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. 10891

Members:

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

Promulgated:

JUL 17 2025
9:02 a.m.

x - x

D E C I S I O N

MANAHAN, *J.*:

THE CASE

Before this Court is a *Petition for Review* praying for the refund of, or issuance of a tax credit certificate, in the total amount of ₱90,732,000.00, allegedly representing excise taxes paid by petitioner Pilipinas Shell Petroleum Corporation on its fuel importations from June to November 2020, which were sold and delivered from July to December 2020 to Pioneer Float Glass Manufacturing, Inc. (PFGMI), a tax-exempt Philippine Economic Zone Authority (PEZA)-registered enterprise.[1]

THE PARTIES

Petitioner Pilipinas Shell Petroleum Corporation 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, Brgy. Fort Bonifacio, Taguig City, Metro Manila, 1635.[2]

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[1] Prayer, *Petition for Review*, Docket – Vol. I, p. 24.
[2] Exhibit "P-27", Docket – Vol. 3, pp. 1082 to 1097.

Respondent is the duly appointed Commissioner of Internal Revenue, vested by law to enforce and implement the provisions of the National Internal Revenue Code (NIRC) of the Philippines, as amended, as well as related statutes and their implementing rules and regulations. He holds office at the Bureau of Internal Revenue (BIR) National Office Building.[3]

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On May 27, 2021[4] and July 23, 2021,[5] petitioner respectively filed two (2) separate administrative claims for refund or issuance of a tax credit certificate, together with the corresponding *Applications for Tax Credits/Refunds* (BIR Form No. 1914)[6] with the Excise Large Taxpayers Audit Division II of the BIR, seeking for the recovery of alleged excise taxes paid on fuel oil (FO) sold to PFGMI from July to December 2020 in the aggregate amount of ₱90,732,000.00, computed as follows:

Period Covered	Product	Volume in Liters	Excise Tax Rate	Specific Tax Amount
July to September 2020	FO	7,562,000	₱6.00	₱45,372,000.00
October to December 2020	FO	7,560,000	₱6.00	45,360,000.00
	TOTAL			**₱90,732,000.00**

PROCEEDINGS BEFORE THIS COURT

On June 14, 2022, petitioner filed the present *Petition for Review.*[7] The case was initially raffled to this Court's First Division.

On July 21, 2022,[8] respondent filed his *Answer*, where he raised the following special and affirmative defenses: (1) petitioner is not entitled to refund of excise taxes allegedly paid for the period June to November 2020; and (2) claims for refund of excise taxes paid is authorized only by Section 130(D) of the NIRC of 1997, as amended.

[3] Par. 1, Stipulation of Facts, *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 480.
[4] Exhibit "P-25", Docket – Vol. 3, pp. 1065 to 1066.
[5] Exhibit "P-26", Docket – Vol. 3, pp. 1070 to 1071.
[6] Exhibits "P-25-1" and "P-26-1", Docket – Vol. 3, pp. 1067 and 1072, respectively.
[7] Docket – Vol. I, pp. 6 to 32.
[8] Docket – Vol. I, pp. 406 to 414.

On August 16, 2022, respondent transmitted the *BIR Records* of the case, consisting of 924 pages in one (1) folder.[9]

The Pre-Trial Conference was set and held on September 8, 2022,[10] wherein respondent's counsel manifested that, there being no report yet from the Revenue Officer (RO) who conducted the audit on the administrative claim for refund, he will state in his comment to petitioner's formal offer of evidence whether he will be presenting evidence in this case. Prior thereto, *Respondent's Pre-Trial Brief* was filed on August 4, 2022,[11] while the *Pre-Trial Brief for Petitioner* was submitted on September 5, 2022.[12]

On October 6, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*,[13] which was approved by the Court in the Resolution dated October 24, 2022,[14] thereby deeming the termination of the Pre-Trial. The Pre-Trial Order dated December 28, 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 Tabangao Depot until May 31, 2022; (3) Ms. Berenice Angelique L. Flores,[18] petitioner's Tax Advisor; (4) Atty. Farida Nimfa G. Dimailig,[19] petitioner's Country Tax Manager; and (5) Mr. Edward D. Roguel,[20] the Court-Commissioned Independent Certified Public Accountant (ICPA).[21]

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[9] *Compliance* dated August 15, 2022, Docket – Vol. I, pp. 427 to 429.
[10] Notice of Pre-Trial Conference dated July 29, 2022, Docket – Vol. I, pp. 417 to 417-B; Order dated September 8, 2022, Docket – Vol. I, pp. 450 to 452.
[11] Docket – Vol. I, pp. 418 to 421.
[12] Docket – Vol. I, pp. 435 to 448.
[13] Docket – Vol. I, pp. 480 to 494.
[14] Docket – Vol. I, p. 510.
[15] Docket – Vol. II, pp. 533 to 555.
[16] Exhibit "P-28", Docket – Vol. I, pp. 111 to 130; Minutes of the hearing held on, and Order dated, February 2, 2023, Docket – Vol. II, pp. 556 to 559 and 561 to 563, respectively.
[17] Exhibit "P-29", Docket – Vol. I, pp. 261 to 267; Minutes of the hearing held on, and Order dated, February 2, 2023, Docket – Vol. II, pp. 556 to 559 and 561 to 563, respectively.
[18] Exhibits "P-31" and "P-1509", Docket – Vol. I, pp. 282 to 299 and Docket – Vol. II, pp. 675 to 682, respectively; Order dated April 27, 2023, Docket – Vol. II, pp. 796 to 798.
[19] Exhibit "P-32", Docket – Vol. I, pp. 377 to 381; Order dated April 27, 2023, Docket – Vol. II, pp. 796 to 798.
[20] Exhibit "P-1507", Docket – Vol. II, pp. 664 to 670; Order dated April 27, 2023, Docket – Vol. II, pp. 796 to 798.
[21] *Oath of Commission* dated February 2, 2023, Docket – Vol. II, p. 560; Minutes of the hearing held on, and Order dated, February 2, 2023, Docket – Vol. II, pp. 556 to 559 and 561 to 563, respectively.

The *Report* of the ICPA was submitted on March 20, 2023.[22]

During the April 27, 2023 hearing,[23] respondent's counsel manifested that there was still no report from the RO concerning the refund claim, thus, she is not presenting any witness.

On May 22, 2023, petitioner filed its *Formal Offer of Evidence with Manifestation I. On Offer of Exhibits P-1504 to P-1506, P-1373 to P-1412 and P-1414 to P-1455 as Originals under Sec. 4(b), Rule 130 of the Revised Rules of Court; and II. On Offer of Unreadable Bulk Delivery Notes as Secondary Evidence under Sec. 5, Rule 130 of the Revised Rules of Court*,[24] to which respondent filed his *Comment (Re: Formal Offer of Evidence with Manifestation)* on May 29, 2023.[25] In the Resolution dated July 6, 2023,[26] the Court noted petitioner's *Manifestation*, and admitted petitioner's offered exhibits, *except* Exhibits "P-1373 to P-1412", "P-1414 to P-1455", "P-1504", "P-1505" and "P-1506", for failure to present the originals for comparison.

In the meantime, the present case was transferred to the Third Division of this Court pursuant to the Notice of Resolution dated May 30, 2023.[27]

On July 27, 2023, petitioner then filed its *Omnibus Motion I. For Reconsideration of the Resolution on Formal Offer of Evidence dated July 6, 2023; II. To Reopen Case for Presentation of Evidence; and III. Manifestation to Adopt Description of Exhibits*,[28] to which respondent filed his *Opposition (Re: Omnibus Motion I. For Reconsideration of the Resolution on Formal Offer of Evidence dated July 6, 2023; II. To Reopen Case for Presentation of Evidence; and III. Manifestation to Adopt Description of Exhibits)* on August 11, 2023.[29] In the Resolution dated November 3, 2023,[30] the Court: (1) denied petitioner's plea *To Reopen Case for Presentation of Evidence*, and instead, directed the ICPA to examine, compare, and re-mark/mark Exhibits "P-1373 to P-1412", "P-1414 to P-1455" and "P-34 to "P-39", and to submit a certification if he finds the said documents are faithful reproduction of the originals; (2) noted

[22] Exhibit "P-1508", Docket – Vol. II, pp. 569 to 650.
[23] Order dated April 27, 2023, Docket – Vol. II, pp. 796 to 798.
[24] Docket – Vol. II, pp. 813 to 850.
[25] Docket – Vol. III, pp. 1104 to 1110.
[26] Docket – Vol. III, pp. 1115 to 1121.
[27] Docket – Vol. III, p. 1112.
[28] Docket – Vol. III, pp. 1137 to 1147.
[29] Docket – Vol. III, pp. 1155 to 1161.
[30] Docket – Vol. III, pp. 1165 to 1168. cm

petitioner's *Manifestation to Adopt Description of Exhibits*; and (3) held in abeyance the resolution of petitioner's *Motion for Reconsideration of the Resolution on Formal Offer of Evidence dated July 6, 2023*.

In compliance with the above-mentioned Resolution, the ICPA posted the *Certification of Documents Identified by the Court* on November 20, 2023,[31] and submitted a *Supplemental Certification of Documents Identified by the Court* on November 30, 2023.[32] Thereafter, on December 1, 2023, petitioner filed a *Motion to Admit [Supplemental Certification of Edward D. Roguel]*,[33] while respondent failed to file his comment thereto.[34] In the Resolution dated April 30, 2024,[35] the Court granted petitioner's *Motion to Admit [Supplemental Certification of Edward D. Roguel]* and, thus, admitted the said *Supplemental Certification*, and partially granted petitioner's *Motion for Reconsideration of the Resolution on Formal Offer of Evidence dated July 6, 2023*, thus admitting Exhibits "P-1373" to "P-1408", "P-1410" to "P-1412", "P-1414" to "P-1428", "P-1430" to "P-1455", but still denied Exhibits "P-1409", and "P-1429", for failure to present originals for comparison and for submitting documents with different content as that submitted in petitioner's *Formal Offer of Evidence*, and Exhibits "P-1504", "P-1505", and "P-1506", as these documents are neither duplicates under Section 4(b) and (c), Rule 130 of the Rules of Court, as amended, nor may be treated as secondary evidence under Section 5, Rule 130 of the same Rules.

Petitioner then filed, on June 4, 2024, its *Tender of Excluded Evidence*,[36] praying that Exhibits "P-1409", "P-1429", "P-1504" to "P-1506", and six (6) *Bulk Delivery Notes* be made part of the case records, which was noted by the Court in the Minute Resolution dated July 4, 2024.[37]

Respondent filed his *Memorandum* on July 25, 2023,[38] while the *Memorandum for Petitioner* was submitted on June 10, 2024.[39]

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[31] Docket – Vol. III, pp. 1196 to 1204.
[32] Docket – Vol. III, pp. 1191 to 1194.
[33] Docket – Vol. III, pp. 1207 to 1210.
[34] Records Verification Report dated February 12, 2024 issued by the Judicial Records Division of this Court, Docket – Vol. III, p. 1217.
[35] Docket – Vol. III, pp. 1220 to 1227.
[36] Docket – Vol. III, pp. 1228 to 1231.
[37] Docket – Vol. III, p. 1251.
[38] Docket – Vol. III, pp. 1126 to 1134.
[39] Docket – Vol. III, pp. 1232 to 1250.

The present case was submitted for decision on September 13, 2024.[40]

THE STIPULATED ISSUE

The parties submit the following issue for this Court's resolution:

> **WHETHER OR NOT PETITIONER IS ENTITLED TO THE REFUND OF EXCISE TAXES ALLEGEDLY PAID FOR THE PERIOD JUNE TO NOVEMBER 2020, ON ITS IMPORTED AND LOCALLY-PRODUCED BUNKER FUEL OIL WHICH WERE ALLEGEDLY SOLD DURING THE PERIOD JULY TO DECEMBER 2020 TO PIONEER FLOAT GLASS MANUFACTURING, INC.**[41]

Petitioner's arguments:

Petitioner argues that it timely filed its claim for refund or credit for excise taxes erroneously, wrongfully, illegally, or excessively collected from excises taxes paid from the period of June to November 2020, pursuant to Sections 204 and 229 of the NIRC of 1997, as amended; and that it is entitled to the recovery of excise taxes in the amount of ₱90,732,000.00 on imported and locally produced or manufactured fuel oil sold to PFGMI.

Respondent's arguments:

Respondent contends that petitioner is not entitled to the refund of excise taxes allegedly paid for the period June to November 2020, on its imported and locally-produced bunker fuel oil which were allegedly sold during the period July to December 2020 to PFGMI, an entity allegedly exempt from excise tax in the amount of ₱90,732,000.00; and that claims for refund of excise taxes paid is authorized only by Section 130(D) of the NIRC of 1997, as amended.

THE COURT'S RULING

The present *Petition for Review* is partly meritorious.

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[40] Minute Resolution dated September 13, 2024, Docket – Vol. III, p. 1252.
[41] Par. 2. Stipulation of Issues, JSFI, Docket – Vol. I, pp. 480 to 481.

Governing provisions for refund claims.

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

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> xxx xxx xxx
>
> (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 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)*

Thus, 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 as 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."[42]

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 no authority to levy the tax, or one which is some other similar aspect is illegal.[43] 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.[44]

Thus, for the present claim for refund or issuance of tax credit certificate to 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.

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 NIRC of 1997, 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**

[42] *Commissioner of Internal Revenue vs. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.
[43] *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.
[44] *Commissioner of Internal Revenue vs. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.

> **Department of Finance and <u>before the release of such articles from the customs house</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.
>
> xxx xxx xxx. *(Emphasis and underscoring added)*

Thus, from the foregoing, the two (2)-year period prescribed in Sections 204(C) and 229 of the NIRC of 1997, as amended, in relation to the afore-quoted provision of Section 131 of the same Code, should be reckoned from the date of actual payment of excise taxes.

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

Vessel	SAD[45] No.	SAD Date	Volume in Liters	Amount of Excise Tax	Payment Date
Silver Entalina	C1013921[46]	June 16, 2020	38,576,929	231,461,574.00	June 17, 2020[47]
Aris	C1014870[48]	July 3, 2020	12,159,518	72,957,108.00	July 6, 2020[49]
Aris	C1014873[50]	July 3, 2020	35,711,720	214,270,320.00	July 6, 2020[51]
Silver Entalina	C1015667[52]	July 22, 2020	33,928,078	203,568,468.00	July 24, 2020[53]
Yankul Silver	C1017337[54]	August 27, 2020	16,192,817	97,156,902.00	August 28, 2020[55]
			44,738	268,428.00	October 29, 2020[56]
		Total	16,237,555	97,425,330.00	
Yankul Silver	C1017339[57]	August 27, 2020	22,646,066	135,876,396.00	August 28, 2020[58]
			8,878	53,268.00	October 29, 2020[59]
		Total	22,654,944	135,929,664.00	
Silver Orla	C1018571[60]	September 22, 2020	38,536,404	231,218,424.00	September 23, 2020[61]

[45] That is, "Single Administrative Document".
[46] Exhibit "P-1-3", Docket – Vol. II, p. 854.
[47] Exhibit "P-1-4", Docket – Vol. II, p. 855.
[48] Exhibit "P-2-3", Docket – Vol. II, p. 866.
[49] Exhibit "P-2-4", Docket – Vol. II, p. 867.
[50] Exhibit "P-3-3", Docket – Vol. II, p. 878.
[51] Exhibit "P-3-4", Docket – Vol. II, p. 879.
[52] Exhibit "P-4-3", Docket – Vol. II, p. 889.
[53] Exhibit "P-4-4", Docket – Vol. II, p. 890.
[54] Exhibit "P-5-3", Docket – Vol. II, p. 902.
[55] Exhibit "P-5-4", Docket – Vol. II, p. 903.
[56] Exhibit "P-5-9", Docket – Vol. II, p. 910.
[57] Exhibit "P-6-3", Docket – Vol. II, p. 915.
[58] Exhibit "P-6-4", Docket – Vol. II, p. 916.
[59] Exhibit "P-6-9", Docket – Vol. II, p. 922.
[60] Exhibit "P-7-3", Docket – Vol. II, p. 927.
[61] Exhibit "P-7-4", Docket – Vol. II, p. 928.

			146,510	879,060.00	November 17, 2020[62]
		Total	38,682,914	232,097,484.00	
Silver Linda	C1019851[63]	October 19, 2020	38,635,762	231,814,572.00	October 21, 2020[64]
Energy Chancellor	C1021002[65]	November 13, 2020	36,241,645	217,449,870.00	November 16, 2020[66]
Energy Chancellor	C1020997[67]	November 13, 2020	4,059,744	24,358,464.00	November 16, 2020[68]
Energy Chancellor	C1021000[69]	November 13, 2020	7,961,214	47,767,284.00	November 17, 2020[70]

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 Filing of Administrative Claim	Date of Filing of Judicial Claim
June 17, 2020	June 17, 2022	May 27, 2021[71] and July 23, 2021[72]	June 14, 2022[73]
July 6, 2020	July 6, 2022		
July 6, 2020	July 6, 2022		
July 24, 2020	July 24, 2022		
August 28, 2020	August 28, 2022		
October 29, 2020	October 29, 2022		
August 28, 2020	August 28, 2022		
October 29, 2020	October 29, 2022		
September 23, 2020	September 23, 2022		
November 17, 2020	November 17, 2022		
October 21, 2020	October 21, 2022		
November 16, 2020	November 16, 2022		
November 16, 2020	November 16, 2022		
November 17, 2020	November 17, 2022		

Based on the foregoing, 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 NIRC of 1997, as amended.

62 Exhibit "P-7-9", Docket – Vol. II, p. 935; Although the Bureau of Customs Official Receipt reflected the total amount of ₱3,818,053.28 as VAT portion, the same actually includes the excise tax portion of ₱879,060.00 as seen in the updated SAD and SSDT (Exhibits "P-1488" and "P-1499", respectively, USB marked as Exhibit "P-1508-2"); Refer to ICPA Report (Exhibit "P-1508"), Docket – Vol. II, p. 576.
63 Exhibit "P-8-3", Docket – Vol. II, p. 940.
64 Exhibit "P-8-4", Docket – Vol. II, p. 941.
65 Exhibit "P-9-3", Docket – Vol. II, p. 951.
66 Exhibit "P-9-4", Docket – Vol. II, p. 952.
67 Exhibit "P-10-3", Docket – Vol. II, p. 964.
68 Exhibit "P-10-4", Docket – Vol. II, p. 965.
69 Exhibit "P-11-3", Docket – Vol. II, p. 977.
70 Exhibit "P-11-4", Docket – Vol. II, p. 978.
71 Exhibits "P-25" and "P-25-1", Docket – Vol. III, pp. 1065 to 1067.
72 Exhibits "P-26" and "P-26-1", Docket – Vol. III, pp. 1070 to 1072.
73 Docket – Vol. I, pp. 6 to 32.

The excise taxes paid on imported 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, petitioner is liable to pay the excise tax upon the bunker fuel oil it manufactured as soon as they are in existence. Respondent claims that the only instance that petitioner may invoke a claim for refund is the erroneous payment of the excise tax. However, the excise tax paid by petitioner was legally and validly collected since it is indeed liable to pay such tax.

Respondent further avers that petitioner sold fuel to a tax-exempt entity. Applying Section 135 of the NIRC of 1997, 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 NIRC of 1997, 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. Notably, petitioner was anchoring its claim for refund on Section 135 of the NIRC of 1997, 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, 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.

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

> 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.
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> xxx xxx xxx. *(Emphasis and underscoring added)*
>
> SEC. 135. *Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.* — **Petroleum products sold to the following are exempt 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;
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> (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
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> (c) **Entities which are by law exempt from direct and indirect taxes**. *(Emphases and underscoring added)*

The foregoing provisions reveal that the words *"petroleum products"* are unqualified. The law did not distinguish whether the petroleum products sold were locally-manufactured or imported, to be able to be exempt from excise tax. Where the law does not distinguish, courts should not distinguish.[74] Thus, the exemption under Section 135 of the NIRC of 1997, as amended, may be resorted regardless of whether the subject fuel oil was locally manufactured or imported, as long as the conditions therein are complied with by the refund-claimant.

In *Chevron Philippines, Inc. vs. Commissioner of Internal Revenue (Chevron),*[75] the Supreme Court held that excise tax paid by the statutory taxpayer on petroleum products sold to any of the

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

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 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.** *(Emphasis and underscoring added)*

Also, as clarified by the Supreme Court in *Pilipinas Shell Petroleum Corporation vs. Commissioner of Internal Revenue*,[76] "[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, "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), 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*. 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.[77]

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[76] G.R. No. 211303, June 15, 2021.
[77] *Chevron Philippines, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 210836, September 1, 2015.

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 NIRC of 1997, as amended.

Thus, to be entitled for refund or issuance of a 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,[78] or "The Special Economic Zone Act of 1995," as amended by RA No. 8748,[79] 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 thereto, business establishments operating within the ECOZONE are exempt from national and local taxes. In lieu thereof, said enterprises shall pay 5% of its gross income to the national government and the municipality or city where it is located.

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[78] 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.

[79] AN ACT AMENDING REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE "SPECIAL ECONOMIC ZONE ACT OF 1995".

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[80] to prove that its customer, PFGMI, is a PEZA-registered entity.

As 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 (IRR of RA No. 7916), Section 17 of the Presidential Decree No. 66, and Article 77(1), Book VI of Executive Order No. 226, state that merchandise or supplies brought into the ECOZONE are not subject to customs and internal revenue laws and regulations, to wit:

<u>Rule XV of the IRR of RA No. 7916</u>

> 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, manufacture, 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)*

<u>Presidential Decree No. 66</u>

> 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

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[80] Exhibit "P-20", Docket – Vol. III, p. 1040.

> 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)*

Petitioner likewise presented the following documents to support that the fuel oil purchased from petitioner were actually delivered to ASEZ, thereby evidencing that the imported 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, *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-1373" to "P-1455"[81]
Supply Agreement entered into by petitioner and PFGMI	"P-19"[82]
Amendment to the Supply Agreement entered into by petitioner and PFGMI	"P-19-1"[83]
Certifications from PFGMI that purchases of fuel oil made by Pioneer Float Glass Manufacturing Inc. from Pilipinas Shell Petroleum Corporation from July to September 2020 and October to December 2020 were used in the production of float glass to supply heat to furnace for melting of raw materials and cullet	"P-21"[84] and "P-21-1"[85]

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[81] USB marked as Exhibit "P-1508-2"; However, Exhibits "P-1409" and "P-1429" were denied admission, Refer to Resolution dated April 30, 2024, Docket – Vol. III, at p. 1223.
[82] Docket – Vol. III, pp. 1008 to 1036.
[83] Docket – Vol. III, pp. 1037 to 1039.
[84] Docket – Vol. III, p. 1041.
[85] Docket – Vol. III, p. 1042.

Based on the above pieces of evidence, petitioner duly proved that PFGMI is 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 fuel oil sold to PFGMI, a tax-exempt PEZA-registered enterprise, but only in the amount of ₱89,304,000.00.

As earlier stated, petitioner filed two (2) separate administrative claims for refund or tax credit certificate, on May 27, 2021[86] and July 23, 2021,[87] in the aggregate amount of ₱90,732,000.00, computed as follows:

Period Covered	Product	Volume in Liters	Excise Tax Rate	Amount of Excise Tax
July to September 2020	fuel oil	7,562,000	₱6.00	₱ 45,372,000.00
October to December 2020	fuel oil	7,560,000	₱6.00	45,360,000.00
	TOTAL	**15,122,000**		**₱90,732,000.00**

Records show that from June 2020 to November 2020, petitioner imported fuel oil through its Tabangao Refinery and paid the corresponding excise taxes in the amount of ₱1,709,100,138.00, as follows:

Seq No	Final Adjusted Single Administrative Document (SAD) (Exhibits "P-1482" to "P-1492")[88]			Final Adjusted Statement of Settlement of Duties and Taxes (SSDT) (Exhibits "P-1493" to "P-1503")[89]	
	SAD No.	**Volume in Liters**	**Excise Tax Paid**	**Assessment Reference**	**Excise Tax Paid**
1	C1013921	38,576,929	₱ 231,461,574.00	L1015639	₱ 231,461,574.00
2	C1014870	12,159,518	72,957,108.00	L1016987	72,957,108.00
3	C1014873	35,711,720	214,270,320.00	L1016992	214,270,320.00
4	C1015667	33,928,078	203,568,468.00	L1018337	203,568,468.00
5	C1017337	16,237,555	97,425,330.00	L1020961	97,425,330.00
6	C1017339	22,654,944	135,929,664.00	L1020974	135,929,664.00

[86] Exhibit "P-25", Docket – Vol. III, pp. 1065 to 1066.
[87] Exhibit "P-26", Docket – Vol. III, pp. 1070 to 1071.
[88] USB marked as Exhibit "P-1508-2".
[89] USB marked as Exhibit "P-1508-2".

7	C1018571	38,682,914	232,097,484.00	L1022907	232,097,484.00
8	C1019851	38,635,762	231,814,572.00	L1024906	231,814,572.00
9	C1021002	36,241,645	217,449,870.00	L1026636	217,449,870.00
10	C1020997	4,059,744	24,358,464.00	L1026634	24,358,464.00
11	C1021000	7,961,214	47,767,284.00	L1026633	47,767,284.00
		284,850,023	**₱1,709,100,138.00**		**₱1,709,100,138.00**

The foregoing importations of fuel oil are also supported by the following documents/exhibits:[90]

Seq No.	Ocean Bill of Lading	Load Port Survey Report	Proforma Invoice	SAD	SSDT	ATRIG[91]	CQR[92]	Tax Invoice	Assessment Notice	BOC[93] Receipt
1	"P-1"	"P-1-1"	"P-1-2"	"P-1-3"	"P-1-4"	"P-1-5"	"P-1-6"	"P-1-7"	"P-1-8"	"P-1-9"
2	"P-2"	"P-2-1"	"P-2-2"	"P-2-3"	"P-2-4"	"P-2-5"	"P-2-6"	"P-2-7"	"P-2-8"	"P-2-9"
3	"P-3"	"P-3-1"	"P-3-2"	"P-3-3"	"P-3-4"	"P-3-5"		"P-3-7"	"P-3-8"	"P-3-9"
4	"P-4"	"P-4-1"	"P-4-2"	"P-4-3"	"P-4-4"	"P-4-5"	"P-4-6"	"P-4-7"	"P-4-8"	"P-4-9"
5	"P-5"	"P-5-1"	"P-5-2"	"P-5-3"	"P-5-4"	"P-5-5"	"P-5-6"	"P-5-7"	"P-5-8"	"P-5-9"
6	"P-6"	"P-6-1"	"P-6-2"	"P-6-3"	"P-6-4"	"P-6-5"		"P-6-7"	"P-6-8"	"P-6-9"
7	"P-7"	"P-7-1"	"P-7-2"	"P-7-3"	"P-7-4"	"P-7-5"	"P-7-6"	"P-7-7"	"P-7-8"	"P-7-9"
8	"P-8"	"P-8-1"	"P-8-2"	"P-8-3"	"P-8-4"	"P-8-5"	"P-8-6"	"P-8-7"	-	-
9	"P-9"	"P-9-1"	"P-9-2"	"P-9-3"	"P-9-4"	"P-9-5"	"P-9-6"	"P-9-7"	"P-9-8"	"P-9-9"
10	"P-10"	"P-10-1"	"P-10-2"	"P-10-3"	"P-10-4"	"P-10-5"	"P-10-6"	"P-10-7"	"P-10-8"	"P-10-9"
11	"P-11"	"P-11-1"	"P-11-2"	"P-11-3"	"P-11-4"	"P-11-5"		"P-11-7"	"P-11-8"	"P-11-9"

The Court-Commissioned ICPA, Mr. Edward D. Roguel of Punongbayan & Araullo, compared the fuel oil imported and discharged for each month of importation based on the volume per *Bill of Lading* and *Certificate of Quantity Received* (CQR), as follows:[94]

Bill of Lading[95]			CQR[96]			Difference
Exhibit	Date of Loading Completed	Volume in Cubic Meters	Exhibit	Date of Arrival	Quantity Received (Net)	
"P-1"	June 13, 2020	38,576,929	"P-1-6"	June 18, 2020	38,528,902	48,027
"P-2"	July 1, 2020	12,159,518	"P-2-6"	July 7, 2020	47,608,944	363,919
"P-3"	July 1, 2020	35,711,720				
"P-4"	July 19, 2020	33,928,078	"P-4-6"	July 25, 2020	33,826,453	
"P-5"	August 24, 2020	16,192,817	"P-5-6"	August 29, 2020	38,892,499	(53,616)
"P-6"	August 24, 2020	22,646,066				

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[90] Docket – Vol. II, pp. 851 to 984; USB marked as Exhibit "P-1508-2".
[91] That is, "*Authority to Release Imported Goods*".
[92] That is, "*Certificate of Quantity Received*".
[93] That is, "Bureau of Customs".
[94] Par. B.1.a., p. 5, Exhibit "P-1508", Docket – Vol. II, p. 573; USB marked as Exhibit "P-1508-2".
[95] Annex B, Exhibit "P-1508", Docket – Vol. II, p. 593; USB marked as Exhibit "P-1508-2".
[96] Annex C, Exhibit "P-1508", Docket – Vol. II, p. 594; USB marked as Exhibit "P-1508-2". cm

"P-7"	September 19, 2020	38,536,404	"P-7-6"	September 25, 2020	38,682,914	(146,510)
"P-8"	October 16, 2020	38,635,762	"P-8-6"	October 21, 2020	38,491,699	144,063
"P-9"	November 10, 2020	36,241,645	"P-9-6"	November 17, 2020	36,178,748	67,471
"P-10"	November 11, 2020	4,059,744	"P-10-6"	November 17, 2020	12,016,384	
"P-11"	November 11, 2020	7,961,214				
	Total	**284,649,897**		**Total**	**284,226,543**	**423,354**

Petitioner states that the volume of fuel oil reported in the *Bill of Lading* and CQR varies due to external factors that may affect the volume of fuel oil during its transport and transfer to the Refinery, resulting in an (increase/surplus) or decrease/loss in the volume of fuel oil. The final adjustment of volume of imported fuel oil from which the excise tax was paid by the petitioner for the period covered was recomputed as follows:[97]

Particulars	**Exhibit**	**Volume (in liters)**
Volume per Bill of Lading[98]	"P-1" to "P-11"	284,649,897
Volume subjected to Excise tax per SSDT	"P-1-4", "P-2-4", "P-3-4", "P-4-4", "P-5-4", "P-6-4", "P-7-4", "P-8-4", "P-9-4", "P-10-4", and "P-11-4"	284,850,023
Difference		(200,126)
Accounted as follows:		
(Increase/surplus) in C1017337	"P-1486"	(44,738)
(Increase/surplus) in C1017339	"P-1487"	(8,878)
(Increase/surplus) in C1018571	"P-1488"	(146,510)
	Unaccounted Difference	**-0-**

Upon discharge of the imported fuel oil to the Refinery, the fuel oil is stored in the Refinery. From the Refinery, the fuel oil is then withdrawn and delivered to intermediate storage facilities of petitioner or delivered to customers like PFGMI. Fuel oil destined for sale and delivery to PFGMI first passes through the Tabangao Terminal or Depot from the Refinery. The importations and withdrawals of fuel oil in the Refinery are traced in the *Official Register Books* (ORB), summarized as follows:[99]

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[97] Par. B.1.a., pp. 4 and 5, Exhibit "P-1508", Docket – Vol. II, pp. 572 to 573; USB marked as Exhibit "P-1508-2".

[98] Annex B, Exhibit "P-1508", Docket – Vol. II, p. 593; USB marked as Exhibit "P-1508-2".

[99] Annex D and Par. B.2., p. 11, Exhibit "P-1508", Docket – Vol. II, pp. 595 and 579, respectively; USB marked as Exhibit "P-1508-2".

ORB of the Refinery			
Exhibit	**Month**	**Importation in volume**	**Withdrawals in volume**
"P-33"	June 2020	38,528,902	-0-
"P-34"	July 2020	81,435,398	50,065,392
"P-35"	August 2020	19,657,058	46,468,710
"P-36"	September 2020	57,918,354	43,975,029
"P-37"	October 2020	38,491,699	43,113,351
"P-38"	November 2020	48,195,132	39,207,182
"P-39"	December 2020	-0-	40,245,844
	Total	**284,226,543**	**263,075,508**

Further, the ICPA compared the volume of fuel oil discharged to the Refinery per CQR *vis-à-vis* the ORB of the Refinery and ascertained that the fuel oil stored in the Refinery pertains to the same excise tax paid on fuel oil imported by the petitioner for the period covered, as follows:[100]

Particulars	**Exhibit**	**Volume (in liters)**
Fuel oil discharged to the Refinery per CQR[101]	"P-1-6, "P-2-6", "P-4-6", "P-5-6", "P-7-6", "P-8-6", "P-9-6", and "P-10-6"	284,226,543
Importation per ORB of the Refinery[102]	"P-33" to "P-39"	284,226,543
	Difference	-0-

The receipts and removals of fuel oil coming from the Refinery are traced in the ORB of the Depot, summarized as follows:[103]

ORB of the Depot			
Exhibit No.	**Month**	**Receipts from Refinery (in liters)**	**Removals from Depot (in liters)**
"P-222"	July 2020	21,337,665	21,337,665
"P-223"	August 2020	18,714,743	18,714,743
"P-224"	September 2020	17,458,926	17,458,926
"P-225"	October 2020	18,452,831	18,452,831
"P-226"	November 2020	18,100,832	18,100,832
"P-227"	December 2020	16,360,927	16,360,927
	Total	**110,425,924**[104]	**110,425,924**[105]

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[100] Par. B.2.a., p. 12, Exhibit "P-1508", Docket – Vol. II, p. 580; USB marked as Exhibit "P-1508-2".
[101] Annex C, Exhibit "P-1508", Docket – Vol. II, p. 594; USB marked as Exhibit "P-1508-2".
[102] Annex D, Exhibit "P-1508", Docket – Vol. II, p. 595; USB marked as Exhibit "P-1508-2".
[103] Annex F, Exhibit "P-1508", Docket – Vol. II, p. 600; USB marked as Exhibit "P-1508-2".
[104] Based on actual footing.
[105] Based on actual footing.

Moreover, the ICPA compared the withdrawals per ORB of the Refinery vis-à-vis the *Liquidation Report* of the Refinery to determine the portion of fuel oil that was sold directly to customers and those delivered to the Depot, as follows:[106]

Particulars	**Exhibit**	**Volume (in liters)**
Withdrawal per ORB of the Refinery[107]	"P-33" to "P-39"	263,075,508
Less: Direct sale to customers per Liquidation Report of Refinery	"P-17" and "P-1474"	152,294,029
Delivered to the Depot per Liquidation Report of the Refinery		110,406,259
Difference		375,220
Accounted as follows:		
Withdrawals of own-produced fuel oil		(375,220)
	Difference	**-0-**

Based on the *Liquidation Report* and *Withdrawal Certificates* of the Refinery, only 110,406,259 liters of imported fuel oil from which excise taxes were paid was transferred to the Depot, summarized as follows:[108]

Particulars	**Exhibit**	**Volume (in liters)**
Fuel oil Delivered to the Depot per Liquidation Report of the Refinery	"P-17" and "P-1474"	110,406,259
Withdrawal Certificates (WC) of the Refinery[109]	"P-40" to "P-221"	110,406,259
	Difference	-0-

From the foregoing importations and withdrawals of bunker fuel oil, petitioner avers that it sold a total of 15,122,000 liters with excise tax payments of ₱90,732,000.00, to PFGMI from July to December 2020 for use in its PEZA-registered operations.

As mentioned 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

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[106] Par. B.2.a., p. 12, Exhibit "P-1508", Docket – Vol. II, p. 580; USB marked as Exhibit "P-1508-2".
[107] Annex D, Exhibit "P-1508", Docket – Vol. II, p. 595; USB marked as Exhibit "P-1508-2".
[108] Par. B.2.a., p. 13, Exhibit "P-1508", Docket – Vol. II, p. 581; USB marked as Exhibit "P-1508-2".
[109] Annex E, Exhibit "P-1508", Docket – Vol. II, pp. 596 to 599; USB marked as Exhibit "P-1508-2".

of PFGMI as an Ecozone Export Enterprise at the ASEZ issued on November 22, 2018.[110] Moreover, petitioner likewise presented various documents to support the claim that the fuel oil purchased from petitioner were actually delivered to ASEZ, thereby evidencing that the imported 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.

Petitioner also presented, among others, the following documentary evidence related to Tabangao Depot, which were duly examined by the ICPA, to prove the sale and delivery of fuel oil to PFGMI, *viz.*:

	Description	Exhibit[111]	Annex[112]
1	ORB of the Depot	"P-222" to "P-227"	F
2	WCs	"P-796" to "P-1372"	I and I-1
3	Bulk Delivery Notes (BDN)	"P-228" to "P-795"	G and H
4	Sales Invoices	"P-1456" to "P-1473"	K
5	Printouts of petitioner's (ZF2) Display retrieved from the System Application Product System (SAP)	"P-1456-1" to "P-1473-1"	K
6	Liquidation Report	"P-17-1" and "P-1474-1"	-

As ascertained by the ICPA, out of the total claim of ₱90,732,000.00, only the amount of ₱89,304,000.00, as summarized below, was properly substantiated by relevant documents:[113]

Reference	Findings and Observations	Volume Liters	Excise Tax Amount
Annexes K and G[114]	**a. Without Exceptions Noted** -was sourced from imported fuel oil, sold to PFGMI, no excise tax passed on to PFGMI, and supported with documents.	14,884,000	₱89,304,000.00
Annexes K and H[115]	**b. With Exceptions Noted** -the ICPA cannot determine the	238,000	1,428,000.00

[110] Exhibit "P-20", Docket – Vol. III, p. 1040.
[111] USB marked as Exhibit "P-1508-2".
[112] Exhibit "P-1508", Docket – Vol. II, pp. 600 to 625 and 638 to 647; USB marked as Exhibit "P-1508-2".
[113] Exhibit "P-1508", Docket – Vol. II, p. 588; USB marked as Exhibit "P-1508-2".
[114] Exhibit "P-1508", Docket – Vol. II, pp. 638 to 647 and 601 to 609, respectively; USB marked as Exhibit "P-1508-2".
[115] Exhibit "P-1508", Docket – Vol. II, pp. 638 to 647 and 610, respectively; USB marked as Exhibit "P-1508-2".

	source of the imported fuel oil and whether these fuel oils are delivered in ASEZ and ultimately used in ASEZ by PFGMI.		
	Total	**15,122,000**	**₱90,732,000.00**

**Excise tax rate applied for importation of bunker fuel oil is ₱6.00.*

The disallowed amount of ₱1,428,000.00, consisting of 238,000 liters of bunker fuel oil, pertains to sales and deliveries to PFGMI supported by *Bulk Delivery Notes* which were denied admission by the Court in the Resolution dated July 6, 2023[116] and April 30, 2024[117], for being unreadable, for failure to present originals for comparison, or for failure to satisfy the requirements for duplicates or secondary evidence, to wit:[118]

Exhibit No.	Delivery Date	Delivery Number	Volume (in liters)
"P-1506"	July 22, 2020	712589672	20,000.00
-	December 6, 2020	717132936	30,000.00
-	December 6, 2020	717132922	30,000.00
-	December 6, 2020	717132907	30,000.00
"P-1504"	December 6, 2020	717132954	20,000.00
"P-1505"	December 6, 2020	717132946	18,000.00
-	December 6, 2020	717132913	30,000.00
-	December 6, 2020	717132943	30,000.00
-	December 6, 2020	717134039	30,000.00
		Total	**238,000.00**

In sum, petitioner sufficiently proved that the excise taxes it paid on the 14,884,000 liters of fuel oil that it imported 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 NIRC of 1997, but in the reduced amount of ₱89,304,000.00.

ACCORDINGLY, the present *Petition for Review* is **PARTIALLY GRANTED.** Respondent is **ORDERED TO REFUND** or **ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of **₱89,304,000.00**, representing excise taxes paid by petitioner on fuel oil sold and delivered to PFGMI, a tax-exempt

116 Docket – Vol. III, at pp. 1116 to 1119.
117 Docket – Vol. III, at pp. 1224 to 1225.
118 Annex H, Exhibit "P-1508", Docket – Vol. II, p. 610; USB marked as Exhibit "P-1508-2".

PEZA-registered enterprise, during the period from July to December 2020.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

MARIAN IVY F. REYES-FAJARDO
Associate Justice

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