.:

Submitted before this Court is respondent's **Motion for Partial Reconsideration (Re: Decision promulgated 2 December 2025)** filed on December 18, 2025, with petitioner's **Comment/Opposition (Re: Respondent's Motion for Partial Reconsideration dated December 17, 2025)** filed on February 2, 2026.

On December 2, 2025, the Court promulgated a Decision granting petitioner's claim for refund of erroneously paid excise taxes on imported Jet A-1 fuel for the period February to May 2021, in the total amount of ₱113,487,216.00, the dispositive portion of which is quoted as follows:

> "**ACCORDINGLY**, the present *Petition for Review* is **GRANTED**.
>
> Respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱113,487,216.00**, representing excise taxes paid on its imported Jet A-1 fuel for the period from February to May 2021 and sold to tax-exempt international air carriers during the period from April to June 2021.
>
> **SO ORDERED**."

In his Motion, respondent asserts that a taxpayer may claim a refund under Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended, in only three (3) instances, to wit: *i.* if internal revenue taxes are erroneously or illegally assessed or collected; *ii.* if penalties are imposed without authority; and, *iii.* if any amount is alleged to have been excessively or wrongfully collected in any manner. In this case, respondent maintains that none of the aforementioned instances is present since the excise taxes paid by petitioner were legally and validly collected considering that it is the one liable as the importer of Jet A-1 fuel. Respondent continues that petitioner, as an importer and seller of fuel, may nonetheless pass on the burden of paying excise tax to its buyers. However, if it sells fuel to tax-exempt entities such as international air carriers registered under both Philippine and foreign registries, it cannot pass on the excise tax to those entities, and must therefore bear the burden of paying the corresponding excise tax.

Respondent likewise insists that Section 135 of the NIRC of 1997, as amended, cannot be the source of petitioner's claim for refund since it cannot be invoked by sellers, such as petitioner, but only by buyers who are exempt entities. To support his position, respondent quoted the ruling of the Court of Tax Appeals (CTA) *En Banc* case of *Chevron Philippines, Inc. v. Commissioner of Internal Revenue, CTA EB No. 964 (CTA Case No. 7939), September 30, 2013,* in which the Court held that "a tax exemption being enjoyed by the buyer cannot be the basis of a claim for tax exemption by the manufacturer or seller of the goods for any tax due to it as the manufacturer or seller. The excise tax imposed on imported petroleum products under Section 131 of the Tax Code is the direct liability of the importer who cannot thus invoke the excise tax exemption granted to its buyers." As such, respondent submits that the excise tax on the manufacture of petroleum products is the manufacturer's direct liability, to which, the manufacturer cannot take shield under the immunity expressly granted to its buyers.

Lastly, respondent avers that should petitioner be granted refund on excise tax on fuel sold to an exempt entity under Section 135(c) of the NIRC of 1997, as amended, then petitioner, in effect, is granted a refund of excise tax based solely on the exemption enjoyed by exempt entities. Respondent contends that petitioner should not be allowed to obtain indirectly what it cannot obtain directly.

On the other hand, in its Comment, petitioner points out that the arguments raised by respondent are mere reiterations of the same arguments raised in his *Answer* and *Memorandum*, which this Court has already considered and found to be without merit. Petitioner submits that by failing to allege new or substantial matters and by not specifying the findings or conclusions in the judgment that are not supported by the evidence or contrary to law, respondent's

Motion for Reconsideration should be deemed *pro-forma* as consistently held by jurisprudence.[1]

Petitioner also argues that the ruling in the CTA *En Banc* case of Chevron Philippines, Inc., which was heavily relied upon by respondent, has already been overturned on appeal in 2015 by the Supreme Court *En Banc* in the same *Chevron Philippines, Inc. v. Commissioner of Internal Revenue*,[2] where it categorically stated that, "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." Lastly, petitioner emphasizes that in the most recent Pilipinas Shell Petroleum Corporation case,[3] the Supreme Court adopted the principle from the Chevron Philippines, Inc. case that upon sale of imported petroleum products to various international carries, the tax exemption provided under Section 135(a) of the NIRC of 1997, as amended, applies and, consequently, the excise taxes that were previously paid on the said imported petroleum products are deemed illegally or erroneously paid.

After due consideration, the Court finds respondent's Motion for Partial Reconsideration bereft of merit.

Notably, and as correctly pointed out by petitioner, the arguments proffered by respondent in the present Motion are mere reiterations of the contentions he advanced in his *Answer*[4] filed on April 14, 2023 and *Memorandum*[5] filed on November 26, 2024. By merely reiterating his arguments therein, respondent failed to specify which conclusions are contrary to law or which findings made in the assailed Decision are erroneous that would warrant the Court to reconsider the same.

Nonetheless, the Court deems it proper to emphasize that the ruling in the CTA *En Banc* case cited by respondent,[6] is not a binding precedent. While Article 8 of the New Civil Code provides that judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines, the judicial decisions that form part of our legal system however are only decisions of the Supreme Court.[7] For there is only one Supreme Court

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1 *Shangri-la International Hotel Management, Ltd. v. Developers Group of Companies, Inc.*, G.R. No. 159938, January 22, 2007; *Philippine National Bank v. Hon. Jose G. Paneda, et al.*, G.R. No. 149236, February 14, 2007; *Teodulo M. Coquilla v. Commission on Elections*, G.R. No. 151914, July 31, 2002 (434 Phil. 861); *Marina Properties Corporation v. Court of Appeals, et al. (et. seq.)*, G.R. No. 125447, August 14, 1998 (355 Phil. 705).

2 G.R. No. 210836 (Resolution), September 1, 2015.

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

4 Docket -- Vol. I, pp. 107 to 116.

5 Docket – Vol. II, pp. 659 to 667.

6 CTA EB No. 964 (CTA Case No. 7939), September 30, 2013

7 *Jennifer A. Agustin-Se, et al. v. Office of the President, et al.*, G.R. No. 207355, February 3, 2016.

from whose decisions all other courts should take their bearings.[8] Correspondingly, the Supreme Court's interpretation of Section 135 of the NIRC of 1997, as amended, specifically, regarding the entitlement of a manufacturer, seller, or importer of petroleum products to claim a refund of excise tax, should prevail over the CTA's previous interpretation of the said provision.

Relatively, in *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation ("2014 Pilipinas Shell* case"*)*,[9] the Supreme Court categorically declared that petitioner as the statutory taxpayer who paid the excise taxes on petroleum products sold to international carriers, is entitled to a refund or credit of the excise taxes paid pursuant to Section 135 of the NIRC, to wit:

> "xxx We therefore hold that **respondent, as the statutory taxpayer who is directly liable to pay the excise tax on its petroleum products, is entitled to a refund or credit of the excise taxes it paid for petroleum products sold to international carriers, the latter having been granted exemption from the payment of said excise tax under Sec. 135(a) of the NIRC**." *(Emphasis added)*

Moreover, in *Chevron Philippines, Inc. v. Commissioner of Internal Revenue ("2015 Chevron* case"*)*,[10] the exemption granted under Section 135 of the NIRC of 1997, as amended, was discussed in this wise:

> "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 erroneous; 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**." *(Emphases added)*

Verily, although the exemption in *2015 Chevron* case was premised on Section 135(c) and the *2014 Pilipinas Shell* case was premised on Section 135(a), both from the NIRC of 1997, as amended, the Supreme Court nevertheless held in *2015 Chevron* case that "[n]otwithstanding that the claims for refund or credit of excise taxes were premised on different subsections of Section 135 of the NIRC, the basic tax principle applicable was the same in both cases – that excise tax is a tax on property; hence, the exemption from the excise tax expressly granted under Section 135 of the NIRC must be construed in favor of the petroleum products on which the excise tax was initially imposed."

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8 *Commissioner of Internal Revenue v. Michel J. Lhuillier Pawnshop, Inc.*, G.R. No. 150947, July, 15, 2003.

9 G.R. No. 188497 (Resolution), February 19, 2014.

10 G.R. No. 210836, September 1, 2015.

Moreover, as held in the assailed Decision, the Supreme Court, in the 2021 *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*,[11] categorically rejected respondent's position that petitioner, as the seller, cannot claim a refund under Section 135, on the premise that only buyers who are exempt entities may invoke that provision. The High Court ruled that "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)."

Applying the foregoing jurisprudence herein, the sale by petitioner of its imported Jet A-1 fuel to international air carriers rendered the petroleum products tax-exempt. Consequently, the excise taxes previously paid upon importation of said Jet A-1 fuel for the period from February to May 2021 and sold to tax-exempt international air carriers during the period from April to June 2021, were erroneously or illegally collected and thus constitute proper subjects of a claim for refund or tax credit under Sections 204(C) and 229 of the NIRC of 1997, as amended, contrary to respondent's claim.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by respondent in its Motion for Partial Reconsideration, the Court finds no compelling reason to reverse or modify the Decision promulgated on December 2, 2025.

WHEREFORE, premises considered, respondent's Motion for Partial Reconsideration (Re: Decision promulgated 2 December 2025) is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

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