

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

CHEVRON PHILIPPINES, INC.
(Formerly: Caltex Philippines, Inc.),
Petitioner,

CTA CASE No. 7358

-versus-

Members:

Acosta, Chairperson.
Bautista, and
Casanova, JJ.

COMMISSIONER OF INTERNAL
REVENUE,
Respondent.

Promulgated:

JUL 12 2010; 2:43 pm

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DECISION

ACOSTA, PJ.

This is a Petition for Review seeking a refund or credit in the amount of ONE HUNDRED THIRTY ONE MILLION. ONE HUNDRED SEVENTY FIVE THOUSAND FOUR HUNDRED EIGHTY PESOS AND 18/100 (P131,175,480.18), allegedly representing erroneously paid excise taxes on imported finished petroleum products for the month of November 2003.

THE FACTS

As found by the Court, the facts are as follows:

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Petitioner is a corporation organized and existing under and by virtue of the laws of the Republic of the Philippines.

Respondent is the public officer duly appointed and vested with authority to decide, approve and grant tax credits and/or refund of national internal revenue taxes.¹

On October 7, 2004, petitioner filed an administrative claim for refund or credit with the Bureau of Internal Revenue under Claim No. 2004-XP-11/03² in the amount of P131,175,480.18 representing alleged overpayment of excise taxes on imported finished unleaded premium gasoline and diesel fuel withdrawn from its refinery in San Pascual, Batangas for the month of November 2003. The amounts claimed as computed were as follows:

Product	Quantity (in liters)	Tax Rate	Excise Tax Paid
Unleaded premium gasoline	14,753,641	P 4.35	P 64,178,338.35
Diesel Fuel	41,102,541	P 1.63	P 66,997,141.83
TOTAL	56,280,848		P 131,175,480.18

Without any action by the respondent on petitioner's administrative claim, petitioner, on October 28, 2005, filed this instant Petition for Review³ praying that judgment be rendered directing the respondent to refund or credit the excise taxes it allegedly erroneously paid for the month of November 2003 in the amount of P131,175,480.18

The respondent posited in his January 12, 2006 Answer⁴ a special and affirmative defense, to wit:

Petitioner has no cause of action against respondent because, as admitted by petitioner itself, the excise tax on petroleum is due before the removal thereof from the place of production pursuant to the provisions of Section 130 of the National Internal Revenue Code (NIRC) of 1997 thus its payment of excise tax on each removal of petroleum products from its refinery at San Pascual, Batangas does not constitute erroneous payment of tax that may be claimed for refund under Section 204 of the NIRC of 1997.

¹ Joint Stipulation of Facts and Issues, *Rollo*, p. 353.

² Exhibit "FFFFFFFFFFFF"

³ *Rollo*, pp. 4-296

⁴ *Rollo*, pp. 196-206

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Respondent and petitioner filed their Pre-trial Briefs⁵ on January 26, 2006 and February 10, 2006, respectively.

On March 23, 2009, the Joint Stipulation of Facts and Issues (JSFI)⁶ was filed by the parties. A corresponding Resolution⁷ promulgated on April 12, 2006 approved said JSFI and thereafter terminated the pre-trial.

During trial, only the petitioner presented testimonial and documentary evidence in support of its position. The respondent waived its right to present evidence.

On September 25, 2009, the case was submitted for decision after petitioner and respondent submitted their Memoranda⁸ on September 18, 2009 and September 22, 2009, respectively.

THE ISSUES

By agreement of the parties in the JSFI⁹, the lone issue to be tried and resolved in this case is whether petitioner overpaid excise taxes for the month of November 2003 and is, therefore, entitled to the instant claim for refund.

THE ARGUMENTS OF THE PARTIES

Petitioner's Arguments

Petitioner anchors its claim for refund of its alleged excess payment of excise tax on its withdrawals of imported finished unleaded premium gasoline and diesel fuel which it allegedly erroneously recorded as locally-manufactured refined unleaded gasoline and diesel fuel. It avers that although its volumes of locally-manufactured refined petroleum products did not increase and were progressively depleted beginning November 2003 due to the complete shutdown of its refinery operations, there remained sufficient inventory to support withdrawals from the locally-manufactured refined products because the

⁵ Rollo, pp. 321-332

⁶ Rollo, pp. 353-354

⁷ Rollo, p. 247.

⁸ Rollo, pp. 945-986.

⁹ Rollo p. 353.

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company commingles its imported finished petroleum products with the processed domestic fuel.

Petitioner avers that it paid the correct amount of taxes on the volumes of imported finished unleaded premium gasoline and diesel fuel as well as the excise taxes on the withdrawals recorded as sourced from locally manufactured refined unleaded premium gasoline and diesel fuel for the periods of October, November and December 2003.

Petitioner alleges that per its records there existed a negative difference between the beginning balance of December 2003 and ending balance in the November 2003 locally-manufactured refined unleaded premium gasoline and locally-manufactured refined diesel fuel, which according to it was a result of the petitioner's erroneous recording of imported unleaded premium gasoline and imported diesel fuel as coming from locally manufactured unleaded premium gasoline and locally manufactured diesel fuel.

Lastly, petitioner asserts that its case is not premised on a specific exemption granted under the NIRC or other statutes, thus, the general rule of requiring strict adherence to the law shall not apply but a mere preponderance of evidence is required.

Respondent's Arguments

On the other hand, respondent, for the first time, asserts that the Court has no jurisdiction over petitioner's claim for refund on the ground that petitioner failed to substantially prove by concrete evidence that the amount petitioner alleges to have been paid to the Bureau of Customs (BOC) was actually transferred to respondent. In view thereof, respondent argues that petitioner should have filed the specific tax refund with the BOC.

Also, respondent believes that petitioner failed to prove by convincing and substantial evidence its entitlement to the claim for refund upon its failure to present the excise tax returns for taxable year 2003 and further stresses that it is petitioner's obligation to pay the excise tax on the manufactured and imported petroleum products for domestic sale or consumption.

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THE DECISION OF THE COURT

Taking into consideration that respondent raises an issue on jurisdiction, the Court deems to address said argument first.

The Court has jurisdiction.

The respondent's argument on jurisdiction lacks merit.

Under the 1997 National Internal Revenue Code (NIRC), the Commissioner of Customs and his subordinates are the ones duly constituted as agents of the Commissioner of Internal Revenue for the collection of the national internal revenue tax on imported good.¹⁰ Considering that the Commissioner of Customs is a mere agent of the respondent for the said purpose, the filing of the claim for refund with the Commissioner of the Bureau of Internal Revenue is proper as he is the principal. The Court, therefore, has jurisdiction.

The claim for refund was filed within the two (2) year prescriptive period.

It is important for the Court to determine foremost if the claim for refund was timely filed.

On the outset, the time of payment of excise taxes for finished petroleum products are reliant upon their sources, namely importation and local manufacturing of imported crude oil.

For excise taxes on imported gasoline and diesel fuel, the same are paid before the release of said imported articles from the customshouse, to wit:

Section 131. Payment of Excise Taxes on Importer Articles. -

(A) Persons Liable. - **Excise taxes on imported articles shall be paid** by the owner or importer to the Customs Officers, conformably with the regulations of the Department of Finance and **before the release of such articles from the customshouse**, or by the person who is found in possession of articles which are exempt from excise taxes other than those legally entitled to exemption. (Emphasis provided)

¹⁰ Section 12 (A).

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On the other hand, for locally manufactured petroleum products, the excise taxes shall be paid before their removal from the place of production, to wit:

Section 130. Filing of Return and Payment of Excise Tax on Domestic Products –

(A) Persons Liable to File a Return, Filing of Return on Removal and Payment of Tax. - xxx

(2) Time for Filing of Return and Payment of the Tax. - Unless otherwise specifically allowed, **the return shall be filed and the excise tax paid by the manufacturer or producer before removal of domestic products from place of production** Provided, That the excise tax on locally manufactured petroleum products and indigenous petroleum/levied under Sections 148 and 151(A)(4), respectively, of this Title shall be paid within ten (10) days from the date of removal of such products for the period from January 1, 1998 to June 30, 1998; within five (5) days from the date of removal of such products for the period from July 1, 1998 to December 31, 1998, and, before removal from the place of production of such products from January 1, 1999 and thereafter: xxx (Emphasis Ours)

Petitioner, in this case, admits that its unleaded premium gasoline and diesel fuel sold to its dealers and commercial customers came from the aforementioned two sources, namely: 1) from its imported finished products, and 2) from imported crude oil which it locally manufactured into refined petroleum products.

Section 229 of the 1997 NIRC prescribes the requisite for a valid claim for refund, viz:

Section 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 any sum alleged to have been excessively or in any manner wrongfully 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

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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 Ours)

This is congruent with the authority of respondent to refund erroneously collected taxes as stated in Section 204 of the 1997 NIRC, viz:

Section 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes* - The Commissioner may – 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 Ours)

Based on Sections 204 and 229, in relation to Section 131(A) of the 1997 NIRC, the petitioner has two (2) years from the release of the imported finished petroleum products from the customhouse within which to file its claim for refund.

Applying the preceding in the case at bar, petitioner's earliest payment for the excise taxes on imported finished unleaded gasoline for the month of November 2003 was November 1, 2003¹¹. The earliest payment for the excise tax on imported diesel fuel was made on November 20, 2003¹². Petitioner filed its administrative claim for refund on its overpaid imported finished petroleum products with respondent on October 7, 2004¹³ and its judicial claim for refund on October 28, 2005. Counting from petitioner's earliest date of payment, both the administrative and judicial claims of petitioner for its overpaid excise taxes on imported unleaded premium gasoline and diesel fuel fall within the two year prescriptive period.

¹¹ Exhibit "IIIIII-2", p. 12, Annexes 3 & 6

¹² Exhibit "IIIIII-2", pp. 25-26, Annexes 21 & 24

¹³ *Supra*

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The claim for refund on petitioner's overpaid excise taxes on imported petroleum products has basis.

Proceeding to the main controversy raised in this case, the Court finds partial merit to petitioner's claim for refund.

It appears from the records that petitioner's imported finished products and locally manufactured refined products were permitted by the BIR¹⁴ to be commingled and stored in the same storage facilities pursuant to Section 157¹⁵ of the 1997 NIRC.

Accordingly, petitioner posits that despite no increase in the volume of its locally manufactured refined petroleum products and its constant depletion which came as a result of the complete shutdown of its refinery operations in November 2003, it appeared to still have sufficient inventory to support withdrawals from the locally manufactured refined products because of the commingling of the imported finished petroleum products and of the locally manufactured petroleum products.

From the commingling of both the imported finished products and locally manufactured refined products¹⁶ and the winding up of petitioner's refinery operation¹⁷ by November 2003, the controversy of excess payment of excise tax

¹⁴ Exhibit "PPP", "PPP-1", "PPP-2"

¹⁵ **Section 157. Removal of Articles After the Payment of Tax.** --

When the tax has been paid on articles or products subject to excise tax, the same shall not thereafter be stored or permitted to remain in the distillery, distillery warehouse, bonded warehouse, or other factory or place where produced. However, upon prior permit from the Commissioner, oil refineries and/or companies may store or deposit tax-paid petroleum products and commingle the same with its own manufactured products not yet subjected to excise tax. Imported petroleum products may be allowed to be withdrawn from customs custody without the prepayment of excise tax, which products may be commingled with the tax-paid or bonded products of the importer himself after securing a prior permit from the Commissioner. Provided, That withdrawals shall be taxed and accounted for on a 'first-in, first-out' basis.

¹⁶ Exhibit "MMMMMMMM-1 to YYYYYYYYY-4", "AAAAAAAAAAAA to AAAAAAAAAAAAA 8", "IIIIIIIIII-IIIIIIIII-2"

¹⁷ Exhibits "RRRRRRR", "SSSSSS", "TTTTTT", "UUUUUU".

(Exhibit "SSSSSS") Judicial Affidavit dated September 18, 2006, viz.

Q52: Why do you say that Caltex did not refine crude oil in the month of November 2003?

A52: From the time that Caltex decided to shut down its refinery operation in March 2003, the company was gradually de-commissioning the equipment and machinery that would process the crude oil into locally refined petroleum. By November 2003, these equipment and machinery had been completely shut down. Thus, Caltex ceased producing local unleaded premium gasoline and diesel fuel and merely consumed existing inventory.

Q53: And do you have proof that Caltex shut down its refinery operation by November 2003?

A53: Yes.

Q54: What is this proof?

A54: We have an application to Cancel Permit to Manufacture Crude Oil into Refined Petroleum Products and Application for Conversion into Terminal (dated October 15, 2003), as well as several letters to the BIR submitting Caltex's general plan for its terminal pursuant to its application for conversion into terminal (dated April 6, 2004), requesting for urgent attention to the pending application for permits, including conversion of the



on imported finished unleaded premium gasoline and diesel fuel for the month of November 2003, in the amount of P131,175,480.18, arose when the withdrawals from the locally manufactured refined unleaded gasoline and diesel fuel exceeded the beginning balance of the locally manufactured unleaded premium gasoline and diesel fuel recorded for the month of November 2003. The amount of excise taxes paid for the ending balance of the locally manufactured unleaded premium gasoline and diesel fuel, including that of the reprocessed petroleum products, are actually the amount of excise taxes claimed by petitioner to have been overpaid on its imported finished unleaded gasoline and diesel fuel. The claim of overpayment is broken down as follows:

Products	Unleaded Premium Gasoline	Diesel
Beginning Balance (in liters)	24,914,902.00	28,400,366.00
Less: Withdrawals	37,947,741.00	68,676,189.00
Reprocessed Products	1,720,802.00	826,718.00
Ending Balance (in liters)	(14,753,641.00)	(41,102,541.00)
Excise Tax Rate	P 4.35	P 1.63
Excess Excise Tax Paid	P 64,178,338.35	P 66,997,141.83

During trial, petitioner presented the BOC Import Entry Declarations (IED)¹⁸ and BOC Import Entry and Internal Revenue Declarations (IEIRDs)¹⁹ to prove the payment of excise taxes on the imported finished unleaded gasoline and diesel fuels; Excise Tax Returns²⁰ to prove the payment of excise taxes on its local fuels; Daily Volume of Removals (DVRs)²¹, Withdrawal Certificates²², Official Register Book-Oil Manufacturing Operations (ORBs)²³ and General Ledger²⁴ to prove the figures declared in the Excise Tax Returns and to corroborate payment of excise taxes; Stock Quality Ledger (SQLs)²⁵, Pumping Records²⁶, Meter Batch Reports²⁷, Tank Batch Reports²⁸, Product Transfer

Batangas refinery into a world class terminal (dated December 7, 2004), and requesting for resolution to said application for permits to convert (dated January 14, 2005).

¹⁸ Exhibits "A-1 to G-1", "VVVVVV to ZZZZZZ", "FFFFFF to IIIIII", "NNNNNNN to OOOOOOO"

¹⁹ Exhibits "A-G", "AAAAAAA to EEEEEEE", "JJJJJJJ to MMMMMMM", "PPPPPPP to QQQQQQQ"

²⁰ Exhibits "H to Z", "LLLLLLL to JJJJJJJ", "FFFFFFF"

²¹ Exhibits "H to Z", "QQQ to AAAAA"

²² Exhibits "AA to MMM"

²³ Exhibits "NNN", "OOO", "RRRRRRR"

²⁴ Exhibit "ZZZZZZZZ"

²⁵ Exhibits "KKKKKKKK" "LLLLLLLLL", "PPP-3"

²⁶ Exhibits "UUUUUUU-1 to UUUUUUU-30"

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Records²⁹, Bulk Stock Transfer Receipts/Stock Transfer Receipts³⁰ and Product Withdrawal & Tax Payments³¹ to corroborate the figures declared in the DVRs and ORBs.

Based on the documents presented and as confirmed by the Court—appointed Independent Certified Public Accountant (ICPA), petitioner imported a total of 52,997,582 liters of unleaded premium gasoline and 64,529,403 liters of diesel fuel for the month of November 2003. The petitioner, pursuant to Section 131(A) of the 1997 NIRC, paid the corresponding excise taxes for the imported unleaded premium gasoline and diesel fuel in the amount of P230,539,481.00 and P105,182,927.00 respectively during the month of November 2003. The breakdown of which is as follows.

Unleaded Premium Gasoline

Period	Exhibit (IED & IEIRD)	Vol (in liters)	Excise Tax Rate	Excise Tax
11/1/2003	A to A-3	9,629,832	4.35	P 41,889,769.00
11/4/2003	B to B-3	3,701,545	4.35	16,101,721.00
11/4/2003	C to C-3	13,475,658	4.35	58,619,112.00
11/25/2003	D to D-3	13,883,812	4.35	60,394,582.00
11/25/2003	E to E-3	12,306,735	4.35	53,534,297.00
TOTAL	Exh. IIIIII-2 (ICPA Report p. 12, Annexes 3 & 6)	52,997,582		P 230,539,481.00

Diesel

Period	Exhibit (IED & IEIRD)	Vol (in liters)	Excise Tax Rate	Excise Tax
11/20/2003	F to F-3	52,952,470	1.63	86,312,526.00
11/25/2003	G to G-3	11,576,933	1.63	18,870,401.00
TOTAL	Exh. IIIIII-2 (ICPA Report pp. 25-26, Annexes 21 & 24)	64,529,403		105,182,927.00

As to the locally manufactured unleaded premium gasoline and diesel fuel, it appears from the records and as confirmed by ICPA, petitioner withdrew 37,947,741 liters and 68,676,189 liters of locally manufactured unleaded premium gasoline and diesel fuel respectively for the month of November 2003 and paid the corresponding excise taxes pursuant to Section 130 (A)(2). The same is broken down as follows:

²⁷ Exhibits "VVVVVVV-1 to VVVVVVV-13"

²⁸ Exhibits "WWWWWWW-1 to WWWWWW-85"

²⁹ Exhibits "XXXXXXXX-1 to XXXXXX-41"

³⁰ Exhibits "YYYYYYY-1 to YYYYYY-87" "BBBBBBBBBBB" "DDDDDDDDDD-1"

³¹ Exhibits "AAAAAAAA-1 to AAAAAAA-33"

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Withdrawal on locally manufactured refined products	Vol (in liters)	Excise Tax Rate	Excise Tax
Unleaded Premium Gasoline	37,947,741	4.35	165,072,673.35 ³²
Diesel Fuel	68,676,189	1.63	111,942,188.00 ³³

Notably, the ICPA verified that there existed a beginning balance inventory of 24,914,902 liters³⁴ and 28,400,366 liters³⁵ for petitioner's locally manufactured refined unleaded premium gasoline and diesel fuel for the month of November 2003.

At the same time, the ICPA verified that there was no increase in the inventory of petitioner's locally manufactured refined petroleum products since the month of November 2003 as evidenced by the zero figures in the beginning balances of the locally manufactured refined unleaded premium gasoline and diesel fuel for the month of December 2003.³⁶

Considering that the volume of withdrawals of the locally manufactured refined unleaded premium gasoline and diesel fuel for the month of November 2003, which is 37,947,741 liters and 68,676,189 respectively, as outlined above, actually exceeded the beginning inventory for locally manufactured refined unleaded premium gasoline and diesel fuel for the month of November 2003, which is 24,914,902 liters and 28,400,366 liters respectively, there being no operations for the production of locally manufactured petroleum products, it is concluded that the excess volume of withdrawals pertain to the imported finished unleaded premium gasoline and diesel fuel which were commingled with the locally manufactured refined petroleum products. The mathematical computation is as follows:

Products	Unleaded Premium Gasoline	Diesel
Beginning Balance (in liters)	24,914,902.00	28,400,366.00
Less: Withdrawals	37,947,741.00	68,676,189.00
Ending Balance (in liters)	(13,032,839.00)	(40,275,823.00)

³² Exhibit "IIIIII-2", Annex 14

³³ Exhibit "IIIIII-2", Annex 32

³⁴ Exhibits "NNN-17" and "PPP-3"

³⁵ Exhibit "NNN-24"

³⁶ Exhibit "IIIIII-2", pp. 17-18 and 29-31

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Consequently, since all the imported finished unleaded premium gasoline and diesel fuel imported for the month of November 2003 were actually paid³⁷ before their release from the customshouse pursuant to Section 131(A), as well as, all the locally manufactured refined unleaded gasoline and diesel fuel for the month of November 2003 before removal from their place of production or the refinery³⁸ pursuant to Section 130(A)(2), the excise taxes paid for the excess volume of withdrawals of the locally manufactured unleaded premium gasoline and diesel fuel, which are actually imported finished unleaded premium gasoline and diesel fuel, is actually an overpayment considering that the excise taxes on such imported finished unleaded premium gasoline and diesel fuel were already paid upon their release from the customshouse.

Interestingly though, petitioner claims a refund even for reprocessed products in the amount of P2,852,811.00³⁹ and P826,718.00⁴⁰ for its unleaded premium gasoline and diesel fuel, respectively. However, there exists no evidence among the documents presented that shows that the excise taxes on the reprocessed unleaded premium gasoline and diesel fuel were actually paid up.

In fact, according to petitioner's witness Mr. Armando Casabal, in his Judicial Affidavit⁴¹ dated September 18, 2006, petitioner only pays excise taxes after the crude oil has been processed into locally refined or finished petroleum products.

Even the ICPA failed to mention that petitioner paid the excise taxes on reprocessed unleaded premium gasoline and diesel fuel, viz:

"The Company paid excise tax on withdrawals of unleaded premium gasoline in excess of the beginning balance of the manufactured unleaded premium gasoline⁴² and

³⁷ *Supra*

³⁸ *Supra*.

³⁹ Exhibits "IIIIIII-2", Annex 19

⁴⁰ Exhibit "IIIIIII-2", Annexes 36 & 37

⁴¹ Exhibit "SSSSSSS"

Q10: Does Caltex pay excise taxes on crude oil upon importation?

A10: No. Caltex only pays excise taxes after the crude oil has been processed into locally refined or finished petroleum products

⁴² Exhibit "IIIIIII-2", Annex 1, VII No. 2 pp 18 to 19



"The Company paid excise tax on withdrawals of diesel in excess of the beginning balance of the manufactured diesel"⁴³

Thus, the Court concludes that petitioner did not pay the excise taxes on reprocessed unleaded premium gasoline and diesel fuel and the same should not be included in the claim for refund.

Therefore, the Court finds petitioner's claim for refund on erroneous overpayment of excise taxes on imported finished unleaded gasoline and diesel fuel for the month of November 2003 justified, but only in the amount of P108,585,162.95, computed as follows:

Products	Unleaded Premium Gasoline	Diesel	TOTAL
Beginning Balance (in liters)	24,914,902.00	28,400,366.00	
Add: Reprocessed Product	2,852,811.00	826,718.00	
Less: Withdrawals	(37,947,741.00)	(68,676,189.00)	
Ending Balance (in liters)	(10,180,028.00)	(39,449,105.00)	
Excise Tax Rate	P 4.35	P 1.63	
Excess Excise Tax Paid	P 44,283,121.80	P 64,302,041.15	P 108,585,162.95

WHEREFORE, the Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED** to refund to petitioner the reduced amount of **ONE HUNDRED EIGHT MILLION FIVE HUNDRED EIGHTY FIVE THOUSAND ONE HUNDRED SIXTY TWO PESOS AND 95/100. (P108,585,162.95)**.

SO ORDERED.


ERNESTO D. ACOSTA
Presiding Justice

WE CONCUR:


LOVELL R. BAUTISTA
Associate Justice

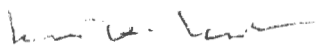
⁴³ Exhibit "I" IIII-2", Annex 1 XIV, No. 2, p. 36



CAESAR A. CASANOVA
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's Division.



ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division