REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION
****

AIR PHILIPPINES CORPORATION, Petitioner,	**CTA CASE NOS. 7252, 7362 7383, 7445, 7494, 7517, 7521 & 7566**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson,* **CASANOVA,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE and COMMISSIONER OF CUSTOMS, Respondents.	**Promulgated:** MAY 08 2017 2:15 p.m.

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AMENDED DECISION

CASANOVA, *J.*:

For resolution is petitioner's **Motion for Reconsideration of the Decision dated 02 October 2015 and Motion to Reopen the Case for Presentation of Evidence**[1] filed on October 20, 2015, with respondent Commissioner of Customs (COC)'s **Comment (re: Motion for Reconsideration of the Decision dated October 2, 2015 and Motion to Reopen the Case for Presentation of Evidence dated October 19, 2015.)**[2] filed, through registered mail, on December 14, 2015, while respondent Commissioner of Internal Revenue (CIR), on the other hand, failed to file his comment, as per Records Verification dated January 6, 2015 *[sic]*.

On October 2, 2015, this Court promulgated its Decision[3] in the present consolidated cases, denying petitioner's claims for refund due to insufficiency of evidence, the *fallo* of which reads as follows:

[1] Docket (Vol. V), pp. 1968-1983
[2] *Ibid.*, pp. 1997-2007
[3] *Id.*, pp. 1929-1951

> "**WHEREFORE**, premises considered, the instant Petitions for Review are hereby **DENIED** for insufficiency of evidence.
>
> **SO ORDERED**."

Thereafter, petitioner filed the present Motion. In a Resolution[4] dated February 16, 2016, this Court granted petitioner's Motion to Reopen the Case for Presentation of Evidence while holding in abeyance its Motion for Reconsideration. Thus, the case was reopened and further trial ensued.

On September 5, 2016, petitioner filed Petitioner's Formal Offer of Evidence[5], submitting Exhibits "R^{7}" to "W^{13}-1" as evidence in support of its claim. On September 26, 2016, respondent CIR filed his Comment (Re: Petitioner's Formal Offer of Evidence)[6] while, respondent COC, on the other hand, failed to file his comment as per Records Verification[7] dated September 28, 2016.

In a Resolution[8] dated January 24, 2017, this Court admitted all of petitioner's exhibits. Furthermore, in view of respondent CIR's manifestation that he will not anymore present evidence and, also, respondents' failure to present counter evidence thereof, the present Motion was deemed submitted by this Court.

In its Motion, petitioner claims that the foregoing Decision inaptly discussed and resolved the issue on *whether petitioner's importation of Jet A-1 fuel was used in its transport and non-transport operations* considering that it was not raised, assigned or argued on by the respondents during trial, thus, it was erroneous to arrive at a conclusion based on the said issue. Petitioner submits that had it known that the consumption was disputed, it would have presented additional documentary evidence to prove that the subject fuel was, indeed, loaded onto its planes and consumed during flight. As such, petitioner prays that its consolidated claims for refund or issuance of tax credit certificates in the total amount of ₱235,613,134.47, representing its Jet A-1 fuel importations from May 2003 to December 2004, be granted; or, in the alternative, be allowed to present further

[4] *Id.*, pp. 2011-2014
[5] Docket (Vol. VI), pp. 2218-2262
[6] *Ibid.*, pp. 2263-2266
[7] *Id.*, p. 2267
[8] *Id.*, pp. 2268-2269

evidence on the matter of consumption of the subject fuel importations.

While, in his Comment, respondent Commissioner of Customs asserts that even assuming that they did not actively question petitioner's usage of Jet A-1 fuel during trial, the requirement to prove said fact is still incumbent upon petitioner because the issue of its entitlement to a refund has been raised as an issue during the pre-trial of the case.

As such, after due consideration of the arguments advanced by the parties, this Court finds merit in the present Motion.

To recapitulate, Section 15 of Republic Act (RA) No. 8339[9] places petitioner on equal footing with Philippines Airlines, Inc. (PAL). The said Section provides that petitioner may enjoy the same tax benefits as that of PAL under Section 13 of Presidential Decree (PD) No. 1590[10], which reads as follows:

> "**SEC. 13.** In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:
>
> (a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or
>
> (b) A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or nontransport operations; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.
>
> **The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties,**

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[9] "AN ACT GRANTING AIR PHILIPPINES CORPORATION (AIR PHILIPPINES) A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN DOMESTIC AND INTERNATIONAL AIR TRANSPORT SERVICES", approved August 8, 1997

[10] "AN ACT GRANTING A NEW FRANCHISE TO PHILIPPINE AIRLINES, INC. TO ESTABLISH, OPERATE, AND MAINTAIN AIR-TRANSPORT SERVICES IN THE PHILIPPINES AND OTHER COUNTRIES", dated June 11, 1978

> **royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:**
>
> *x x x*
>
> 2. **All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of** aircraft, engines, equipment, machinery, spare parts, accessories, commissary and catering supplies, **aviation** gas, **fuel,** and oil, whether refined or in crude form and other articles, supplies, or materials; **provided, that such articles or supplies or materials are imported for the use of the grantee in its transport and nontransport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price;"** *(Emphasis Ours)*

In order to claim exemption from all other taxes, including taxes on importations of aviation fuel, petitioner must prove the following:

1. it paid either the basic corporate income tax or the two percent gross revenue tax, whichever is lower;

2. the imported articles, supplies or materials are intended to be used in its transport and non-transport operations and other activities incidental thereto; and

3. the imported articles, supplies or materials are not locally available in reasonable quantity, quality or price.

Apparently, to be entitled for refund, it is incumbent upon petitioner to prove that its Jet A-1 fuel importations are for use in its transport and non-transport operations regardless of whether respondent questioned the same or not. Stated differently, even if respondents did not dispute the use of petitioner's imported Jet A-1 fuel, it is still necessary for this Court to determine whether petitioner used its Jet A-1 fuel importations in its transport and non-transport operations, in compliance with the second requisite.

In the present case, petitioner offered the testimonies of Mr. Jonathan Chiong[11] - Manager of the Fuel Department of petitioner, Ms. Marides C. Canillo[12] - Financial Planning and Analysis Manager of petitioner, and Mr. Edwin J. Segundo[13] - Supervisor of the Fuel Department of petitioner, who all uniformly testified by way of Judicial Affidavits, that the Jet A-1 fuel importations from May 2003 to December 2004 are to be used for petitioner's domestic operations. A portion of Mr. Edwin J. Segundo's testimony reads:

"15 May 2003 Importation, CTA Case No. 7252

Q: Do you remember a shipment of Jet A-1 imported by APC which arrived at Subic Bay, Zambales on May 15, 2003?

A: Yes, sir/ma'am. That shipment involved 15,900,000 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Ocean Rainbow Quest.

x x x

29 October 2003 Importation, CTA Case No. 7362

Q: Another importation made by APC, which is the subject of this consolidated cases, is a shipment which arrived at Subic Bay, Zambales on October 29, 2003. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 3,180,000 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Golkoy.

x x x

05 December 2003, Importations, CTA Case No. 7383

Q: Another importation made by APC, which is a subject of this consolidated cases, is a shipment which arrived at Subic Bay Freeport Zone, Zambales on December 5, 2003, are you aware of said shipment?

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[11] Exhibit "Q7"
[12] Exhibit "L7"
[13] Exhibit "J5"

A: Yes, sir/ma'am. That shipment involved 11,713,564 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Cielo di Singapore.

x x x

<u>05 April 2004 Importation, CTA Case No. 7445</u>

Q: Another importation by APC, which is a subject of this consolidated cases, is a Subic Bay, Zambales on April 5, 2004. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 8,060,439 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Eland.

x x x

<u>13 June 2004 Importation, CTA Case No. 7494</u>

Q: Another importation by APC, which is a subject of this consolidated cases, is a shipment which arrived at Subic Bay, Zambales on June 13, 2004. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 8,060,439 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Hellas Renaissance.

x x x

<u>16 August 2004 Importation, CTA Case No. 7517</u>

Q: Another importation by APC, which is a subject of this consolidated cases, is a shipment which arrived at Subic Bay, Zambales on August 16, 2004. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 8,065,439 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Sheng Chi.

x x x

28 August 2004 Importation, CTA Case No. 7521

Q: Another importation by APC, which is a subject of this consolidated cases, is a shipment which arrived at Pinamukan, Batangas on August 28, 2004. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 4,640,702 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Pranedya Tritya.

x x x

17 December 2004 Importation, CTA Case 7566

Q: Another importation by APC, which is a subject of this consolidated cases, is a shipment which arrived at Pinamukan, Batangas on December 17, 2004. Do you remember said importation?

A: Yes, sir/ma'am. That shipment involved 4,599,316 liters of Jet A-1, which APC imported for its domestic operation, and which arrived on board the vessel M/T Pranedya Tritya."

In addition, to corroborate the foregoing testimonies, petitioner also offered various documentary evidence to prove that the imported Jet A-1 fuels are to be used for its transport and non-transport operations, such as Authority to Release Imported Goods (ATRIG) certificates[14], Air Transport Office (ATO), now the Civil Aviation Authority of the Philippines, certifications[15], and First Endorsements issued by Department of Finance.

Hence, considering that the foregoing testimonies of petitioner's witnesses were done under oath, offered to and admitted by the Court, and, whose statements remained uncontroverted despite respondents' opportunity to cross examine them during trial, the same shall be given evidentiary weight and credence by this Court.

As to the other documentary evidence, such as the ATRIGs, ATO certifications, and First Endorsements, this Court, likewise, gives them

[14] Exhibits "L", "S", "Z", "GG", "NNNNN-9", "SS", "YY", "KKK", ICPA Binder (Exhibit "L5")
[15] Exhibits "EEEE", "FFFF", GGGG", HHHH" & "KKKK"

substance and value, especially since the said documents went through tedious verification procedures prior to their issuances. In fact, perusal of the said documents reveal that the ATRIGs state "the shipments to be released at the Port *x x x* consisting of the above described articles, will be used for daily domestic flight operations"; while, the ATO, now the Civil Aviation Authority of the Philippines, certifications provide that "Jet A-1 aviation fuel under Bill Of Lading No. *x x x* is necessary/incidental for the operation of Air Philippines Corporation"; and, First Endorsements state that the subject importations of Jet A-1 fuel are necessary for the operations of petitioner.

More so, in the case of *Philippine Airlines, Inc. vs Commissioner of Internal Revenue and Commissioner of Customs*[16], the Court has held that ATRIGs are public documents, the authenticity and due execution of the same are already presumed and, thus, are prima facie evidence of the facts stated therein pursuant to Section 19(a), Rule 132 of the Rules of Court, to quote:

> "An examination of the ATRIGs presented by petitioner shows that these are public documents pursuant to Section 19 (a), Rule 132 of the Rules of Court, and thus, prima facie evidence of the facts stated therein.
>
> Section 19 (a), Rule 132 of the Rules of Court reads:
>
> Sec. 19. Classes of Documents- For the purpose of their presentation in evidence, documents are either public or private.
>
> Public documents are:
>
> (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
>
> The ATRIGs are records of the Bureau of Internal Revenue, which were issued and certified by the Commissioner of Internal Revenue, a public officer, in the performance of her official functions; thus, it is clear that the ATRIGs are public documents pursuant to paragraph (a), Sec. 19, Rule 132 of the Rules of Court.

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[16] CTA Case No. 7632, May 3, 2016

In the consolidated cases of *Heirs of Jose Marcial K. Ochoa, et al. vs. G & S Transport Corporation, et al.,* the Supreme Court has held that public documents under Section 19 (a) of Rule 132 refer to those recording made by a public officer, to wit:

> '**Paragraph (a) of the above-quoted provision classifies the written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country, as public documents.** As mentioned in our March 9, 2011 Decision, USAID is the principal United States agency that extends assistance to countries recovering from disaster, trying to escape poverty, and engaging in democratic reforms and that it is an independent federal government agency that receives over-all foreign policy guidance from the Secretary of State of the United States. . . . . . From these, there can be no doubt that **the USAID is an official government agency of a foreign country, the United States. Hence, Cruz, as USAID's Chief of the Human Resources Division in the Philippines, is actually a public officer. Apparently, Cruz's issuance of the subject USAID Certification was made in the performance of his official functions,** he having charge of all employee files and information as such officer. **In view of these, it is clear that the USAID Certification is a public document pursuant to paragraph (a), Sec. 19, Rule 132 of the Rules of Court. Hence, and consistent with our above discussion, the authenticity and due execution of said Certification are already presumed. Moreover, as a public document issued in the performance of a duty by a public officer, the subject USAID Certification is prima facie evidence of the facts stated therein.** And, there being no clear and sufficient evidence presented by G & S to overcome these presumptions, the RTC is correct when it admitted in evidence the said document. The USAID Certification could very well be used as basis for the award for loss of income to the heirs.'

Since ATRIGs are considered public documents, the authenticity and due execution of same are already presumed. Further, as a public document issued in the performance of a duty by a public officer, the subject ATRIGs are *prima facie* evidence of the facts stated therein pursuant to Section 23 (sic), Rule 132 of the Rules of Court, which provides that 'public documents consisting of entries in public records made in the performance of a duty by a public officer are prima facie evidence of the facts therein stated.'

Therefore, in the absence of any clear and sufficient evidence to overcome the above presumptions, the testimonies of petitioner's witnesses and the statement in the ATRIGs, which provides that the shipment (Jet A- 1 aviation fuel) will be used exclusively for daily domestic flight operation, are prima facie evidence that indeed the subject aviation fuel will be used exclusively in petitioner's flight operations and other activities incidental thereto." *(Citations Omitted)*

Moreover, in a long line of PAL cases[17] of similar nature, this Court has consistently given the ATRIGs evidentiary weight as proof that the imported articles, supplies or materials are to be used for transport and non-transport operations and other activities incidental thereto.

To further bolster its claim, petitioner presented the following additional evidences of its consumption of the imported Jet A-1 fuel for domestic operations, which were all examined by the Court-Commissioned Independent Certified Public Accountant (ICPA), Mr. Prudencio F. Tatunay:

1. Revenue Officer on Premises (ROOP) Daily Monitoring Report-Finished Product Bonded Account (Jet A-1) - Schedule of Receipts[18] and Summary of Receipts for January 2003 to May 2005[19], which show the transfer of imported Jet A-1 fuel from source depot to PAL Tanks as authorized by the BIR and duly reported to the BIR-Excise Tax Division;

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[17] Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No.8340, February 17, 2015; Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No. 8415, August 7, 2014; Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No. 8361, March 26, 2014; Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case No. 8184, March 25, 2014; Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs, CTA Case Nos. 7677, 7685 & 7746, August 24, 2012

[18] Exhibits "S^8" to "U^9", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X^7")

[19] Exhibit "O^8", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X^7")

2. ROOP Daily Monitoring Report-Finished Product Bonded Account (Jet A-1) – Schedule of Removals[20] and Summary of Withdrawals (Removal) for January 2003 to May 2005[21], which show the transfer/withdrawal of imported Jet A-1 fuel from Pal Tanks to AirPhil Aircrafts by authorized personnel of AirPhil as authorized by the BIR and duly reported to the BIR-Excise Tax Division;

3. Official Register Book (ORB) Imported Jet A-1 Fuel - Air Philippines[22] and Summary of ORB for January 2003 to May 2005[23], which show the transfer of imported Jet A-1 from source depot to PAL Tanks to AirPhil aircraft (as final consumption);

4. Fuel Issue Slips (FIS)[24], which show the issuance of Jet A-1 fuel to the ultimate user, AirPhil aircrafts;and

5. ROOP Daily Monitoring Report – Application of Excise Tax for January 2003 to May 2005[25], which shows the application of excise tax payments on the basis of removals.

Upon examination and verification of the said documents, the ICPA was able to account the movement of the imported Jet A-1 fuel from transfers from Supplier's Depot, to receipts at PAL Tanks, to subsequent issuance to petitioner's aircraft for its exclusive consumption on its domestic operations.[26] Accordingly, the ICPA found that all transfers of imported Jet A-1 fuel from Supplier's Depot to PAL Tanks were properly recorded, duly authorized by the BIR and were fully accounted for. As a matter of fact, all transfers of imported Jet A-1 fuel from PAL Tanks to petitioner's aircraft were fully accounted for – for its domestic consumption.

Thus, absent any proof to the contrary, the testimonies of petitioner's witnesses, ATRIGs, ATO Certifications, First Endorsements

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[20] Exhibits "Z9" to "B11", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[21] Exhibit "V9", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[22] Exhibits "D11" to "F12-4", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[23] Exhibit "C11", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[24] Exhibits "J13" to "V13-428", "H12" to "H12-220", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[25] Exhibits "L12" to "I13", Annexes Binder of ICPA Report dated August 4, 2016 (Exhibit "X7")
[26] Exhibit "X7", ICPA Report, Pages 6-9 of 16

and ICPA findings, taken altogether, have sufficiently proven that the imported Jet A-1 fuel was used for its flight operations and other activities incidental thereto.

Having complied with the second requisite that the imported Jet A-1 fuel shall be used for its transport and non-transport operations, this Court shall now determine petitioner's compliance with the other remaining requisites and ascertain its refundable amount, should there be any.

Anent the first requisite, petitioner presented its Annual Income Tax Returns for the taxable years ended December 2003[27] and December 2004[28] both indicating net loss.

As explained by the Supreme Court in *Commissioner of Internal Revenue vs. Philippines Airlines, Inc.*[29], if the franchisee incurs a net loss, zero liability for basic corporate income tax is the lowest possible tax liability which a franchisee can pay to satisfy the terms of its franchise, thus:

> "Section 13 of Presidential Decree No. 1590 clearly gives respondent the option to pay either basic corporate income tax on its net taxable income or franchise tax on its gross revenues, whichever would result in lower tax. The rationale for giving respondent such an option is explained in the PAL case, to wit:
>
> > Notably, PAL was owned and operated by the government at the time the franchise was last amended. It can reasonably be contemplated that PD 1590 sought to assist the finances of the government corporation in the form of lower taxes. When the respondent operates at a loss (as in the instant case), no taxes are due; in this [sic] instances, it has a lower tax liability than that provided by Subsection (b).
>
> In the event that respondent incurs a net loss, it shall have zero liability for basic corporate income tax, the lowest possible tax liability. There being no qualification to the exercise of its options under Section 13 of Presidential Decree No. 1590, then

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[27] Exhibit "P"
[28] Exhibit "R5"
[29] G.R. No. 180043, July 14, 2009

> respondent is free to choose basic corporate income tax, even if it would have zero liability for the same in light of its net loss position for the taxable year. Additionally, a ruling by this Court compelling respondent to pay a franchise tax when it incurs a net loss and is, thus, not liable for any basic corporate income tax would be contrary to the evident intent of the law to give respondent options and to make the latter liable for the least amount of tax."

Hence, having incurred a net loss for the years 2003 and 2004, petitioner has satisfied the first requisite.

With regard to the third requisite that, "the imported articles, supplies or materials are not locally available in reasonable quantity, quality **or** price", it must be stressed that, by using the conjunctive "or", the law imposes an alternative, not cumulative, qualification for the determination of whether there is locally available Jet A-1 fuel. Therefore, it would suffice if petitioner would be able to prove even just one qualification of whether the imported articles are not locally available in reasonable quantity, *or* reasonable quality, *or* reasonable price. Apropos thereto, this Court in its Decision[30] dated October 2, 2015, gave credence in the testimony of petitioner's witness, Ms. Glendalyn P. Dela Cruz, by way of a Judicial Affidavit[31], that the demand for Jet A-1 Fuel at the time of petitioner's importation does not meet the supply thereof. Thus, since petitioner was able to prove that there is no locally available Jet A-1 fuel in reasonable quantity, the third requisite has been complied with.[32]

Petitioner, likewise, submitted in evidence the Official Receipts (ORs) issued by the Authorized Agent Banks (AABs) of the BOC, Bills of Lading and Import Entry & Internal Revenue Declarations (IEIRDs) issued on various dates pertinent to the importation of Jet A-1 fuel. The ORs evidently prove that petitioner paid to the BOC the total amount of ₱235,613,134.57, representing its excise tax payable on its importations of Jet A-1 fuel. The breakdown of the amount of ₱235,613,134.57, together with the supporting importation documents, is presented below:[33]

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[30] *Supra* No. 3
[31] Exhibit "W5"
[32] *See* pp. 20-21 of the Decision, Docket (Vol. V), pp. 1948-1949
[33] Exhibits are found in ICPA Report Binder (Exhibit "LLLLL")

Case No.	Bill of Lading Exhibit	Date of Import Entry	IEIRD Exhibit	OR	
				Exhibit	Excise taxes paid
7252	NNNN	5/30/2003	OOOO	I	29,176,500.00
		6/12/2003	PPPP	J	14,588,250.00
		6/27/2003	QQQQ	K	14,588,250.00
				Subtotal	**58,353,000.00**
7362	RRRR	11/7/2003	SSSS	R	**11,670,600.00**
7383	TTTT	12/12/2003	VVVV	X	21,494,389.94
		12/19/2003	UUUU	Y	21,494,389.94
				Subtotal	**42,988,779.88**
7445	WWWW	4/29/2004	YYYY	EE	14,790,905.57
		4/16/2004	XXXX	FF	14,790,905.56
				Subtotal	**29,581,811.13**
7494	ZZZZ	6/24/2004	BBBBB	LL	14,827,258.75
		6/29/2004	AAAAA	MM	14,827,258.75
				Subtotal	**29,654,517.50**
7517	CCCCC	8/31/2004	EEEEE	QQ	14,800,180.00
		9/14/2004	DDDDD	RR	14,800,180.00
				Subtotal	**29,600,360.00**
7521	FFFFF	9/22/2004	GGGGG	VV	**17,031,376.34**
7566	HHHHH	1/12/2005	IIIII	ZZ	**16,732,689.72**
				TOTAL	***235,613,134.57**

**with 0.10 rounding off difference compared to the subject claim.*

Accordingly, in view of the foregoing, this Court finds that petitioner has satisfactorily complied with the requisites for exemption from all other taxes, pursuant to its franchise. As such, petitioner is entitled to refund of the erroneously collected excise taxes it paid under protest in the aggregate amount of ₱235,613,134.47.

WHEREFORE, premises considered, petitioner's **Motion for Reconsideration of the Decision dated 02 October 2015** is hereby **GRANTED**. Accordingly, the Decision dated October 2, 2015 is amended to read as follows:

> "**WHEREFORE**, in view of the foregoing, the Petitions for Review are **GRANTED**.
>
> Accordingly, co-respondents Commissioner of Internal Revenue and Commissioner of Customs are **ORDERED TO REFUND** to petitioner Air Philippines Corporation the aggregate amount **Two Hundred Thirty-Five Million Six Hundred Thirteen Thousand One Hundred Thirty-Four**

Pesos and Forty-Seven Centavos (₱235,613,134.47), representing the specific taxes paid under protest for the importation of Jet A-1 aviation fuel stated below and computed as follows:

CASE NO.	DATE OF IMPORT ENTRY	EXCISE TAXES PAID
7252	5/30/2003	29,176,500.00
	6/12/2003	14,588,250.00
	6/27/2003	14,588,250.00
	subtotal	**₱ 58,353,000.00**
7362	11/7/2003	**11,670,600.00**
7383	12/12/2003	21,494,389.94
	12/19/2003	21,494,389.94
	subtotal	**₱ 42,988,779.88**
7445	4/29/2004	14,790,905.57
	4/16/2004	14,790,905.56
	subtotal	**₱ 29,581,811.13**
7494	6/24/2004	14,827,258.75
	6/29/2004	14,827,258.75
	subtotal	**₱ 29,654,517.50**
7517	8/31/2004	14,800,180.00
	9/14/2004	14,800,180.00
	subtotal	**₱ 29,600,360.00**
7521	9/22/2004	**17,031,376.34**
7566	1/12/2005	**16,732,689.72**
	TOTAL	**₱ *235,613,134.57**

**with 0.10 rounding off difference compared to the subject claim.*

SO ORDERED."

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

We Concur:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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 Amended 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