

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

EN BANC

**PHILIPPINE AIRLINES,
INC.,**

Petitioner,

**CTA EB NO. 3034
(CTA CASE NO. 10530)**

Present:

-versus-

**RINGPIS-LIBAN, P.J.,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES,
ANGELES,
TESTON, and
CENTENO-DIJAMCO, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**

Respondent.

Promulgated:

SEP 04 2026

X-----X

DECISION

ANGELES, J.:

Before the Court *En Banc* is a *Petition for Review*¹ filed by Philippine Airlines, Inc. (petitioner) against the Commissioner of Internal Revenue (respondent), praying for this Court to reverse and set aside the *Decision*² promulgated on June 7, 2024 and *Resolution*³ promulgated on October 28, 2024 (assailed Orders) by the First Division (Court in Division), and to order respondent to refund or issue a tax credit certificate to petitioner in the amount of ₱8,427,599.88, representing excise taxes that were allegedly illegally collected and paid by petitioner under protest, in relation to its importations of various alcohol products (subject importations).

¹ *En Banc* (EB) Docket, pp. 111, with attachments.

² EB Docket, pp. 35-45.

³ EB Docket, pp. 47-50.

FACTS

The Court in Division narrated the facts of the case, to wit:⁴

ANTECEDENTS (ADMINISTRATIVE LEVEL)

On June 11, 1987, petitioner was granted a franchise to operate air transport services domestically and internationally by virtue of Presidential Decree (PD) No. 1590, otherwise known as “*An Act Granting a New Franchise to Philippine Airlines, Inc. to Establish, Operate, and Maintain Air-Transport Services in the Philippines and Between the Philippines and Other Countries.*”

Petitioner imported various liquors and wine as part of its in-flight and commissary supplies.

The Bureau of Customs (BOC), in separate letters, demanded the payment of excise taxes for its importation of alcohol products in the following respective amounts, *viz.*:

Date of the letter	Amount
September 6, 2017	₱1,063,141.55
September 6, 2017	₱2,687,008.12
August 29, 2018	₱1,687,739.23
August 29, 2018	₱1,009,729.03
August 29, 2018	₱1,985,481.95

On April 26, 2019, petitioner paid under protest excise taxes on its importation of liquor for commissary catering supplies, in the total amount of ₱8,427,599.88. The details of which are as follows:

BOC Official Receipt Number	Amount Paid
01900078926	₱3,744,649.67
01900078915	₱4,682,950.21

Thereafter, on May 18, 2021, petitioner filed with the BIR a letter of even date, requesting for the refund of, or issuance of a tax credit certificate for, the amount of ₱8,427,599.88, allegedly representing excise taxes illegally assessed, levied upon, and paid by petitioner under protest on its importation of alcohol products constituting commissary and catering supplies.

⁴ EB Docket, pp. 36-37.

PROCEEDINGS BEFORE THE COURT

The Court in Division likewise summarized the proceedings before it, as follows:⁵

[P]etitioner filed the present *Petition for Review* on May 24, 2021.

On October 21, 2021 respondent filed his *Answer*.

The Pre-Trial Conference was initially scheduled for February 28, 2022. During the hearing on the said date, the Court, in the interest of justice, denied respondent's oral motion to dismiss the case due to the absence of petitioner's counsel and failure to file a *Pre-Trial Brief*. The Pre-Trial Conference was cancelled, with a warning to petitioner, and held on April 20, 2022. Prior thereto, respondent's *Pre-Trial Brief* was submitted on December 17, 2021, while petitioner's *Pre-Trial Brief* was posted on April 12, 2022.

On May 19, 2022, the parties submitted their *Joint Stipulation of Facts and Issues*, which was approved and adopted by the Court in the Pre-Trial Order dated May 31, 2022, thereby deeming the termination of the Pre-Trial.

As trial ensued, only petitioner presented its testimonial and documentary evidence. At the June 1, 2022 hearing, respondent's counsel manifested that she has no witness to present in this case.

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. Jonathan R. Castillo Lee, the Manager for petitioner's Company Materials Handling Division; (2) Mr. Ruel Ryan O. Julian, the Manager for Tax Services Division of petitioner; and (3) Ms. Cheryl V. Capinpin, the Manager of the In-flight Materials Purchasing Division, Corporate Logistics and Services Department of petitioner.

On August 30, 2022, petitioner filed a *Formal Offer of Evidence (With Motion to Set Commissioner's Hearing)*, to which respondent submitted his *Comment (Re: Formal Offer of Evidence)* on August 31, 2022. In the Resolution dated October 21, 2022, the Court granted the *Motion to Set Commissioner's Hearing* and held in abeyance the resolution of petitioner's FOE until after the submission of certain exhibits.

Petitioner's *Submission and Manifestation* was then filed on December 1, 2022. In the Resolution dated February 8, 2023, the Court noted the *Submission and Manifestation* and admitted petitioner's offered exhibits.

On May 2, 2023, respondent filed a *Manifestation*, stating that he would not present any witnesses. In the Resolution dated May

⁵ EB Docket, pp. 37-39.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 4 of 13

x-----x

4, 2023, the Court noted respondent's *Manifestation* and cancelled the initial presentation of respondent's evidence.

On May 22, 2023, respondent's *Memorandum* was filed.

In the Resolution dated May 29, 2023, the present case was transferred to this Court's First Division.

Thereafter, petitioner's *Memorandum* was submitted on June 8, 2023.

In the Resolution dated June 22, 2023, the present case was submitted for decision.

On June 7, 2024, the Court in Division dismissed the *Petition for Review*⁶ for lack of jurisdiction, finding petitioner's administrative claim for refund to have been filed out of time. The dispositive portion of the assailed *Decision* reads:

WHEREFORE, premises considered, the instant *Petition for Review* filed by Philippine Airlines, Inc. is **DISMISSED** for lack of jurisdiction.⁷

Petitioner filed a *Motion for Reconsideration (Re: Decision dated 07 June 2024)*⁸ on June 28, 2024, while respondent filed his *Opposition (Re: Motion for Reconsideration of the Decision dated 7 June 2024)*⁹ on July 15, 2024.

On October 28, 2024, through the assailed *Resolution*, the Court in Division denied petitioner's *Motion* for lack of merit.¹⁰

Aggrieved, petitioner filed the instant *Petition for Review*¹¹ on November 29, 2024. In a Resolution dated March 3, 2025,¹² the Court directed petitioner to submit an original or certified true copy of the assailed Orders, as well as proof of authority of the undersigned counsels to sign the said *Petition*. Petitioner filed its *Compliance* thereto on March 31, 2025.¹³

Respondent then filed his *Comment* on June 2, 2025.¹⁴

⁶ Division Docket - Vol. I, pp. 12-37.

⁷ EB Docket, p. 44.

⁸ Division Docket - Vol. III, pp. 1452-1461.

⁹ Division Docket - Vol. III, pp. 1465-1471.

¹⁰ EB Docket, p. 49.

¹¹ *Supra*, note 1.

¹² EB Docket, p. 27.

¹³ EB Docket, pp. 29-31.

¹⁴ EB Docket, pp. 58-64.

Thereafter, on August 6, 2025, the case was submitted for decision.¹⁵

ISSUE

It appears from the instant *Petition* that the sole issue before the Court *En Banc* is whether petitioner's filing of its administrative claim for refund may be deemed substantial compliance with the law.

ARGUMENTS OF THE PARTIES

Petitioner's arguments

Petitioner mainly argues that the filing of its administrative claim for refund should be deemed substantial, if not full compliance with the law.

Petitioner alleges that the filing of its administrative claim for refund on May 18, 2021, or during the extended period provided under the Supreme Court's Administrative Circular (AC) No. 22-2021 dated April 14, 2021, was due to the COVID-19 pandemic.

Petitioner also alleges that in 2021, the Bureau of Internal Revenue (BIR) issued several regulations extending the deadline for filing refunds of other tax types. It points out that while the BIR did not issue a regulation specifically extending the deadline for filing administrative claims for refund of excise tax, the BIR nonetheless issued Revenue Regulation (RR) No. 7-2020 which allegedly granted a thirty (30)-day extension from the original due dates of "all other filings/submissions" and "similar letters or correspondences with due dates." Petitioner posits that since administrative claims are filings and/or formal submissions with specific due dates, they are deemed part of the filings covered by the aforementioned thirty (30)-day extension.

Petitioner further argues that assuming that RR No. 7-2020 is not applicable, the strict and rigid application of the rules should not be applied if doing so would frustrate rather than promote substantial justice, most especially in cases significantly impacted by unprecedented challenges and catastrophic effects brought by the COVID-19 pandemic, such as petitioner's case. Petitioner adds that due to the exceptional circumstances brought by the pandemic, especially

¹⁵ EB Docket, p. 68.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 6 of 13

x-----x

to the travel industry which was one of the most affected industries, and considering the numerous directives issued by various government agencies during this time that lacked clear and consistent guidelines, the application of leniency is warranted.

Petitioner states that in essence, the law simply requires that the administrative claim be filed before the judicial claim.

Respondent's counter-arguments

Respondent contends that since the issue in the instant case is petitioner's entitlement to a refund, in line with the settled principle that claims for refund, which are in the nature of tax exemptions, are construed in *strictissimi juris* against the claimant, petitioner must prove that it is entitled to the refund sought.

Respondent then merely cites and agrees with the Court in Division's ruling in the assailed Decision.

RULING OF THE COURT *EN BANC*

Before We discuss the merits of the instant *Petition*, as a necessary preliminary, We shall first discuss the timeliness of the present appeal.

Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA)¹⁶ provides:

**RULE 8
PROCEDURE IN CIVIL CASES**

xxx xxx xxx

SEC. 3. *Who may appeal; period to file petition.* —

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

¹⁶ A.M. No. 05-11-07-CTA, as amended, November 22, 2005.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 7 of 13

X-----X

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*)

Based on the foregoing, a party adversely affected by a decision or resolution of the Court in Division on a motion for reconsideration or new trial, may file an appeal before the Court *En Banc* within fifteen (15) days from its receipt of the assailed decision or resolution.

Records show that petitioner received the assailed Resolution on November 14, 2024.¹⁷ Thus, it had fifteen (15) days from such receipt, or until November 29, 2024 to file an appeal with this Court. Since petitioner filed the present appeal on November 29, 2024, the same was timely filed.

We shall now address the central issue in this case.

***Governing provisions for the
refund of erroneously paid or
illegally collected taxes***

Sections 204(C) and 229 of the National Internal Revenue Code of 1997 (Tax Code), as amended, provide the rules governing the refund or credit of erroneously paid or illegally collected taxes. The said provisions are quoted below:

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.

SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.*
— **No suit or proceeding shall be maintained in any court**

¹⁷ Division Docket - Vol. III, p. 1476.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 8 of 13

X-----X

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. (*Emphasis added*)

Based on the above, erroneously paid or illegally collected taxes may be credited or refunded provided that: **(1)** the taxpayer files an administrative claim for refund with respondent within two (2) years after the payment of the tax; **(2)** the filing of a judicial claim for refund is preceded by the filing of an administrative claim for refund; and **(3)** the filing of a judicial claim for refund is also made within two (2) years after the payment of the tax.

Jurisprudence has consistently ruled that **both** the administrative and judicial claims must be filed within the two (2)-year reglementary period. Timeliness of filing the claims is mandatory and jurisdictional, such that the Court cannot take cognizance of the same when filed either prematurely or out of time.¹⁸

In this case, petitioner has failed to establish its compliance with the foregoing statutory and jurisprudential requirements, and its entitlement to an exception from the application of the same.

Petitioner failed to comply with the statutory requirements for an administrative refund claim

To prove its compliance, petitioner cites and summarizes the content of several BIR Revenue Memorandum Circulars (RMCs) which

¹⁸ *Commissioner of Internal Revenue v. United Cadiz Sugar Farmers Association Multi-Purpose Cooperative*, G.R. No. 209776, December 7, 2016; *Commissioner of Internal Revenue v. San Miguel Corp.*, G.R. Nos. 180740 & 180910, November 11, 2019; *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, G.R. No. 226592, July 27, 2021.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 9 of 13

X-----X

allegedly extended the deadlines of certain administrative filings/submissions. It cites in particular RR No. 7-2020 which allegedly granted a thirty (30)-day extension to the period for filing “all other filings/submissions” and “similar letters or correspondences”, including administrative claims for refund of excise taxes.

However, the Court is not convinced.

The Court acknowledges that by virtue of Republic Act (RA) No. 11469, otherwise known as the Bayanihan to Heal as One Act,¹⁹ the President of the Philippines was given the power to adopt temporary emergency measures to respond to the crisis brought by the COVID-19 pandemic. One such measure was to “[m]ove statutory deadlines and timelines for the filing and submission of any document, the payment of taxes, fees, and other charges required by law, and the grant of any benefit, in order to ease the burden on individuals under Community Quarantine.”²⁰

The Court also acknowledges that pursuant thereto, the BIR issued RR No. 7-2020²¹ which extended the statutory deadlines for the submission and/or filing of certain documents and/or returns, as well as the payment of certain taxes.

It must be noted, however, that scrutiny of RR No. 7-2020 reveals that **none** of the transactions/documents enumerated therein pertain to applications for refund of excise taxes. The “Other similar letters and correspondences with due dates” cited by petitioner pertain to letters and correspondences issued in the course of an assessment, while “All Other Filing/Submission” pertain to forms involving “Other Reportorial Requirements Omitted”. Obviously, an application for refund of excise taxes is not included in either category.

Neither can the Court apply the extensions granted under RR Nos. 10-2020²² and 11-2020²³ (which petitioner failed to cite), as such extensions only cover erroneous payments made from March 17, 2018 to April 30, 2018, and May 1, 2018 to May 31, 2018, respectively. To recall, petitioner paid the subject excise taxes on **April 26, 2019**.

Applying the two (2)-year reglementary period, petitioner had until **April 26, 2021** to file both its administrative and judicial claims.

¹⁹ March 24, 2020.

²⁰ Paragraph z, Section 4, of Republic Act No. 11469.

²¹ March 27, 2020.

²² April 9, 2020.

²³ April 29, 2020.

u

However, petitioner filed its administrative claim only on **May 18, 2021**. In view of the foregoing discussion, and guided by the rules on statutory construction, particularly the familiar maxim of *expressio unius est exclusio alterius*, which means “the express mention of one person, thing, or consequence implies the exclusion of all others”,²⁴ petitioner has no basis to claim that the BIR granted in its favor an additional thirty (30) days from April 26, 2021, or until May 25, 2021, to file its administrative claim for refund of erroneously paid taxes.

Moreover, We agree with the Court in Division that AC No. 22-2021 issued by the Supreme Court on April 14, 2021 cannot be applied to extend the statutory deadline for filing petitioner’s administrative claim for refund.

At the threshold, We adhere to the general principle of separation of powers which ordains that each of the three great branches of government has exclusive cognizance of and is supreme in matters falling within its own constitutionally-allocated sphere.²⁵ Consequently, courts will not interfere with discretionary acts of the executive unless accompanied by grave abuse of discretion amounting to lack or excess of jurisdiction.²⁶ Here, no such grave abuse of discretion is alleged or implied, nor can it be alleged or implied given the nature of the appeal filed before Us.

More importantly, as aptly held by the Court in Division, petitioner’s administrative claim for refund does not fall under the category of “pleadings and motions” covered by the suspension provided under the aforementioned circular.

We therefore find petitioner’s administrative claim for refund to be filed out of time.

Petitioner’s plea for equity and substantial justice must fail

Petitioner invokes the principles of equity, substantial justice, and substantial compliance in the application of rules of procedure, in light of the COVID-19 pandemic and the damages petitioner sustained as a consequence of such unprecedented and extraordinary circumstance.

²⁴ *Phinma Property Holdings Corp. v. Rivera*, G.R. No. 261877, July 16, 2025.

²⁵ *Abrenica v. Commission on Audit*, G.R. No. 218185, September 14, 2021.

²⁶ *Abines v. Duque III*, G.R. No. 235891, September 20, 2022.

Petitioner's contentions are unavailing.

It is worth noting that there are two (2) kinds of "liberality" in the construction of provisions of law. The first requires ambiguity in the text of the provision, while the second pertains to a request for the suspension of the operation of a provision of law, whether substantive or procedural. In the second kind of liberality, equity is required.²⁷

Jurisprudence has clarified that the liberality with which the Court exercises equity jurisdiction is always anchored on the basic consideration that it must be warranted by the circumstances obtaining in each case.²⁸ Thus, any party seeking a liberal application of the rules is required to present strong and compelling reasons to warrant the suspension of the rules. To merit liberality, petitioner must show that there is reasonable cause justifying his noncompliance with the rules and that the outright dismissal of the petition would defeat the administration of substantive justice.²⁹

Furthermore, there must be no indication that the violation of the rule is due to negligence or design. Liberality is an extreme exception, justifiable only when equity exists.³⁰

In the present controversy, We find petitioner's reliance on equity and substantial justice **insufficient and a mere afterthought**. It bears stressing that petitioner failed to cite any specific circumstance brought by the COVID-19 pandemic that would explain why it filed its administrative claim twenty-two (22) days late. While petitioner narrates several "unique challenges" it faced because of the COVID-19 pandemic, it still failed to present the actual reason why it took twenty-two (22) days before it filed its administrative claim with the BIR.

Conversely, it appears from the totality of petitioner's arguments and explanations that the primary reason for such belated filing is petitioner's wrong interpretation of the aforementioned BIR and Supreme Court issuances. This conclusion is bolstered by the fact that in its *Petition for Review*³¹ and *Motion for Reconsideration (Re: Decision dated 07 June 2024)*³² filed before the Court *a quo*, petitioner anchored its argument on the timeliness of its administrative claim **solely** on AC No. 22-2021; and when such argument was not accepted

²⁷ *Viva Shipping Lines, Inc. v. Keppel Philippines Mining, Inc.*, G.R. No. 177382, February 17, 2016.

²⁸ *National Grid Corporation of the Philippines v. Bautista*, G.R. No. 232120, September 30, 2020.

²⁹ *Agravante v. Commission on Elections*, G.R. No. 264029, August 8, 2023.

³⁰ *Id.*

³¹ *Supra*, note 6.

³² *Supra*, note 8.

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 12 of 13

X-----X

by the Court *a quo* in the assailed Orders, petitioner in the instant *Petition* raised for the first time RR No. 7-2020 as additional basis to justify the belated filing of its administrative claim.

For these reasons, the Court remains unconvinced that petitioner's failure to comply with the two (2)-year statutory period provided under Sections 204(C) of the Tax Code, in relation to Section 229 thereof, was wholly attributable to the COVID-19 pandemic rather than to its own fault or negligence.

All things considered, We find no cogent reason to reverse or otherwise modify the assailed Orders.

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

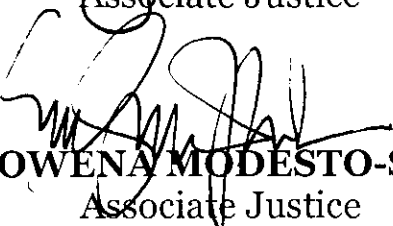
SO ORDERED.


HENRY S. ANGELES
Associate Justice

WE CONCUR:


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice


MARIAN IVY F. REYES-FAJARDO
Associate Justice

DECISION

CTA EB NO. 3034 (CTA CASE NO. 10530)

Page 13 of 13

x-----x


LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


PAOLO S. TESTON
Associate Justice


DEBBIE JEAN CENTENO-DIJAMCO
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