REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

SL HARBOR BULK TERMINAL CORPORATION, *Petitioner,*	**CTA EB No. 2981** (CTA Case No. 10440)
	Present:
-versus-	**RINGPIS-LIBAN,** *P.J.* **BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** and **ANGELES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: FEB 02 2026 2:43p.m.

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DECISION

ANGELES, *J.*:

THE CASE

Before the Court *En Banc* is a *Petition for Review*[1] filed by petitioner assailing the Decision dated January 10, 2024 (assailed Decision),[2] which denied petitioner's claim for refund/tax credit. Petitioner likewise assails the Resolution dated August 2, 2024 (assailed Resolution),[3] denying petitioner's *Motion for Reconsideration*, promulgated by this Court's Special Second Division (Court in Division) in CTA Case No. 10440.

THE PARTIES

[1] *Petition for Review*, EB Docket, pp. 1 to 38.
[2] Decision dated January 10, 2024, EB Docket, pp. 40 to 62; Docket (CTA Case No. 10440) – Vol. VII, pp. 3246 to 3268.
[3] Resolution dated August 2, 2024, EB Docket, pp. 68 to 72; Docket (CTA Case No. 10440) – Vol. VII, pp. 3294 to 3298.

Petitioner is a domestic corporation duly organized and existing under and by virtue of Philippine laws, duly registered with the Bureau of Internal Revenue (BIR) Revenue District Office (RDO) No. 29 and with principal office address at Block 4 Lots 10 and 11, Manila Harbor Center, North Harbor, Brgy. 128 Zone 10, Tondo, Manila.[4]

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) vested under appropriate laws with the authority to carry out the functions, duties, and responsibilities of his office, including the authority to refund and/or credit taxes under Section 204 of the National Internal Revenue Code, as amended (Tax Code).[5]

ANTECEDENT FACTS

The relevant facts as found by the Court in Division are as follows:[6]

> In 2019, petitioner claims to have made importations of BFO and SFO which were sold to tax exempt entities on the same year. It also claims that the excise tax for their importation was paid. On 15 December 2020, it filed an administrative claim for refund with BIR Revenue District Office (RDO) No. 29 for the excise tax it paid. A copy of such claim was sent to respondent. On 04 January 2021, due to respondent's inaction on its claim, petitioner filed the present judicial claim for refund before this Court. Initially, it was raffled to the Third Division of this Court.
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> On 14 January 2021, the Court issued and served Summons on respondent. On 03 March 2021, respondent filed his or her Answer.
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> Later, on 09 March 2021, the Court issued a Notice of Pre-Trial Conference. On 14 May 2021, respondent filed his or her Pre-Trial Brief (PTB) while, on 18 May 2021, petitioner also filed its PTB. 10 Thereafter, the Pre-Trial Conference was held, and the Pre-Trial Order was issued subsequently.
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> On 30 June 2022, following a reorganization of the Court's different Divisions, the case was transferred to the Second Division.
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> Still later, trial ensued and petitioner proceeded to present the testimony of its witnesses: (1) Christian Ivan R. Requinta (**Requinta**), petitioner's Trading Head; (2) Sheila Mary A. Ahing (**Ahing**), petitioner's Finance Manager; (3) Jenny V. Catriz (**Catriz**), petitioner's Billing Head; and, (4) Romeo A. De Jesus, Jr. (**De Jesus**), the court-commissioned Independent Certified Public Accountant (**ICPA**), who all testified through their respective judicial affidavits (**JAs**).

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[4] Petition for Review, EB Docket, p. 2.
[5] *Id.*, p. 3.
[6] EB Docket, pp. 26 to 29; Docket (CTA Case No. 10440), pp. 703 to 706.

As for Requinta, he testified that petitioner made an importation of bunker fuel in CY 2019. He also testified that the excise tax therefor was paid accordingly. In connection thereto, Requinta identified a series of commercial invoices, bills of lading, and import entries all showing petitioner's importation of said bunker fuel. He also identified several Statements of Settlement of Duties and Taxes (SSDTs) and Authorities to Release Imported Goods (ATRIGs) evincing petitioner's payment of excise tax on the importation.

Thereafter, Ahing testified on petitioner's sale of the imported bunker fuel to various tax-exempt entities registered either with the PEZA or SBMA. According to Ahing, all sales to said entities were made net of excise tax as shown in several sales invoices issued to the said tax-exempt entities.

Catriz corroborated Ahing's testimony regarding petitioner's sales of bunker fuel to tax-exempt entities. In the course of Catriz's testimony, he identified PEZA's and SBMA's Certificates of Registration (CORs) wherein their supposed tax exemption privileges are shown.

Lastly, the ICPA assumed the witness stand and testified about his findings which he reduced in his ICPA Report. There, he stated that after reviewing petitioner's documents, he found that the latter paid excise tax in the amount of ₱52,835,000.00 as a result of its bunker fuel importation. In the ICPA Report, the ICPA also stated that following the sale of bunker fuel to the said tax-exempt entities, petitioner is entitled to a refund.

On 06 May 2022, after the termination of its last witness' testimony, petitioner filed its Formal Offer of Evidence (**FOE**). On 03 June 2022, respondent filed its Comment/Opposition filed thereto.

In a Resolution dated 19 July 2022, the Court resolved petitioner's FOE, admitting as evidence its offered documentary exhibits except Exhibits "P-1," "P-1-1," "P-11," "P-11-1," "P-15," "P-15-1," "P-15-2," "P-16," "P-16-1," "P-25-7," "P-40-90," and "P-40-252" to "P40-255" either due to petitioner's failure to submit originals of the said documents or due to their absence in the case's records.

Subsequently, petitioner filed an Omnibus Motion on 12 August 2022, wherein it prayed: (1) for reconsideration of the above Resolution; and, (2) the re-marking of some of its exhibits. On 12 September 2022, respondent filed a Comment/Opposition against petitioner's Omnibus Motion.

On 27 October 2022, the Court did not reconsider and petitioner's previously denied exhibits were still not admitted as evidence. Petitioner was then deemed to have rested its case accordingly.

Later, respondent presented the testimony of its sole witness, Revenue Officer (**RO**) Melandrew Mañalac (**Mañalac**) who testified through his JA. There, Mañalac testified that he submitted a

> Memorandum recommending the denial of petitioner's administrative claim for refund. According to him, petitioner claimed an ending inventory for CY 2019 amounting to ₱1,442,645,330.39. On the other hand, its Merchandise/Raw Materials/Goods in Process/Finished Goods Inventory reflected a value of ₱1,472,423,330.39 comprising the cost of purchase and taxes paid thereon. He, however, pointed out that none of these values were reflected in petitioner's audited financial statements (**AFS**).
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> Thereafter, on 22 August 2022, respondent filed an FOE to which petitioner filed its Comment/Objection on 30 August 2022. In a Resolution dated 27 October 2022, the Court resolved to admit all of respondent's exhibits having found the same to be faithful reproductions of the documents they purported to be.

Both parties filed their respective memoranda and the case was submitted for resolution.[7]

On January 10, 2024, the Court in Division promulgated the assailed Decision,[8] the dispositive portion of which reads:

> **WHEREFORE**, the foregoing premises considered, the Petition for Review filed by petitioner SL Harbor Bulk Terminal Corporation on 04 January 2021 is hereby **DENIED** for lack of merit.

The Court in Division ruled in favor of respondent after finding that petitioner failed to substantiate its entitlement to the claim of refund of excise taxes. Although the Court in Division ruled that the petroleum products were sold to tax-exempt entities during the period of January 1, 2019 to December 31, 2019, it nevertheless held that the evidence presented by petitioner failed to confirm that the petroleum products sold to tax-exempt entities were the same petroleum products imported by petitioner in 2018 and 2019. Consequently, the Court in Division denied petitioner's claim for refund.

On February 12, 2024, petitioner filed its *Motion for Reconsideration*[9] via accredited courier service provider seeking the reversal of the assailed Decision. Respondent, however, failed to file his comment thereto.[10]

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[7] *Supra* note 6.
[8] *Supra* note 2.
[9] Docket (CTA Case No. 10440), pp. 715 to 725.
[10] Records Verification Report dated April 17, 2024, Docket (CTA Case No. 10440) – Vol. VII, p. 3292.

On August 2, 2024, the Court in Division rendered the assailed Resolution,[11] which denied petitioner's *Motion for Reconsideration*.

Hence, this *Petition*.

PROCEEDINGS BEFORE THE COURT *EN BANC*

On August 29, 2024, petitioner filed its *Petition for Review*.[12]

In the Resolution dated October 10, 2024, the Court noted the *Petition for Review* and directed respondent to file his comment thereto.[13]

Thereafter, on November 4, 2024, respondent filed his *Comment*.[14]

On January 8, 2025, the Court issued a Resolution noting respondent's comment and submitting the case for decision.[15]

ASSIGNMENT OF ERRORS

Petitioner assigns the following error allegedly committed by the Court in Division, to wit:

> "WITH ALL DUE RESPECT, THE CTA DIVISION ERRED IN DENYING THE PETITION FOR REVIEW FOR LACK OF MERIT"[16]

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner argues that it is entitled to its claim for refund or credit of the excise taxes it paid on bunker fuel and diesel in the total amount of ₱52,835,000.00 considering that the same was sold to entities registered with the Subic Bay Metropolitan Authority (SBMA) and Philippine Economic Zone Authority (PEZA), which are tax-exempt

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[11] *Supra* note 3.
[12] *Supra* note 1.
[13] EB Docket, unpaginated.
[14] EB Docket, pp. 76 to 91.
[15] EB Docket, unpaginated.
[16] *Petition for Review*, EB Docket, p. 19.

entities. Petitioner further avers that it relied in good faith on the issuances of the BIR with respect the necessary documentary requirements necessary to prove its entitlement to tax credit or refund of erroneously paid excise taxes.[17]

Petitioner likewise contends that Section 34 of Revenue Regulation (RR) No. 13-77 and Annex A of Revenue Memorandum Order (RMO) No. 19-06 do not require the Official Register Books (ORBs) among the documents required to be submitted in support of a claim for tax refund or tax credit. It maintains that the ORBs for taxable year (TY) 2019 were submitted to the Court-commissioned Independent Certified Public Accountant (ICPA) during his examination of the documents. According to petitioner, the ICPA did not include the ORBs in the summary of his findings in the ICPA report because the submission thereof was not required under RMO No. 19-06.[18]

Petitioner further points out that respondent never questioned that the Bunker Fuel Oil (BFO) and Special Fuel Oil (SFO) sold to tax-exempt entities were sourced from petitioner's importations in 2018 and 2019. It likewise asserts that respondent did not raise the absence of the ORBs and sales document for TY 2019 as an issue.[19]

Consequently, petitioner maintains that it sufficiently presented all the documentary evidence necessary to establish its entitlement to a refund or tax credit of excise taxes erroneously paid or illegally collected pursuant to Section 229 of the Tax Code.[20]

Respondent's counter-arguments

Respondent counters that, under Section 229 of the Tax Code, only taxes that are erroneously, illegally or excessively collected may be subject of a claim for refund or tax credit. He points out, however, that in the present case, petitioner is liable for excise tax on the importation of bunker fuels pursuant to Section 148 of the Tax Code. Thus, the excise taxes paid by petitioner were correctly and lawfully collected and, consequently, are not proper subjects of a refund under Section 229 of the Tax Code.[21]

Respondent further argues that the arguments raised by petitioner in its *Petition for Review* are a mere rehash of the arguments

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[17] *Petition for Review*, EB Docket, pp. 20 to 22.
[18] *Id.*, pp. 23 to 25.
[19] *Id.*, p. 25.
[20] *Id.*
[21] *Comment*, EB Docket, pp. 77 to 85.

petitioner previously raised in its *Motion for Reconsideration*, which have already been squarely addressed and resolved by the Court in Division in the assailed Resolution.[22]

Respondent maintains that the Court in Division did not err in ruling that petitioner failed to establish its entitlement to a tax credit or refund of the excise taxes allegedly erroneously paid or collected. He further contends that, contrary to petitioner's position, the findings of the ICPA are not conclusive upon the Court. According to respondent, the Court retains the authority to determine the validity of petitioner's claim for refund based on the evidence submitted by the parties.[23]

RULING OF THE COURT

The Court denies the Petition for Review.

The present Petition for Review was filed on time.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA) provides:

> **RULE 8**
> **PROCEDURE IN CIVIL CASES**
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> xxx xxx xxx
>
> SEC. 3. Who may appeal; period to file petition. –
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> xxx xxx xxx
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution**. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

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[22] EB Docket, pp. 86 to 87.
[23] *Id.*, pp. 87 to 88.

Based on the foregoing, a party adversely affected by a resolution of the Court may file a petition for review with the Court *En Banc* within fifteen (15) days from receipt of the questioned resolution.

In the present case, records show that petitioner received the assailed Resolution on August 13, 2024.[24] Therefore, pursuant to Section 3(b), Rule 8 of the RRCTA, petitioner had fifteen (15) days from receipt or until August 28, 2024, within which to file its Petition for Review.

On August 29, 2024, petitioner filed the present *Petition for Review*.[25] To justify the belated filing thereof, petitioner invokes Memorandum Circular No. 61, series of 2024, issued by then Executive Secretary Lucas P. Bersamin. However, petitioner did not cite any issuance from the Court of Tax Appeals showing that work or the filing of pleadings was suspended on August 28, 2024. Absent such showing, the *Petition for Review* was filed beyond the reglementary period.

In *Albor v. Court of Appeals*,[26] the Supreme Court explained that:

> It is doctrinally entrenched that the right to appeal is a statutory right and the one who seeks to avail of that right must comply with the statute or rules. The requirements for perfecting an appeal within the reglementary period specified in the law must be strictly followed as they are considered indispensable interdictions against needless delays. **Moreover, the perfection of appeal in the manner and within the period set by law is not only mandatory but jurisdictional as well.** (Emphasis supplied)

Judgments or orders become final and executory by operation of law and not by judicial declaration.[27] The finality of a judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected or no motion for reconsideration or new trial is filed.[28]

Accordingly, the assailed Decision and assailed Resolution have already attained finality. Even assuming *arguendo* that the present Petition was timely filed, the same must nevertheless be dismissed for failure of petitioner to demonstrate that the Court in Division committed any reversible error in the assailed Decision and the assailed Resolution.

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[24] Docket (CTA Case No. 10440) – Vol. VII, p. 3293.
[25] *Supra* note 1.
[26] G.R. No. 196598, January 17, 2018.
[27] *Pacheco v. Reyes*, G.R. No. 268216, February 26, 2024.
[28] *Id.*

The Court in Division correctly held that petitioner is not entitled to the claim for refund of excise taxes.

The Court in Division did not err in ruling that petitioner is not entitled to the claim for refund of excise taxes paid on the importation of BFO and SFO in the amount of ₱52,835,000.00.

Section 131(A) of the Tax Code provides that:

> 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 Custom 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. xxx (Emphasis supplied)

Clearly, the Tax Code unequivocally provides that the payment of excise taxes by the owner or importer is a condition precedent to the release of imported articles from the customs house.

Nevertheless, Section 135 of the Tax Code expressly exempts from excise tax the sale of petroleum products to certain entities, to wit:

> SEC. 135. Petroleum Products Sold to International Carriers and Exempt Entities or Agencies. - Petroleum products sold to the following are exempt from excise tax:
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> (a) International carriers of Philippine or foreign registry directly importing petroleum products, 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 of consumption: *Provided*, however, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and

> (c) **Entities which are by law exempt from direct and indirect taxes.** (Emphasis supplied)

In *Chevron Philippines Inc. v. Commissioner of Internal Revenue*,[29] the Supreme Court explained that:

> 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 supplied)

Furthermore, in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*,[30] the taxpayer sought a refund under Section 229 of the Tax Code for excise taxes paid on petroleum products it imported and subsequently sold to tax-exempt entities. However, the taxpayer also purchased petroleum products locally from Chevron. In resolving the case, the Supreme Court explained that:

> The foregoing notwithstanding, the Court cannot — as of yet — declare that PSPC is entitled to the entirety of its refund claim.
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> xxx xxx xxx
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> To expound, it must be highlighted that the 24,974,294 liters of Jet A-1 fuel sold by PSPC to international carriers subject of its present claim for tax refund came from two (2) sources: first, from direct importation, amounting to 28,578,673 liters; and second, from the local purchase from Chevron, amounting to 3,192,012 liters.
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> Based on the discussions above, **PSPC may claim refund for the excise taxes on the Jet A-1 fuel that it imported itself, considering that it was the statutory taxpayer in that instance.**
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> However, the same is not true for the fuel purchased from Chevron. Again, the standing principle is that the "passing on" of the tax burden is largely a contractual affair between the parties and such affair does not determine the tax incidence imposed by law unless the contrary is provided. Here, when PSPC purchased Jet A-1 fuel from Chevron and paid the corresponding excise taxes due thereon as part of the purchase price, it did not operate to transform PSPC into the statutory taxpayer of the corresponding excise taxes. In reality, what PSPC paid was merely the tax burden, and hence, it

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[29] G.R. No. 210836, September 1, 2015.
[30] G.R. No. 211303, June 15, 2021.

> cannot benefit from the tax exemption under Section 135 which operates to alleviate the tax incidence. Stated otherwise, in the case of the 3,192,012 liters purchased from Chevron, PSPC was merely a purchaser of the said fuel. Hence, even if it was subsequently sold to international carriers, PSPC could not invoke the exemption under Section 135 (a) because the tax incidence remained with Chevron. At the time that Chevron sold the fuel to PSPC (who is not an international carrier or any of the enumerated persons in Section 135), the excise taxes already became due and demandable, and PSPC's eventual sale thereof to an international carrier cannot anymore negate the accrual of the excise tax liability.
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> That being said, the Court cannot therefore make a categorical declaration as to the precise refund amount to award PSPC given that the records do not clearly show the composition of the 24,974,294 liters of Jet A-1 fuel actually sold to international carriers. **Particularly, records fail to disclose the specific amounts coming from each source, whether directly imported by PSPC or locally purchased by Chevron.** (Emphasis supplied)

From the foregoing, while the sale of petroleum products to entities enumerated under Section 135 of the Tax Code renders the payment of excise taxes erroneous and subject to a claim for refund under Section 229 of the Tax Code, the entitlement to such refund is not automatic. It is incumbent upon the taxpayer to prove that the excise taxes on the petroleum products were paid and that the petroleum products imported or manufactured are the same petroleum products sold to the entities listed under Section 135 of the Tax Code.

In the present case, petitioner claims that in 2019 it imported 366,341,346 liters of bunker fuel and diesel, and it paid the corresponding excise taxes.[31] Petitioner further alleges that, during the same year, it sold a total of 13,190,000 liters of BFO and SFO to entities registered with the SBMA and the PEZA.[32] Based on the evidence it submitted, petitioner maintains that it is entitled to the refund in the amount of ₱52,835,000.00, representing the excise taxes on the 13,190,000 liters of BFO and SFO sold to tax-exempt entities.

Petitioner's contention is misplaced.

While the Court in Division correctly ruled that petitioner's sales to SBMA and PEZA-registered entities fall under the exemption provided in Section 135(c) of the Tax Code, We likewise affirm its finding that petitioner failed to establish that the petroleum products sold to tax-exempt entities were sourced from petitioner's own importations. In so ruling, the Court in Division correctly held that:

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[31] Pars. 13 to 14, *Petition for Review*, EB Docket, pp. 4 to 5.
[32] Pars. 16 to 17, *Petition for Review*, EB Docket, pp. 5 to 9.

In the present case, petitioner proffered as evidence the Withdrawal Certificates issued by the BIR and the corresponding Delivery Receipts, Bill of Lading, Import Entry Declarations (IEDs), and SSDTs. It is noted that the Withdrawal Certificates will only prove that petitioner sold and delivered petroleum products to tax-exempt entities. On the other hand, the other documents will only show that petitioner imported petroleum products in 2019.

As it is, however, the aforesaid pieces of evidence still fail to confirm that the petroleum products sold to the tax-exempt entities (SBMA and PEZA) are the same petroleum products that petitioner imported in 2018 or 2019. **Such proof or trail is necessary and should have been established since, based on petitioner's Official Registry Book (ORB) as of 31 December 2018, it also purchased locally-manufactured petroleum products that co-mingled with its imported petroleum products.**

Additionally, petitioner failed to proffer as evidence its ORB for every month of CY 2019 which ORB would have shown the monthly movement of the petroleum products (transfers, domestic purchases, importations and sales to both tax-exempt and taxable entities) pursuant to Section 41 of Revenue Regulations (RR) No. 13-77. Other than the monthly ORB that respondent reviewed and certified, petitioner could also have presented its inventory general ledger which would have tied up with its 2019 AFS. This will show the movement of its inventory for the year 2019. With the foregoing, petitioner failed to establish the desired nexus between the imported petroleum products and the petroleum products sold to tax-exempt entities. (Emphasis supplied)

It bears noting that Section 41 of Revenue Regulation (RR) No. 13-77 explicitly requires importers of petroleum products to maintain ORBs, to wit:

SECTION 41. Records to be kept by importers. — Every person or entity engaged in the importation of petroleum products shall keep an official register book wherein shall be entered the following:

(a) On the debit side — Date of arrival of the importations, subsidiary document reference (e.g. Customs Formal Entry), kind of product, quantity actually received, amount of specific taxes paid, number and date of the covering official receipt payment.

(b) On the credit side — Date of removal, consignee and address, kind of product removed, quantity, and remarks.

(c) Resumé — At the end of the month, the importer shall prepare a resumé which shall show the totals of the beginning balance, the importations for the month, the sales for the month, and finally the ending balance. These records should be submitted to the Chief,

> Gasoline & Miscellaneous Tax Division on or before the 8th day of the succeeding month.
>
> The importer shall certify that the entries on the page of the transcript sheets contain a true and correct account of all petroleum products imported during the month, for the debit side, and the petroleum products removed, sold or disposed of, in the case of the credit side. The books of account shall be subject to periodic verification.

Based on the foregoing, the ORBs serve as evidence of the inflow and outflow of a taxpayer's petroleum products. It bears reiterating that petitioner's ORB for December 2018 shows that its inventory of petroleum products consisted of both imported petroleum products and locally purchased petroleum products. Accordingly, as correctly ruled by the Court in Division, based on the documents proffered by petitioner, the Court is unable to determine whether the BFO and the SFO sold to SBMA and PEZA registered entities were the same BFO and SFO imported by petitioner in 2018 and 2019.

Petitioner's contention that its submission of the ORBs for 2019 to the ICPA is sufficient to establish that the petroleum products sold to tax-exempt entities were the same petroleum products it imported and paid excise taxes on is misplaced.

Section 3, Rule 13 of the RRCTA provides that:

> SEC. 3. Findings of independent CPA. — The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party possessing such documents and, secondarily, by the independent CPA. **The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification**. (Emphasis supplied)

Clearly, the Court is not bound by the findings of the ICPA and is duty-bound to independently verify the same.

Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law.[33] In civil cases, the party making allegations has the burden of proving them by a preponderance of

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[33] Section 1, Rule 131 of the Rules of Court.

evidence.[34] Basic is the rule in evidence that "bare allegations, unsubstantiated by evidence, are not equivalent to proof."[35]

In the present case, petitioner alleges that it paid excises taxes on BFO and SFO it imported and subsequently sold to tax-exempt entities. Petitioner was able to proffer evidence to establish the following:

1. It imported BFO and SFO in 2018 and 2019;
2. It paid the corresponding excise taxes on importation; and
3. It subsequently sold BFO and SFO to entities registered with the SBMA and PEZA.

However, it bears reiterating that petitioner failed to prove that the BFO and SFO it sold to tax-exempt entities were the same BFO and SFO on which excise taxes were paid upon importation.

Tax refunds partake the nature of exemption from taxation and, as such, must be looked upon with disfavor. The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.[36] Entitlement to a tax refund is for the taxpayer to prove and not for the government to disprove.[37]

All told, the Court in Division correctly held that petitioner failed to establish its entitlement to a refund or tax credit of excise taxes.

WHEREFORE, premises considered, the instant Petition for Review is **DENIED** for lack of merit. Accordingly, the Decision and Resolution, dated January 10, 2024 and August 2, 2024, respectively, in CTA Case No. 10440 are **AFFIRMED**.

SO ORDERED.

HENRY S. ANGELES
Associate Justice

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[34] *Ong v. Spouses Villorente*, G.R. No. 255264, October 10, 2022.
[35] *De Silva v. De Silva*, G.R. No. 247985, October 13, 2021.
[36] *Maibarara Geothermal, Inc. v. Commissioner of Internal Revenue*, G.R. No. 256720, August 7, 2024.
[37] *Commissioner of Internal Revenue v. Far East Bank & Trust Company*, G.R. No. 173854, March 15, 2010.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding 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

I concur in the result.
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
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.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice