REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Special Second Division

UNIOIL PETROLEUM PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 11101** Members:
-versus-	**RINGPIS-LIBAN, *P.J.,*** *Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JAN 14 2026 4:05 p.m.

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DECISION

MODESTO-SAN PEDRO, J.:

The Case

The instant Petition for Review, filed on March 17, 2023, seeks the refund of the total amount of Php16,525,051.20 allegedly representing petitioner's erroneously paid excise tax and value added tax ("VAT") thereon.[1]

The Parties

Petitioner is a domestic corporation duly organized and existing under the laws of the Philippines. It has office address at 38th & 39th Floors, Exquadra Tower, 1 Jade Drive, Ortigas Center, San Antonio, Pasig City, Metro Manila.[2]

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[1] See Summary of the Case, Pre-Trial Order, Records, Vol. I, p. 402.
[2] Petition for Review, Records, Vol. I, p. 8.

Meanwhile, respondent is the duly appointed Commissioner of Internal Revenue ("CIR") mandated by law to enforce and implement the *NIRC* and related statutes, including, among others, the power to refund taxes erroneously and/or illegally collected, received or imposed without authority pursuant to *Section 204 (C) of the NIRC, in relation to Section 229 of the NIRC.* He holds office at the Bureau of Internal Revenue ("BIR") National Office Building, Diliman, Quezon City.[3]

The Facts

Petitioner imports Aromatic Hydrocarbon and subsequently sells the same to customers which use it for the manufacture of rubber, tires, dyes, paints, thinners, adhesives, etc. As petitioner believes that its importation of Aromatic Hydrocarbon is exempt from excise tax considering that it is not used as a gasoline blend or as an additive for other refined petroleum products, petitioner requested for a BIR Ruling on whether its importation and subsequent sale of Aromatic Hydrocarbon is subject to excise tax as an aromatic extract under *Section 148 (a) of the NIRC.*[4]

On March 10, 2005, then Deputy CIR ("DCIR") for Legal and Inspection Jose Mario C. Bunag issued *BIR Ruling No. DA-075-A-05* which declared petitioner's importation of Aromatic Hydrocarbon as not subject to excise tax, *viz.:*[5]

> In a similar request for a ruling, the Bureau ruled in BIR Ruling No. DA-445-2004 dated August 23, 2004 as follows:
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> 'In view of the foregoing and considering that the use of Aromatic Hydrocarbons as solvent in the manufacture of tires and rubbers which are non-excisable products and not as a catalytic or motive power enhancer, in effect is not within the contemplation of Section 148 of the Tax Code, this Office holds that your importation and sale of Aromatic Hydrocarbon are not subject to excise tax.'
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> Since the facts presented is very much identical to the facts that caused the issuance of the aforesaid ruling, this Office believes that the importation of Unioil Petroleum Phils., Inc. of Aromatic Hydrocarbon is also not subject to excise tax.

Petitioner has since then used the above BIR Ruling in its Authority to Release Imported Goods ("ATRIG") applications, and it was exempted from the payment of excise tax and VAT on excise tax on its importation and sale of Aromatic Hydrocarbon.[6]

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3 *Id.,* p. 9.
4 See petitioner's Memorandum, Records, Vol. 1, p. 489.
5 Exhibit "P-6", Records, Vol. I, pp. 135-136.
6 See petitioner's Memorandum, Records, Vol. 1, p. 490.

However, in April 2019, the BIR started to impose excise tax and VAT on excise tax on petitioner's importation of Aromatic Hydrocarbon. Petitioner complained against the imposition of such taxes. This prompted the BIR to seek guidance from its Laboratory Section to determine whether petitioner's Aromatic Hydrocarbon VV is excisable.[7]

In response, a Laboratory Report, dated September 27, 2019, was issued by the Laboratory Section of the BIR which concluded that "the properties/characteristics of AROMATIC HYDROCARBON VV, which is an unlabeled/label-free, non-carcinogenic aromatic extender oil, fit those for TDAE [Treated Distillate Aromatic Extract], hence, the said product is classified as aromatic extract, an article covered by excise tax under *Section 148 (a) of the Tax Code of 1997, as amended.*"[8]

In a Letter, dated October 15, 2019, the DCIR for Operations Group Arnel S.D. Guballa addressed petitioner's issues by reiterating the findings made by the Laboratory Section, and concluded that petitioner's Aromatic Hydrocarbon is subject to excise tax.[9]

Thereafter, petitioner imported 1,475,451 liters of Aromatic Hydrocarbon VV under Bill of Lading No. HRUNIOIL012021, dated March 8, 2021, from H&R Chempharm (Thailand) Ltd. located in Bangkok, Thailand. Petitioner sought an ATRIG from the BIR for this importation. On March 16, 2021, the Excise Large Taxpayers ("LT") Regulatory Division Chief issued ATRIG Control No. ELTRDOIL 185358 where petitioner was assessed excise tax in the amount of Php14,754,510, subject to VAT, for the aforesaid importation.[10]

Petitioner, on March 17, 2021, paid the excise tax and VAT on excise tax under protest as shown by the Bureau of Customs ("BOC") Import Entry and Internal Revenue Declaration ("IEIRD");[11] BOC Statement of Settlement of Duties and Taxes ("SSDT");[12] and Certificate of Tax Payment issued by the BOC.[13]

Petitioner's importation of Aromatic Hydrocarbon VV was subsequently sold to Yokohama Tire Philippines, Inc. ("YTPI") and was used by the latter as raw material in the manufacture of tires and rubber.[14]

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[7] *Ibid.*
[8] Exhibit "P-7", Records, Vol. I, pp. 62-63.
[9] Exhibit "P-8", Records, Vol. I, pp. 426-427.
[10] Exhibit "P-1", Records, Vol. I, p. 42.
[11] Exhibit "P-2", Records, Vol. I, pp. 43-44
[12] Exhibit "P-3", Records, Vol. I, p. 45.
[13] Exhibit "P-4", Records, Vol. I, pp. 46-47.
[14] Exhibits "P-11-a" to "P-11-ssss-1", Records, Vol. I, pp. 142-332 and pp. 428-429.

On March 8, 2023, petitioner filed its administrative claim for refund before the BIR's Excise LT Audit Division II – Large Taxpayers Service.[15] On June 16, 2023, OIC – Assistant Commissioner Jethro M. Sabriaga issued a Letter to petitioner denying the administrative claim primarily based on the findings of the Laboratory Section of the BIR.[16]

On March 17, 2023, petitioner filed the instant Petition as its judicial claim for refund.[17]

On April 11, 2023, Summons were issued against respondent requiring him to file an Answer to the Petition.[18] On June 16, 2023, respondent filed his Answer to the Petition.[19] On July 3, 2023, respondent elevated the BIR Records.[20]

On June 21, 2023, a Notice of Pre-Trial Conference has been issued setting the Pre-Trial Conference.[21] Petitioner then filed its Pre-Trial Brief on October 4, 2023.[22] Meanwhile, respondent filed his Pre-Trial Brief on October 6, 2023.[23] On October 10, 2023, the Pre-Trial Conference ensued.[24]

On November 9, 2023, the parties submitted their Joint Stipulations of Facts and Issues.[25] On January 12, 2024, a Pre-Trial Order was issued governing the proceedings of the instant case.[26]

On February 6, 2024, 2024, petitioner's witness, Hernan S. Chua, was placed in the witness stand.[27] Thereafter, on March 5, 2024, petitioner's witness, Carolyn B. Panergo, testified before this Court.[28] Petitioner filed its Formal Offer of Evidence on March 20, 2024,[29] to which respondent interposed no objections.[30] In a Resolution, dated June 5, 2024, this Court admitted all of petitioner's Exhibits.[31]

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[15] Exhibit "P-5", Records, Vol. I, pp. 48-58.
[16] Exhibit "R-3".
[17] Records, Vol. I, pp. 7-87.
[18] Records, Vol. I, pp. 88-89.
[19] Records, Vol. I, pp. 95-104.
[20] Records, Vol. 1, pp. 108-111.
[21] Records, Vol. I, pp. 106-107.
[22] Records, Vol. I, pp. 113-124.
[23] Records, Vol. I, pp. 338-342.
[24] Records, Vol. I, pp. 360-365.
[25] Records, Vol. I, pp. 376-388.
[26] Records, Vol. I, pp. 401-406.
[27] Records, Vol. I, pp. 409-410.
[28] Records, Vol. I, pp. 411-413.
[29] Records, Vol. I, pp. 414-430.
[30] Records, Vol. I, pp. 431-434.
[31] Records, Vol. I, pp. 435-437.

On July 23, 2024, respondent presented his lone witness, Joann S. Gammad, before the Court.[32] Then, on August 5, 2024, respondent filed his Formal Offer of Evidence[33] to which petitioner filed certain objections and comments.[34] In a Resolution, dated October 7, 2024, this Court admitted all of respondent's Exhibits.[35]

On September 16, 2024, petitioner submitted the Judicial Affidavit of Eugenio M. Pranada, Jr. to counter the evidence presented by respondent.[36] On October 8, 2024, said witness was placed on the witness stand, and at the same time, this testimonial evidence along with the identified documentary evidence were orally offered in evidence by petitioner.[37] On November 7, 2024, petitioner filed its Memorandum.[38] Petitioner filed a Supplemental Memorandum on December 12, 2024.[39] Meanwhile, respondent failed to file a Memorandum.[40] Thus, in a Resolution, dated January 14, 2025, the instant case was submitted for Decision.[41]

Hence, this Decision.

The Issue

> Whether or not petitioner is entitled to a refund or issuance of tax credit in the aggregate amount of Php16,525,051.20 of its alleged excise taxes it paid on importation of Aromatic Hydrocarbon under the subject ATRIG.[42]

Arguments of the Parties

Petitioner's Arguments[43]

Petitioner avers that respondent gravely erred in denying petitioner's claim for refund. Petitioner's right to administrative due process was violated when the BIR did not consider the evidence submitted before it and even arbitrarily required petitioner to produce documents that it obviously could not submit.

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32 Records, Vol. I, p. 439.
33 Records, Vol, I, pp. 440-444.
34 Records, Vol. I. pp. 445-450.
35 Records, Vol. II, pp. 481-483.
36 Exhibit "P-21", Records, Vol. II, pp. 451-479.
37 Records, Vol. II, pp. 484-486.
38 Records, Vol. II, pp. 480-516.
39 Records, Vol. II, pp. 518-524.
40 Records, Vol. II, p. 525.
41 Records, Vol. II.
42 See Issue, Pre-Trial Order, Records, Vol. I, p. 402.
43 See petitioner's Memorandum and Supplemental Memorandum, Records, Vol. II, pp. 493-512 and pp. 518-521.

Petitioner is entitled to the refund of the subject excise tax and VAT on excise tax since: a) it filed its administrative and judicial claims for refund within 2 years from date of payment of the tax; b) it erroneously paid the amount of Php16,525,051.20.

BIR Ruling No. DA-075-A-05, dated March 10, 2005, issued to petitioner expressly exempts its importation of Aromatic Hydrocarbon from excise tax. This BIR Ruling was issued by DCIR Jose Mario C. Bunag pursuant to a delegated authority from respondent which can only be reversed by respondent himself.

The Division Chief, Excise LT Regulatory Division has no authority to issue ATRIG imposing an excise tax assessment of Php14,754,510.00 and the corresponding VAT on excise tax thereon.

Petitioner's importation of Aromatic Hydrocarbon VV was subsequently sold to YTPI, and it was used as raw material in the manufacture of tires and rubber which are non-excisable products.

BIR Ruling No. DA-075-A-05 is applicable to petitioner's importation of Aromatic Hydrocarbon VV which is merely a brand of Aromatic Hydrocarbon. The findings in the Laboratory Report, dated October 15, 2019, which was cited by DCIR Guballa in concluding that petitioner's importation of Aromatic Hydrocarbon as subject to excise tax, are wrong. Petitioner's imported Aromatic Hydrocarbon VV should not be subject to excise tax under *Sec. 148 (a) of the NIRC.*

<u>Respondent's Arguments</u>[44]

In refutation, respondent simply argues as follows: a) petitioner miserably failed to exhaust administrative remedies before elevating the case to this Court; and b) petitioner is not entitled to the claim for refund of excise tax and VAT.

[44] See Answer, Records, Vol. I, pp. 96-101.

The Ruling of the Court

The instant Petition is meritorious.

The Court has jurisdiction over the instant claim for refund.

The provisions that govern the present claim for refund of alleged erroneously paid taxes are *Sections 204 (c) and 229 of the NIRC,* prior to the amendments introduced by the Ease of Paying Taxes Act ("EOPTA") or *Republic Act No. ("RA") 11976,* which read:

> *SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. - The Commissioner may-*
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> . . . .
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> (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.
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> . . . .
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> *SEC. 229. Recovery of Tax Erroneously or Illegally Collected.* - No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
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> 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 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. (Italics, Ours.)

In *CBK Power Company Limited v. Commissioner of Internal Revenue,*[45] the Supreme Court held:

> Sections 204 and 229 of the NIRC pertain to the refund of erroneously or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner

Following this, in order for this Court to obtain jurisdiction over the instant case, both the administrative and judicial claims for refund should have been filed within two years from the date of payment of the alleged erroneously paid taxes. Moreover, the filing of the administrative claim for refund should precede the filing of the judicial claim for refund.

It was on March 17, 2021 that petitioner paid the amount of Php16,525,051.20 representing petitioner's excise tax and VAT on excise tax on its importation of Aromatic Hydrocarbon,[46] which is now sought to be refunded based on the notion that such payments were erroneously paid. Accordingly, petitioner had until March 17, 2023 to file the administrative claim for refund before respondent and the judicial claim before this Court in order to comply with the deadlines set forth under *Sections 204 (c) and 229 of the NIRC.*

Petitioner filed its administrative claim for refund before the BIR's Excise LT Audit Division II – Large Taxpayers Service on March 8, 2023.[47] On March 17, 2023, petitioner filed the instant Petition as its judicial claim for refund.[48]

Thus, petitioner complied with the jurisdictional deadlines required under *Sections 204 (c) and 229 of the NIRC.* As such, this Court can take cognizance of the instant refund claim.

With the issue of jurisdiction settled, We shall now proceed to determine whether petitioner is entitled to the reliefs sought.

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[45] G.R. Nos. 193383-84, 14 January 2015.
[46] Exhibit "P-2", Records, Vol. I, pp. 43-44; Exhibit "P-3", Records, Vol. I, p. 45; Exhibit "P-4", Records, Vol. I, pp. 46-47.
[47] Exhibit "P-5", Records, Vol. I, pp. 48-58.
[48] Records, Vol. I, pp. 7-87.

Petitioner's payment of excise tax and VAT on excise tax on the importation of Aromatic Hydrocarbon VV, which was subsequently sold to YTPI for use by the latter as raw material in the manufacture of tires and rubber, was erroneously made.

For petitioner's claim to prosper, it must prove that the government, through respondent, has illegally collected the subject taxes. The long-settled rule is that the burden lies on the taxpayer to show strict compliance with the conditions for the grant of the tax refund or credit.[49] Petitioner successfully discharged this burden.

In the present case, petitioner's imported Aromatic Hydrocarbon VV was subjected to excise tax in accordance with *Sec. 148 (a) of the NIRC.* Said provision provides, as follows:

> **SEC. 148.** ***Manufactured Oils and Other Fuels.*** - There shall be collected on refined and manufactured mineral oils and motor fuels, the following excise taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:
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> . . . .
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> Effective January 1, 2020
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> (a) Lubricating oils and greases, including but not limited to, basestock for lube oils and greases, high vacuum distillates, aromatic extracts, and other similar preparations, and additives for lubricating oils and greases, whether such additives are petroleum based or not, per liter and kilogram respectively, of volume capacity or weight, Ten pesos (P10.00): Provided, That lubricating oils and greases produced from basestocks and additives on which the excise tax has already been paid shall no longer be subject to excise tax: Provided, further, That locally produced or imported oils previously taxed as such but are subsequently reprocessed, re-refined or recycled shall likewise be subject to the tax imposed under this Section.

In finding that Aromatic Hydrocarbon VV is subject to excise tax under *Section 148 (a) of the NIRC,* the BIR's Laboratory Section Report, dated September 27, 2019, observed that the same qualifies as "aromatic extracts". This finding was reiterated in DCIR Guballa's Letter, dated October 15, 2019, to petitioner when he declared petitioner's Aromatic Hydrocarbon VV as subject to excise tax under *Section 148 (a) of the NIRC.*

[49] CBK Power Company Limited vs. Commissioner of Internal Revenue, G.R. Nos. 198729-30, 15 January 2014.

Under *Revenue Regulation No. ("RR") 07-90,*[50] "[t]he term 'aromatic extracts' means extracts derived from aromatic materials produced by solvent extraction using N- methylpyrrolidienone, phenol, or furfural which are common solvents and includes BTX (benzene, toluene, xylene) from naphtha fractions used for chemical manufacture, upgrading middle distillates such as kerosene, diesel, and jet fuel."

The term "aromatic extracts" was further defined under *BIR Ruling No. DA-445-04*, when Oilink Corporation sought an opinion as to whether or not the Aromatic Hydrocarbon it imported is subject to excise tax under *Section 148 (a) of the NIRC, viz.*:

> Furthermore, as defined by Sec. 20 (f) Revenue Regulations 2-90 implementing then Section 145 of the 1977 Tax Code (now Sec. 148 of the 1997 Tax Code), 'aromatic extracts' are basically derived from aromatic materials produced by solvent extraction using N- methylpyrrolidienone, phenol, or furfural which are common solvents and includes BTX (benzene, toluene, xylene) from naphtha fractions used for chemical manufacture, upgrading middle distillates such as kerosene, diesel, and jet fuel. *It is thus noted that 'aromatic extracts' for purposes of taxation, is one that is being used either on chemical manufacturing or in upgrading middle distillates such as kerosene, diesel and jet fuel.*
> (Italics, Ours)

Accordingly, "aromatic extracts" which are excisable under *Sec. 148 (a) of the NIRC* pertains to those that are used for either chemical manufacturing or for upgrading middle distillates such as kerosene, diesel or jet fuel. As petitioner sold its Aromatic Hydrocarbon VV to YTPI to be used by the latter in its manufacture of tires and rubbers,[51] and not for the manufacture or upgrade of middle distillates such as kerosene, diesel, or jet fuel, the said article does not qualify as an "aromatic extract" subject to excise tax under *Sec. 148 (a) of the NIRC.*

Also, in *BIR Ruling No. DA-445-04*, it was emphasized that since the Aromatic Hydrocarbon being imported by Oilink Corporation and subsequently sold to its customers are being used as solvents in the manufacture of tires and rubbers, and not as a catalytic or motive power enhancers, the same is, in effect, not within the contemplation of *Sec. 148 (a) of the NIRC,* and as such, non-excisable. Following this, to be considered as an "aromatic extract" subject to excise tax under *Sec. 148 (a) of the NIRC,* or to be excisable at all under *Sec. 148 (a) of the NIRC,* the article or goods should be used as catalytic or motive power enhancers. The article's application or use specific to lubricating oils or grease only is necessary for the same to be subject to excise tax under *Sec. 148 (a) of the NIRC.*

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[50] October 3, 1990.
[51] Exhibits "P-11-a" to "P-11-ssss-1", Records, Vol. I, pp. 142-332 and pp. 428-429; Judicial Affidavit of Ms. Carolyn B. Panergo, Exhibit "P-14".

This interpretation follows the principle of *ejusdem generis*. Under said principle, "where a general word or phrase follows an enumeration of particular and specific words of the same class or where the latter follow the former, the general word or phrase is to be construed to include, or to be restricted to persons, things or cases akin to, resembling, or of the same kind or class as those specifically mentioned."[52] Therefore, the excisablity of the articles mentioned under *Sec. 148 (a) of the NIRC* is dependent upon the application or use of such articles specific to lubricating oils and grease only, and not on the article's description or characteristic.

That for an article to be subject to excise tax under *Sec. 148 (a) of the NIRC,* its application or use must be specific to lubricating oils and grease only has always been the precedent. In *BIR Ruling No. 093-91*, dated May 31, 1991, issued to Sky Freight Brokerage, Inc., the BIR opined that the carbon black feedstock oil (petroleum based aromatic concentrate) which is used as an input in Sky Freight Brokerage, Inc.'s production of carbon black and which is one of the raw materials used for tire production, although petroleum based, is neither a lube oil nor grease and therefore is not excisable; also, it is not an "aromatic extract" since the said term means extract derived from aromatic materials produced by solvent extraction used for chemical manufacture, upgrading middle distillates such as kerosene, diesel or jet fuel. This Court finds no reason to depart from said interpretation of *Sec. 148 (a) of the NIRC.*

As duly shown by the delivery receipts, sales invoices presented and the testimony of Ms. Carolyn B. Panergo, YTPI's representative,[53] the Aromatic Hydrocarbon VV imported by petitioner was indeed subsequently sold to YTPI specifically for use by the latter in its tire and rubber business. It was not to be used or applied as a lubricating oil or grease but instead as a solvent, plasticizer, extender or binder in the manufacture of tires and rubbers. Accordingly, petitioner's Aromatic Hydrocarbon VV is not subject to excise tax under *Sec. 148 (a) of the NIRC.*

BIR Ruling No. DA-075-A-05, issued in favor of petitioner (*i.e.,* that its Aromatic Hydrocarbons are exempt from excise tax) and which applied *BIR Ruling No. DA-445-04* in petitioner's case since the BIR found that Oilink Corporation and petitioner occupy the same situation (*i.e.,* that the Aromatic Hydrocarbons imported by the two were not to be used as catalytic or motive power enhancers, and merely as raw material for the manufacture of tires and rubbers), still remains valid and effective. This is true regardless if *BIR Ruling No. DA-075-A-05* specifically provided an excise tax exemption for the article "Aromatic Hydrocarbon" and not specifically "Aromatic Hydrocarbon VV" which is subject of the present case. As duly testified upon by petitioner's

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[52] Petron Corporation v. Commissioner of Internal Revenue, G.R. No. 255961, March 20, 2023.
[53] Exhibits "P-11-a" to "P-11-ssss-1", Records, Vol. I, pp. 142-332 and pp. 428-429; Judicial Affidavit of Ms. Carolyn B. Panergo, Exhibit "P-14".

witness, Eugenio M. Pranada, Jr., the two are basically the same performing like functions with "Aromatic Hydrocarbon VV" being merely an improvement of "Aromatic Hydrocarbon" since the former is less carcinogenic than the latter.[54]

Thus, petitioner's payment of the total amount of Php16,525,051.20 allegedly representing petitioner's erroneously paid excise tax and VAT on the excise tax was erroneously made.

However, this Court notes that the delivery receipts and sales invoice issued by petitioner to YTPI did not fully account the total volume of Aromatic Hydrocarbon VV subject of the present claim (*i.e.,* 1,475,451 liters). This means that petitioner failed to prove that all Aromatic Hydrocarbon VV it imported was actually sold and delivered to YTPI to be used in the latter's tire and rubber manufacturing operations.

While petitioner's witness, Hernan S. Chua,[55] claims that eventually all of petitioner's inventory of Aromatic Hydrocarbon was delivered to YTPI and that it is inevitable to have losses as these become residue in the storage tank or container, the same cannot be accepted by this Court as evidence. Allegations without proof deserves no credence.

A summation of the total volume of Aromatic Hydrocarbons VV received by YTPI will reveal that it received a total of 1,397,649 liters versus the 1,475,451 liters subject of the present claim. Thus, petitioner's claim must be reduced in proportion to the unproven delivery of Aromatic Hydrocarbons VV to YTPI. Therefore, only Php15,653,668.80[56] can be refunded to petitioner.

ACCORDINGLY, the Petition for Review filed by petitioner **UNIOIL PETROLEUM PHILIPPINES, INC.** is hereby **PARTIALLY GRANTED**. Respondent **COMMISSIONER OF INTERNAL REVENUE** is hereby **ORDERED** to **REFUND** or **ISSUE** a Tax Credit Certificate in petitioner's favor in the total amount of Php15,653,668.80 representing erroneously paid excise tax and VAT on excise tax.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

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[54] Exhibit "P-21", Records, Vol. II, pp. 453-466.
[55] Exhibit "P-13".
[56] 1,397,649/1,475,451* Php16,525,051.20

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Presiding 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