



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

SPECIAL FIRST DIVISION

CTA CASE NO. 11275

**UNIOIL PETROLEUM
PHILIPPINES, INC.,**

Petitioner,

- versus -

NOTICE OF DECISION

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

To:

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street, Legazpi Village
Makati City

ATTY. AYESHA HANIA B. GUILING-MATANOG
ATTY. MARK JOEY S. LUCERO
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

TAN VENTURANZA VALDEZ
2704 East Tower, Tektite Towers
Exchange Road, Ortigas Center
1605 Pasig City

GREETINGS:

You are hereby notified by these presents that on **September 7, 2026**, a Decision was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 8, 2026.**

Atty. Maria Johoanna F. Chan-Te
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

UNIOIL PETROLEUM CTA Case No. 11275
PHILIPPINES, INC.,
Petitioner,

Members:

BACORRO-VILLENA, Acting Chairperson, and
CUI-DAVID, JJ.

- versus -

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

SEP 07 2026 3:35PM

X - - - - - X

DECISION

BACORRO-VILLENA, J.:

Before the Court is a Petition for Review¹ filed by petitioner Unioil Petroleum Philippines, Inc. (**petitioner/Unioil**) on 02 October 2023 seeking a declaration from the Court that it is entitled to a refund or issuance of a tax credit certificate (TCC) in the amount of **₱14,746,540.00** for the alleged erroneously paid excise tax on its importation of Aromatic Hydrocarbon VV under Authority to Release Imported Goods (ATRIG) Control No. ELTRDOIL197705 dated 01 October 2021.²

¹ Division Docket, Volume I, pp. 7-31.
² Exhibit P-1, id., p. 47.

PARTIES TO THE CASE

Petitioner is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at 38th and 39th Floors, Exquadra Tower, 1 Jade Drive, Ortigas Center, San Antonio, Pasig City, Metro Manila.³ It is engaged in the business of marketing, merchandising, distribution, sales, import, export, exchange, repacking, production, barter, lease disposal of, and generally dealing in, chemicals such as petroleum, oil, other mineral oils, gases and of any and all derivatives, refinements and by-products thereof such as lubricants, greases, waxes and other petro-chemicals, and also in other forms of mineral ores and other natural resources.⁴ Petitioner may be served with judicial processes, orders, and resolutions, and other legal processes of this Court at 2704 East Tower, Tektite Towers, Exchange Road, Ortigas Center Pasig City 1605 or via email at litigation@tvvlaw.com.⁵

Respondent, on the other hand, is the Chief Executive Officer of the Bureau of Internal Revenue, an attached agency of the Department of Finance responsible for the collection of more than half of the total revenues of the government.⁶ He or she has the statutory power to grant refunds or tax credits of erroneously or illegally paid taxes.⁷ Respondent may be served with summons, notices and other court processes at the Bureau of Internal Revenue (BIR) Litigation Division, Room 703, BIR Building, Diliman, Quezon City.⁸

FACTS OF THE CASE

Petitioner imports Aromatic Hydrocarbon which it allegedly sells to customers that use the same as raw material in the manufacture of rubber, tires, or dyes, paints, thinners, and adhesives, among others.⁹

³ See par. 6 of the Petition for Review, id., p. 8.

⁴ Id.

⁵ Id.

⁶ See par. 7, Petition for Review, id., p. 9, as admitted by respondent in par. 1 of his or her Answer, id., p. 290.

⁷ Id.

⁸ Par. 1, Respondent's Answer, id., p. 290.

⁹ See par. 8, The Facts, Petition for Review, id., p. 9.

On 10 March 2005, then Deputy Commissioner of Internal Revenue (DCIR) of the Legal and Inspection Group Jose Mario C. Buñag (**Buñag**) issued BIR Ruling No. DA-075-A-05¹⁰ where it was ruled that petitioner's importation of Aromatic Hydrocarbon is not subject to excise tax.

Notwithstanding the aforementioned BIR Ruling, the BIR imposed excise tax on petitioner's importation of Aromatic Hydrocarbon in 2019,¹¹ allegedly due to DCIR of the Operations Group Arnel SD. Guballa's (**Guballa's**) 15 October 2019 letter¹² classifying Aromatic Hydrocarbon VV as an aromatic extract subject to excise tax.

On 01 October 2021, as a condition for the release of 1,474,654 liters of Aromatic Hydrocarbon VV that petitioner imported, the BIR assessed petitioner with excise tax in the amount of **₱14,746,540.00** as shown in ATRIG Control No. ELTRDOIL197705.¹³ Petitioner paid the assessed excise tax on even date, as evidenced by Bureau of Customs (BOC) Statement of Settlement of Duties and Taxes¹⁴ and BOC Certification dated 15 November 2022.¹⁵

Subsequently, on 20 September 2023, petitioner filed an administrative claim for refund of the excise tax it paid on 01 October 2021 in the amount of **₱14,746,540.00**.¹⁶

On 06 October 2023, respondent issued Letter of Authority (LOA) No. eLA202000030818/LOA-124-2023-00000055¹⁷ through Jethro M. Sabariaga (**Sabariaga**), Officer-in-Charge-Assistant Commissioner (OIC-ACIR) of BIR's Large Taxpayers Service (LTS). The LOA authorized Revenue Officers (ROs) Leanne Panopio (**Panopio**), Angelika Arugay (**Arugay**), Jessie Jr Lumba (**Lumba**), Ofelia Yumang (**Yumang**), and Group Supervisor (GS) Aurora Alberto (**Alberto**) to examine petitioner's books of accounts and other accounting records for excise taxes for the period of "October 1, 2021 to October 1, 2021."

¹⁰ Exhibit "P-6", id., pp. 93-94.

¹¹ See Question and Answer No. 15, Judicial Affidavit of Hernan S. Chua, Exhibit "P-10", id., p. 36.

¹² Exhibit "P-8", id., pp. 97-98.

¹³ Supra at note 2.

¹⁴ Exhibit "P-3", Division Docket, Volume I, p. 50.

¹⁵ Exhibit "P-4", id., Volume II, p. 469.

¹⁶ See Letter Request for Refund dated 07 September 2023, Exhibit "P-5", id., Volume I, pp. 53-62.

¹⁷ Exhibit "R-1", BIR Records, Folder 1, p. 208.

In a Memorandum to OIC-ACIR Sabariaga dated 30 April 2024,¹⁸ ROs Panopio, Arugay, Lumba, and Yumang recommended the denial of petitioner's claim for refund for lack of legal and factual basis.

OIC-ACIR Sabariaga subsequently issued a letter dated 30 April 2024¹⁹ informing petitioner that its claim for tax refund has been disapproved. Petitioner received the said letter on 10 May 2024.²⁰

PROCEEDINGS BEFORE THE COURT

Alleging respondent's inaction on its claim for refund, on 02 October 2023, petitioner filed its Petition for Review,²¹ praying that judgment be rendered declaring petitioner entitled to a refund or issuance of a TCC in the amount of ₱14,746,540.00 for the alleged erroneously paid excise tax on its importation of Aromatic Hydrocarbon VV under ATRIG Control No. ELTRDOIL197705. The case was docketed as CTA Case No. 11275 and raffled to this Court's First Division.²²

In the Petition, petitioner avers that (1) the Court has jurisdiction over the case since it timely filed its administrative and judicial claim for refund; (2) Aromatic Hydrocarbon VV is merely a brand of Aromatic Hydrocarbon (which was expressly exempted from excise tax under BIR Ruling No. DA-075-A-05); (3) the Division Chief, Excise Large Taxpayer Regulatory Division has no authority to issue the ATRIG imposing the excise tax assessment and the corresponding VAT on excise tax thereon; and (4) its importation of Aromatic Hydrocarbon VV was subsequently sold to YTPI and used as raw material in the manufacture of tires and rubber, which are non-excisable products.

On 18 October 2023, the Court issued Summons²³ to respondent directing him or her to file an Answer within thirty (30) days from the date of receipt thereof. Following petitioner's receipt of the Summons 

¹⁸ Exhibit "R-2", id., Folder 2, pp. 1-6.

¹⁹ Exhibit "R-3", id., p. 8.

²⁰ Id.

²¹ Supra at note 1.

²² The First Division is composed of Presiding Justice Roman G. Del Rosario (Ret.), as Chairperson, and Associate Justice Jean Marie A. Bacorro-Villena and Associate Justice Lanee S. Cui-David, as Members.

²³ Division Docket, Volume I, p. 282.

on 19 October 2023,²⁴ he or she filed a "Motion for Extension of Time to File Answer"²⁵ (**Motion for Extension**) on 17 November 2023.

In a Resolution dated 01 December 2023,²⁶ the Court granted respondent's Motion for Extension and gave him or her a non-extendible period of 30 days from 18 November 2023, or until 18 December 2023, to file his or her Answer. Respondent was likewise ordered to submit the entire BIR Records to the Court within ten (10) days from filing his or her Answer.²⁷

On 18 December 2023, respondent filed his or her Answer.²⁸ There, respondent cited the following special and affirmative defenses: (1) petitioner is liable for excise tax on its importation of Aromatic Hydrocarbon, hence, not entitled to a refund of the allegedly erroneously paid excise tax in the amount of ₱14,746,540.00; (2) the Court has no jurisdiction over the case for petitioner's failure to exhaust administrative remedies; (3) petitioner's reliance on BIR Ruling No. DA-075-A-05 is misplaced; and (4) tax refunds are in the nature of tax exemptions and, therefore, are construed strictly against the taxpayer and liberally in favor of the government.

Respondent likewise forwarded Folder 1 of the BIR Records consisting of one (1) folder with 210 pages on 18 December 2023.²⁹

On 17 January 2024, the Court issued a Notice of Pre-Trial Conference³⁰ and set the case for Pre-Trial Conference on 20 March 2024. In compliance with the Court's order therein, respondent filed his or her Pre-Trial Brief³¹ on 08 March 2024, while petitioner filed its Pre-Trial Brief³² on 13 March 2024.

²⁴ Id.

²⁵ Id., pp. 285-287-A.

²⁶ Id., p. 289.

²⁷ Id.

²⁸ Id., pp. 290-306.

²⁹ See Compliance filed by respondent on 18 December 2023, id., pp. 308-310.

³⁰ Id., pp. 311-C-312.

³¹ Id., pp. 314-316.

³² Id., pp. 320-333.

Following a resetting,³³ the Pre-Trial Conference was held on 23 May 2024.³⁴ During the Pre-Trial Conference, the Court granted the parties a period of twenty (20) days, or until 13 June 2024, within which to file their Joint Stipulation of Facts and Issues (JSFI).³⁵ The parties filed their JSFI³⁶ on 11 June 2024.

In a Resolution dated 27 June 2024,³⁷ the Court admitted and approved the parties' JSFI and declared the pre-trial terminated. Thereafter, the Court issued a Pre-Trial Order³⁸ on 19 July 2024, again confirming its approval of the JSFI and formally declaring the pre-trial proceedings terminated.

On 01 August 2024, petitioner presented its witnesses, Hernan S. Chua (**Chua**) and Carolyn B. Panergo (**Panergo**), who both testified *via* their respective Judicial Affidavits.³⁹

In Chua's testimony, he stated that he has been serving as petitioner's Import Manager since 2012.⁴⁰ As Import Manager, he is tasked with processing the clearance of cargoes from the BOC and has custody of and access to any and all documents, papers, and records relating to petitioner's imported goods and transactions after importation.⁴¹

Chua testified that petitioner paid excise tax in the amount of ₱14,746,540.00 on 01 October 2021 for its importation of 1,474,654 liters of Aromatic Hydrocarbon VV.⁴² He then stated that on 20 September 2023, petitioner filed an administrative claim for refund of the said amount with the BIR on the ground that BIR Ruling No. DA-075-A-05 dated 10 March 2005, issued in its favor, expressly exempts its importation of Aromatic Hydrocarbon from excise tax.⁴³ According to 

³³ See Notice of Resetting dated 14 March 2024, *id.*, p. 337.

³⁴ See Order dated 23 May 2024, *id.*, pp. 342-344.

³⁵ *Id.*

³⁶ *Id.*, pp. 349-360.

³⁷ *Id.*, p. 377.

³⁸ *Id.*, pp. 403-447.

³⁹ Judicial Affidavit of Hernan S. Chua dated 02 October 2023, Exhibit "P-10", *id.*, pp. 32-45 and Judicial Affidavit of Carolyn B. Panergo dated 28 September 2023, Exhibit "P-11", *id.*, pp. 277-281. See also Minutes of the Hearing dated 01 August 2024, *id.*, Volume II, pp. 448-450.

⁴⁰ Exhibit "P-10", *supra* at note 39.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

Chua, respondent did not act on petitioner's administrative claim for refund, prompting petitioner to file the present judicial claim.⁴⁴

When asked whether he knows why respondent still assessed petitioner with excise tax despite the previous issuance of BIR Ruling No. DA-075-A-05 in the latter's favor, Chua responded that it is likely because of the Memorandum/Laboratory Report dated 27 September 2019 and Letter dated 15 October 2019 from DCIR Guballa. Both state that petitioner's importation of Aromatic Hydrocarbon is subject to excise tax.⁴⁵

Chua added that petitioner's importation of Aromatic Hydrocarbon is exempt from excise tax because it is used as raw material in the manufacture of tires and rubber which are non-excisable products.⁴⁶ He expounded that petitioner sells the Aromatic Hydrocarbon that it imports to Yokohama Tires Philippines, Inc. (YTPI), as evidenced by Summary Delivery Receipts and Sales Invoices to the latter from 08 December 2021 to 30 March 2022.⁴⁷

Chua also explained that the difference between the volume indicated in the Summary Delivery Receipts (DRs) of 1,406,410 liters and the volume YTPI received based on the Sales Invoices (SIs) for 1,415,238 liters may be due to temperature changes and the calibration of the weighing scale and flowmeter, among other factors.⁴⁸ As to the difference between the volume of Aromatic Hydrocarbon VV sold to YTPI and the volume stated in ATRIG Control No. ELTRDOIL197705, Chua clarified that the same remained in the container as inventory but was also subsequently delivered to YTPI.⁴⁹ He also stated that it is inevitable to have losses as they become residue in the container or storage tank.⁵⁰ Chua likewise identified the pieces of evidence in support of his testimony.⁵¹

On cross-examination, Chua confirmed that the description of the articles imported in ATRIG Control No. ELTRDOIL197705 is Aromatic 

44 Id.
45 Id.
46 Id.
47 Id.
48 Id.
49 Id.
50 Id.
51 Id.

Hydrocarbon VV.⁵² On redirect examination, he clarified that Aromatic Hydrocarbon is similar to Aromatic Hydrocarbon VV. The “VV” only means that it is possessed of a more environmentally-friendly material.⁵³ No re-cross examination followed.⁵⁴

Panergo, YTPI’s Purchasing Manager, testified next. She declared that her duties and responsibilities included overseeing and managing the procurement of goods and services for any and all products and services that YTPI may require in the conduct of its business.⁵⁵ She also declared that YTPI’s core business is to manufacture and sell automotive and truck tires.⁵⁶ According to her, YTPI uses the Aromatic Hydrocarbon it purchases from petitioner only as a raw material in making rubber compounds used to produce tires.⁵⁷ YTPI purchased 1,383,589 liters of Aromatic Hydrocarbon for the period covering 03 May 2021 to 10 August 2021, 1,386,159 liters for the period covering 11 August 2021 to 07 December 2021, and 1,398,577 liters for the period covering 08 December 2021 to 30 March 2022.⁵⁸

On cross-examination, Panergo confirmed that YTPI does not conduct tests to determine whether what is delivered to it is Aromatic Hydrocarbon or its other variations.⁵⁹ Rather, it only relies on petitioner’s Certificate of Analysis.⁶⁰ No redirect examination followed.⁶¹

On 12 August 2024, petitioner filed its “Formal Offer of Evidence”⁶² (FOE). Respondent filed his or her “Comment (on Petitioner’s [FOE])”⁶³ on 13 August 2024, thus, the same was submitted for resolution on 27 August 2024.⁶⁴ In a Resolution dated 13 November 2024,⁶⁵ the Court admitted all of petitioner’s offered exhibits.

⁵² TSN dated 01 August 2024, pp. 12-13.
⁵³ Id., pp. 13-14.
⁵⁴ Id., p. 14.
⁵⁵ Judicial Affidavit of Carolyn B. Panergo dated 28 September 2023, Exhibit “P-11”, supra at note 39.
⁵⁶ Id.
⁵⁷ Id.
⁵⁸ Id.
⁵⁹ TSN dated 01 August 2024, p. 19.
⁶⁰ Id.
⁶¹ Id., p. 20.
⁶² Division Docket, Volume II, pp. 457-466.
⁶³ Id., pp. 651-653.
⁶⁴ See Notice dated 27 August 2024, id., p. 656.
⁶⁵ Id., pp. 666-668.

Respondent then forwarded Folder 2 of the BIR Records consisting of one (1) folder with 10 pages on 13 November 2024.⁶⁶

On 21 November 2024,⁶⁷ respondent presented its witness, RO Panopio, who testified *via* her Judicial Affidavit.⁶⁸ RO Panopio stated that by virtue of LOA No. eLA202000030818/LOA-124-2023-00000055 dated 06 October 2023,⁶⁹ she conducted the review and examination of petitioner's claim for refund of the excise tax it paid on 01 October 2021.⁷⁰

RO Panopio explained that the denial of petitioner's claim for refund was recommended on the following grounds: (1) based on a Laboratory Report dated 27 September 2019,⁷¹ Aromatic Hydrocarbon VV is an aromatic extract, an article subject to excise tax under Section 148(a)⁷² of the National Internal Revenue Code (NIRC) of 1997, as amended; and (2) BIR Ruling No. DA-075-A-05, which made reference to Aromatic Hydrocarbon, is not applicable.⁷³

On the witness stand, she also identified the pieces of evidence in support of her testimony.⁷⁴

On cross-examination, RO Panopio clarified that her knowledge of Aromatic Hydrocarbon is based on BIR Ruling No. DA-075-A-05, which provides that Aromatic Hydrocarbon is not considered to be an 

⁶⁶ See Compliance dated 13 November 2024, *id.*, pp. 669-671

⁶⁷ See Minutes of Hearing on 21 November 2024, *id.*, pp. 697-697-B.

⁶⁸ Judicial Affidavit of Revenue Officer Leanne Panopio dated 13 November 2024, Exhibit "R-5", *id.*, pp. 679-a-684.

⁶⁹ *Supra* at note 17.

⁷⁰ *Supra* at note 68.

⁷¹ Exhibit "R-2-1", BIR Records, Folder 1, pp. 176-177.

⁷² 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:

...
Effective January 1, 2020

(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.

⁷³ *Supra* at note 68.

⁷⁴ *Id.*

aromatic extract subject to excise tax.⁷⁵ She also confirmed that in recommending the denial of petitioner's refund claim, her sole basis is the Laboratory Report dated 27 September 2019 which states that Aromatic Hydrocarbon VV is an aromatic extract, an article subject to excise tax.⁷⁶ Lastly, she recounted that aside from the Laboratory Report, she also reviewed and validated the documents petitioner submitted in the processing of the refund claim.⁷⁷

Respondent did not conduct a redirect examination.⁷⁸

Later, in response to the Court's clarificatory question, RO Panopio explained that petitioner's importation of Aromatic Hydrocarbon VV was imposed with excise tax even before the release of the Laboratory Report on the basis of Section 148 of the NIRC of 1997, as amended.⁷⁹ She added that the Laboratory Report dated 27 September 2019 did not trigger the imposition of excise tax on petitioner's importation of Aromatic Hydrocarbon VV, it only clarified the nature of the said article.⁸⁰

On 22 November 2024, respondent filed his or her FOE.⁸¹ Subsequently, petitioner filed its "Comment/Opposition to Respondent's [FOE]"⁸² on 27 November 2024. In a Resolution dated 12 March 2025,⁸³ the Court admitted respondent's offered exhibits and set petitioner's presentation of its rebuttal evidence on 08 April 2025.

During the 08 April 2025 hearing, petitioner presented the testimony of Engr. Eugenio M. Pranada Jr. (**Pranada**) for its rebuttal evidence.⁸⁴

On the witness stand, Engr. Pranada identified his Judicial Affidavit dated 18 March 2025,⁸⁵ where he declared, among others, that:

⁷⁵ TSN dated 21 November 2024, pp. 8-11.

⁷⁶ Id., pp. 14-15.

⁷⁷ Id., p. 17.

⁷⁸ Id.

⁷⁹ Id., pp. 19-20.

⁸⁰ Id.

⁸¹ Division Docket, Volume II, pp. 705-708.

⁸² Id., pp. 712-715.

⁸³ Id., pp. 728-729.

⁸⁴ See Order dated 08 April 2025, id., pp. 764-766.

⁸⁵ Exhibit "P-18", id., pp. 730-744.

(1) he recently retired as Chemicals Consultant from Saudi Arabian Oil Company; (2) he served Union Refinery Corporation (currently Unioil/petitioner) for a total of six (6) years as Laboratory Head (Lubricants and Process Oils) and Technical Services Manager; (3) as Laboratory Head, he was responsible for product formulations and product development, while as Technical Services Manager, he managed the formulations of lubricants and fuels, spearheaded product development, and conducted business development activities; (4) he is a licensed chemical engineer since 1990 with Professional Regulations Commission (PRC) Identification Card (ID) No. 0018406 valid up to 28 January 2027⁸⁶; (5) he has been working in the field of chemical engineering for 30 years; and (6) he is a certified professional for Machinery Lubricant Analysis Category II (MLA II) as evidenced by a printout of International Council for Machinery Lubrication's (ICML's) Certified Professionals Directory.⁸⁷

Engr. Pranada also recounted that BIR Ruling No. DA-075-A-05⁸⁸ was issued five (5) years after he left petitioner and only learned about it when Chua sought his opinion on BIR's Laboratory Report⁸⁹ referred to in BIR's letter to petitioner dated 15 October 2019,⁹⁰ and when Panergo informed her about the said BIR Ruling.⁹¹ When asked to define "lubricating oils and greases", he replied that these are substances or materials that are interposed between mating or rubbing surfaces to reduce friction and wear between them.⁹² Later in his testimony, he also cited examples of lubricating oil and greases.⁹³ He concluded that the Aromatic Hydrocarbon that petitioner imports is not a lubricating oil or grease or used as a base stock or additive in the manufacture of lubricating oils and greases, as YTPI uses it as solvent, plasticizer, extender, and binder in the manufacture of tires and rubber.⁹⁴

When asked how he knew that YTPI uses the Aromatic Hydrocarbon (including the VV variant) as raw material in the production of tire products, Engr. Pranada responded that he heard it 

⁸⁶ Exhibit "P-12", id., p. 746; exhibit shows registration date of 01 July 1991.

⁸⁷ Exhibit "P-15", id., p. 751.

⁸⁸ Supra at note 10.

⁸⁹ Supra at note 71.

⁹⁰ Supra at note 12.

⁹¹ Judicial Affidavit of Engr. Eugenio M. Pranada, Jr. dated 18 March 2025, supra at note 85.

⁹² Id.

⁹³ Id.

⁹⁴ Id.

from Panergo, his friend and fellow chemical engineer.⁹⁵ He also stated that it is a common knowledge for chemical engineers and chemists (who took the Chemical Process subject in college) that tires and rubber manufacturers use aromatic extracts as solvent, plasticizer, extender, and binder in the manufacture of tires and rubbers.⁹⁶

Engr. Pranada likewise clarified that his references to Aromatic Hydrocarbon also include Aromatic Hydrocarbon VV.⁹⁷ He explained that the two articles are substantially the same and the only difference is that the VV version is more refined (due to the additional refining process used to reduce carcinogenic substances) and more environmentally friendly.⁹⁸

For Engr. Pranada, a purported solvent's color has nothing to do with its dissolving liability.⁹⁹ Thus, he opined that the BIR was incorrect in concluding that Aromatic Hydrocarbon VV is not a solvent solely because of its brown color.¹⁰⁰

Moreover, Engr. Pranada explained that while Aromatic Hydrocarbon VV is an aromatic extract classified under treated distillate aromatic extract (TDAE), it is not being used for lubricating oils and greases, or as base stock for such, because of its high content of aromatic compounds and sulfur (which are less desirable components in the formulation of lubricating oils and greases).¹⁰¹ In addition, according to Engr. Pranada, the additional refining process that Aromatic Hydrocarbon VV undergoes (as compared to Aromatic Hydrocarbon) does not improve the qualities required for it to be used as lubricating oil or grease or as base stock for such.¹⁰²

On cross-examination, Engr. Pranada admitted that he did not conduct his own examination to determine the difference between Aromatic Hydrocarbon and Aromatic Hydrocarbon VV.¹⁰³ On redirect examination, he clarified that while an examination is mandatory on the

⁹⁵ Id.

⁹⁶ Id.

⁹⁷ Id.

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² Id.

¹⁰³ TSN dated 08 April 2025, pp. 19-20.

BIR's part, the same is not required for a consultant like him since a material's purpose and industry application may be determined readily from the material's product data sheet.¹⁰⁴

No re-cross examination was conducted.¹⁰⁵

On 11 April 2025, petitioner filed its FOE of Rebuttal Evidence.¹⁰⁶ Respondent filed his or her Comment¹⁰⁷ thereto on 22 April 2025. In a Resolution dated 11 July 2025,¹⁰⁸ the Court admitted all of petitioner's exhibits for rebuttal.

On 11 August 2025, petitioner filed its Memorandum.¹⁰⁹ On the other hand, respondent manifested that he or she will adopt the arguments stated in the Answer dated 17 November 2023 as his or her Memorandum.¹¹⁰ The case was submitted for decision on 16 September 2025.¹¹¹

ISSUE

As the parties so stipulated in their JSFI,¹¹² the sole issue for the Court's determination is —

WHETHER PETITIONER UNIOIL PETROLEUM PHILIPPINES, INC. IS ENTITLED TO A REFUND OR CREDIT OF FOURTEEN MILLION SEVEN HUNDRED FORTY-SIX THOUSAND FIVE HUNDRED FORTY PESOS (P14,746,540.00) AS ERRONEOUSLY PAID EXCISE TAX ON ITS IMPORTATION OF AROMATIC HYDROCARBON VV UNDER ATRIG NO. ELTRDOIL197705.

¹⁰⁴ Id., pp. 20-21.

¹⁰⁵ Id., p. 21.

¹⁰⁶ Division Docket, Volume II, pp. 768-772.

¹⁰⁷ Id., pp. 776-778.

¹⁰⁸ Id., pp. 790-791.

¹⁰⁹ Id., pp. 798-821.

¹¹⁰ See Manifestation filed by respondent on 12 August 2025, id., pp. 792-794.

¹¹¹ See Notice dated 16 September 2025, id., p. 799.

¹¹² Statement of the Issue, JSFI, supra at note 36, pp. 349-350.

ARGUMENTS

In support of the petition, petitioner argues that the Court has jurisdiction over the instant case as it timely filed its administrative and judicial claim for refund within the two (2)-year prescriptive period provided under Sections 204¹¹³ and 229¹¹⁴ of the NIRC of 1997, as amended. It also avers that it is entitled to the refund of the erroneously paid excise tax in the amount of ₱14,746,540.00, considering that: (1) BIR Ruling No. DA-075-A-05 dated 10 March 2005 issued to it expressly exempts its importation of Aromatic Hydrocarbon VV from excise tax; (2) DCIR Buñag issued BIR Ruling No. DA-075-A-05 pursuant to a delegated authority from respondent (which only the latter can reverse pursuant to Revenue Memorandum Circular [RMC] No. 37-2007);¹¹⁵ (3) the Division Chief of the Excise Large Taxpayer Regulatory Division had no authority to issue the ATRIG imposing the excise tax assessment and the corresponding VAT thereon as an assessment of excise tax may only be signed and approved by the DCIR for Operations in accordance with Revenue Delegation Authority Order (RDAO) No. 04-2018;¹¹⁶ (4) petitioner sells the Aromatic Hydrocarbon VV that it imports to YTPI as raw material in the manufacture of tires and rubber (which are non-excisable products); and (5) BIR Ruling No. DA-075-A-05 is applicable to petitioner's importation of Aromatic Hydrocarbon VV, which is merely a more refined form of Aromatic Hydrocarbon.

On the other hand, respondent counters that he or she did not have an ample opportunity to review petitioner's claim for refund (especially because petitioner filed its judicial claim merely twelve (12) days after the filing of its administrative claim for refund). As a result, this Court has no jurisdiction over the present case for petitioner's failure to exhaust administrative remedies.

Furthermore, even if the Court has jurisdiction over petitioner's judicial claim for refund, respondent maintains that petitioner is not entitled to a refund of its alleged erroneously paid excise tax. According 

¹¹³ SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*

¹¹⁴ SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.*

¹¹⁵ Delegation of Authority to Sign Rulings Granting and/or Confirming Tax Exemptions, Tax Incentives as well as Tax Treaty Relief Through the Ruling Process.

¹¹⁶ Delegation of Authority to Sign and Approve Assessment Notices & Reports of Investigation of the Divisions under the LTS.

to respondent, petitioner cannot rely on BIR Ruling No. DA-075-A-05 as it pertains to Aromatic Hydrocarbon as solvent while the present claim covers its importation of Aromatic Hydrocarbon VV, which is an unlabeled/label-free, non-carcinogenic aromatic extender oil, fit those for Treated Distillate Aromatic Extract (TDAE).

Respondent also claims that BIR Ruling No. DA-075-A-05 has already been abandoned as early as 13 February 2023 when in the Answer in CTA Case No. 11030,¹¹⁷ he or she took the position that Aromatic Hydrocarbon VV is subject to excise tax under Section 148(a) of the NIRC of 1997, as amended.

Lastly, respondent argues that tax refunds are in the nature of tax exemptions and are to be interpreted in the strictest manner. Thus, he or she claims that the validity of petitioner's claim should be meticulously verified.

RULING OF THE COURT

After a careful review of the case records and the parties' contrasting arguments, this Court finds merit in the instant Petition for Review.

Sections 204 and 229 of the NIRC of 1997, as amended, provide for the refund of **erroneously** or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.¹¹⁸ Thus:

...

SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes. — The Commissioner may —

...

(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

¹¹⁷ *Unioil Petroleum Philippines, Inc. v. Commissioner of Internal Revenue*, pending before the Court's Third Division.

¹¹⁸ *CBK Power Company Limited v. Commissioner of Internal Revenue*, G.R. Nos. 193383-84, 14 January 2015.

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.¹¹⁹

...

Relative thereto, Section 229 of the NIRC of 1997, as amended, provides:

...

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.

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.¹²⁰

...

From the foregoing, it is clear that in cases of recovery of erroneously paid or illegally collected tax, *both* the administrative claim for refund and the filing of the suit or the judicial claim for refund should be made before the expiration of two (2) years from the *date of payment* of the tax. Timeliness of the filing of the claim is mandatory and jurisdictional, and thus, the Court cannot take cognizance of a judicial claim for refund filed either prematurely or out of time.

Moreover, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined 

¹¹⁹

Italics in the original text, emphasis and underscoring supplied.

¹²⁰

Emphasis supplied and italics in the original text.

as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which in some other similar respect is illegal.¹²¹ Stated differently, what can be refunded or credited is a tax that is erroneously, illegally, excessively or in any manner wrongfully collected.

Accordingly, for the present claim for refund or issuance of tax credit certificate to prosper, petitioner must not only establish that it timely filed its refund claim. It must likewise prove that the subject excise tax paid is "erroneous or illegal."

PETITIONER TIMELY FILED ITS
ADMINISTRATIVE AND JUDICIAL
CLAIMS FOR REFUND.
CONSEQUENTLY, THIS COURT HAS
JURISDICTION OVER THE PRESENT
CASE.

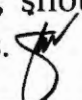
Excise taxes on imported articles, in general, are paid by the owner or importer upon importation and prior to removal thereof from the customshouse, as provided in Section 131(A) of the NIRC of 1997, as amended, to wit:

...

SEC. 131. *Payment of Excise Taxes on Imported Articles.* —

(A) *Persons Liable.* — Excise taxes on imported articles shall be paid by the owner or importer to the 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.¹²²

...

Thus, the two (2)-year period prescribed in Sections 204(C) and 229 of the NIRC of 1997, as amended, in relation to Section 131 of the same Code, should be reckoned from the date of actual payment of excise taxes. 

¹²¹ *Melco Resorts Leisure (PHP) Corporation v. Commissioner of Internal Revenue*, G.R. No. 271261, 02 April 2025.

¹²² Italics in the original, emphasis and underscoring supplied.

In this case, petitioner paid excise tax of ₱14,746,540.00 to the BOC on 01 October 2021.¹²³ Counting from this date, petitioner had two (2) years or until 01 October 2023, to file its administrative and judicial claims for refund, pursuant to the above quoted provisions.

Petitioner filed its administrative claim for refund before respondent on 20 September 2023¹²⁴ and its judicial claim for refund before this Court on 02 October 2023.¹²⁵

It is noted that 01 October 2023, the last day for petitioner to file a judicial claim, fell on a weekend. Therefore, pursuant to Section 1,¹²⁶ Rule 22 of the Rules of Court, which applies suppletorily¹²⁷ to the Revised Rules of the Court of Tax Appeals (RRCTA), petitioner had until the next working day, or on 02 October 2023, to file its judicial claim. Thus, petitioner timely filed both its administrative and judicial claim for refund.

To recall, respondent maintains that petitioner's filing of a judicial claim before Us has deprived it of the opportunity to resolve or act on the administrative refund claim. Put differently, petitioner allegedly failed to exhaust its administrative remedies, thus, as a result, this Court never validly acquired jurisdiction over the case.

Petitioner debunked respondent's insistence and cited the case of *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*¹²⁸ (**Carrier**), where the Supreme Court declared that it does not matter how far apart the administrative and judicial claims for refund were filed, as long as they are both filed within the two (2)-year prescriptive period.

We agree with petitioner. 

¹²³ See Exhibits "P-3" and "P-4", supra at notes 14 and 15.

¹²⁴ Supra at note 16.

¹²⁵ Supra at note 1.

¹²⁶ Section 1. *How to compute time.* — ... If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

¹²⁷ Section 3, Rule 1 of the RRCTA, A.M. No. 05-11-07-CTA.

¹²⁸ G.R. No. 226592, 27 July 2021.

In *Carrier*,¹²⁹ the Supreme Court held:

...

Section 229, which requires a prior administrative claim before a judicial claim is filed, recognizes the Commissioner of Internal Revenue's primary jurisdiction to decide refunds of internal revenue taxes. It gives the Commissioner "an opportunity to consider [their] mistake, if mistake has been committed," or to investigate and ascertain the veracity of the claim, before they are sued. This Court in *CBK Power Company*, citing *P.J. Kiener*, held that the primary purpose of filing an administrative claim is to serve as a notice or warning to the Commissioner that court action would follow unless the tax or penalty is refunded. This necessarily implies that the Commissioner has sufficient time to examine, evaluate, and act on the matter within their jurisdiction.

...

Sections 204 and 229 fixed the same period of two years for filing an administrative claim for refund before the Bureau of Internal Revenue and to sue before the Court of Tax Appeals. *CBK Power Company* explained that as long as these two acts fall within the two-year period, there is no legal impediment to the judicial claim for refund.

Consequently, from the plain language of the law, it does not matter how far apart the administrative and judicial claims were filed, or whether the Commissioner of Internal Revenue was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.

Thus, in *CBK Power Company*, as with subsequent cases, this Court upheld the propriety of the taxpayer's judicial claim instituted as early as five and 13 days after the administrative claim had been filed, on the ground that both claims were filed within the two-year prescriptive period.

The Court of Tax Appeals likewise allowed judicial claims filed simultaneously, or one to 28 days from the administrative claim's filing, on the same ground that both claims were filed within the two-year prescriptive period.

...

From the foregoing, Section 229 of the NIRC of 1997, as amended, only requires that an administrative claim be priorly filed primarily to give notice or warning to respondent that court action would follow.

¹²⁹

Id.; Citations omitted, italics in the original text, emphasis and underscoring supplied.

unless the tax or penalty alleged to have been collected erroneously or illegally is refunded. Hence, as long as the filing of both administrative and judicial claim fall within the two (2)-year prescriptive period, there is no legal impediment to the judicial claim for refund.

Moreover, in *Commissioner of Internal Revenue v. Estate of Mr. Charles Marvin Romig, represented by its Sole Heir Mrs. Maricel Narciso Romig*¹³⁰ (**Romig**), the Supreme Court also ruled:

...

Sections 204 and 229 of the 1997 NIRC provide for the refund of erroneously or illegally collected taxes. **Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.** Said provision state:

...

Based on the above-quoted provisions, it is manifestly clear that **an administrative claim for refund must precede the filing of a judicial claim and that both claims must be filed within the two years from the payment of the tax.** In the instant case, the two-year period to file a claim for refund is reckoned from June 30, 2015, the date respondent paid the estate tax amounting to PHP 4,565,439.07. Since the Estate first filed its administrative claim at 8:00 a.m. on June 28, 2017, and thereafter its judicial claim at 4:47 p.m. on even date, both claims were filed on time or within the two-year prescriptive period provided by law.

It is of no moment that there is only a short interval between the filing of the two claims. The law merely requires that **both claims are filed within the two-year period.** In *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*, where therein petitioner similarly argued that the judicial claim for refund, which was filed barely 10 days from the filing of the administrative claim, was premature and violative of the doctrine of exhaustion of administrative remedies, this Court held that, "from the plain language of the law, **it does not matter how far apart the administrative and judicial claims were filed, or whether the [CIR] was actually able to rule on the administrative claim, so long as both claims were filed within the two-year prescriptive period.**"

Moreover, the Court agrees with the finding of the CTA Second Division and CTA *En Banc* that the Estate's immediate resort to court action was justified, considering that the prescriptive period was

¹³⁰

G.R. No. 262092, 09 October 2024; Citations omitted, italics in the original text, emphasis and underscoring supplied.

about to expire. Under the circumstances, if the Estate had waited for the CIR to act on its administrative claim knowing fully well that the two-year period was about to lapse, it would have resultantly forfeited its right to seek judicial recourse, thereby suffering irreparable damage. Hence, respondent cannot be faulted for acting in such a manner to protect its interest and right to recover the taxes it erroneously paid to the government.

While the Court recognizes that the CIR may not have had the proper chance to act on the matter within their jurisdiction because of the short period of time between the filing of the two claims, the silence or insufficiency in the law on what is to be considered a reasonable period for the CIR to resolve a claim for refund of taxes is one that can be addressed not by judicial pronouncement, but by appropriate legislation."

...

Clearly, the law merely requires that both claims are filed within the two (2)-year reglementary period. Thus, so long as the said claims are lodged within such period, the judicial claim may be taken cognizance of by this Court. This holds true even when the filing of the administrative claim and, subsequently, of the judicial claim, is merely hours apart, such as in *Romig*.

Here, since the two (2)-year prescriptive period was about to lapse, petitioner was justified in filing its judicial claim, without waiting for respondent's decision, to protect its interest. It bears stressing that petitioner need not await the final resolution of its administrative claim for refund, since doing so would be tantamount to petitioner's forfeiture of its right to seek judicial recourse should the two (2)-year prescriptive period expire without the appropriate judicial claim being filed. Therefore, petitioner's judicial claim filed within the two (2)-year prescriptive period is proper and cannot be dismissed on the ground of failure to exhaust administrative remedies.

BUREAU OF INTERNAL REVENUE (BIR)
RULING NO. DA-075-A-05 DATED
10 MARCH 2025 AND BIR LETTER
DATED 15 OCTOBER 2019 WERE ISSUED
WITHOUT VALID DELEGATED
AUTHORITY, THUS VOID.



Section 1 of Revenue Memorandum Order (RMO) No. 9-2014¹³¹ defines tax rulings as “official positions of the Bureau on inquiries of taxpayers, who request clarification on certain provisions of the [NIRC], other tax laws, or their implementing regulations, usually for the purpose of seeking tax exemptions. Rulings are based on particular facts and circumstances presented and are interpretations of the law at a specific point in time.”

Section 7 of the NIRC of 1997, as amended, lists the power to issue rulings of first impression among those that the CIR cannot delegate, viz:

...
SEC. 7. *Authority of the Commissioner to Delegate Power.* - The Commissioner may delegate the powers vested in him under the pertinent provisions of this Code to any or such subordinate officials with the rank equivalent to a division chief or higher, subject to such limitations and restrictions as may be imposed under rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner: *Provided, however,* That the following powers of the Commissioner shall not be delegated:
...

(b) The power to issue rulings of first impression or to reverse, revoke or modify any existing ruling of the Bureau[.]¹³²
...

Relevantly, in RMC No. 37-2007, respondent authorized the DCIR, Legal and Inspection Group to sign all rulings covered by precedent rulings and guidelines and clarified that rulings of first impression shall be signed by him or her, to wit:

...
SECTION 2. *Delegation of Authority.*—
...

c. The Deputy Commissioner, Legal and Inspection Group is hereby authorized to sign all rulings which grant as well as confirm any tax exemption and/or tax incentive including tax treaty relief, ... ***provided further, that the said rulings are clearly covered by precedent rulings and guidelines,*** as well as, pertinent issuances on the subject.

...

¹³¹

Requests for Rulings with the Law and Legislative Division.

¹³²

Emphasis supplied and italics in the original text.

All rulings of first impression, as defined in Revenue Administrative Order No. 1-03, shall be signed by the Commissioner. Moreover, the Commissioner may, *motu proprio*, reverse, modify or alter any such ruling issued by the Assistant Commissioner, Legal Service or the Deputy Commissioner, Legal and Inspection Group, at any time after its issuance if he determines the same not to be in accordance with the established precedent rulings or pertinent tax laws and revenue issuances, but after due notice to the concerned taxpayer, and in accordance with Section 246 of the Tax Code of 1997, without prejudice however, to administrative sanctions relative to such actions.¹³³

...

From the foregoing, while respondent cannot delegate the power to issue rulings of first impression, he or she may authorize the DCIR for Legal and Inspection Group to sign rulings with established precedents. Revenue Administrative Order (RAO) No. 01-03¹³⁴ defined *rulings of first impression* and *rulings with established precedents* as follows:

...

SECTION 3. *Classification of BIR Rulings and Issuances.* — The following terms shall have the meaning described below:

- a) *Rulings of first impression* — These refer to the rulings, opinions and interpretations of the Commissioner of Internal Revenue with respect to the provisions of the Tax Code and other tax laws without established precedent, and which are issued in response to a specific request for ruling filed by a taxpayer with the Bureau of Internal Revenue. Provided, however, that the term shall include reversal, modification or revocation of any existing ruling.
- b) *Rulings with established precedents* — These refer to mere reiteration of previous rulings, opinions and interpretations of the Commissioner, as delegated to duly authorized internal revenue officers (i.e., Deputy Commissioner, Legal and Inspection Group; Assistant Commissioner, Legal Service; Regional Directors) that are issued in response to a specific request for ruling filed by a taxpayer with the Bureau of Internal Revenue.

...

¹³³

Citations omitted, italics in the original text and emphasis supplied.

¹³⁴

Addendum to Revenue Delegation Authority (RDAO) No. 5-2003 dated June 6, 2003 re: Delegation of Authority to Sign Documents and Correspondence on Human Resource Management Concerns.

In this case, under a delegated authority from respondent, DCIR Buñag issued BIR Ruling No. DA-075-A-05 dated 10 March 2005¹³⁵ in response to a query petitioner made. In ruling that petitioner's importation of Aromatic Hydrocarbon is not subject to excise tax, DCIR Buñag cited BIR Ruling No. DA-445-04, viz:

...

This refers to your letter dated February 11, 2005 requesting for a ruling as to whether or not Aromatic Hydrocarbon, which your company imports and sells, should be classified and taxed as aromatic extract under Section 148(a) of the Tax Code of 1997.

It is represented that Unioil Petroleum Phils., Inc. (UPPI), is the importer of aromatic hydrocarbon. This imported article is thereafter sold to the customers of UPPI to be used as raw materials either in the manufacture of rubber, tires or dyes, paints, thinners, adhesives, etc. Since Aromatic Hydrocarbon is not being used as gasoline blends nor an additive for other petroleum refined products but as solvent in the manufacture of the aforementioned products, you believe that its importation is not subject to excise tax under Section 131(B) in relation to Section 148(a), both of the Tax Code of 1997.

...

In a similar request for a ruling, the Bureau ruled in BIR Ruling No. DA-445-2004 dated August 23, 2004 as follows:

"In view of the foregoing and considering that the use of Aromatic Hydrocarbon as solvent in the manufacture of tires and rubber 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."

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.¹³⁶

...

A perusal of BIR Ruling No. DA-445-04 reveals that DCIR Buñag once again issued this ruling under a delegated authority. DCIR Buñag

¹³⁵

Supra at note 10.

¹³⁶

Italics in the original text and emphasis supplied.

cited therein BIR Ruling No. 93-91 in holding that the importation and sale of Aromatic Hydrocarbon are not subject to excise tax, viz:

...

This Office takes into consideration the fact that Aromatic Hydrocarbon Compound, because of its molecular structure which is responsible for the high heating value of petroleum, may be used as solvent in the manufacture of tires/rubber, or dyes, paints, thinners, etc. ...

...

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 naptha 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.

Finally, we also noted BIR Ruling No. 093-91 which ruled to the effect that while carbon black feedstock is petroleum based, considering that it is used in the production of non-excisable petroleum product, its importation is not subject to excise tax.

In view of the foregoing and considering that the use of Aromatic Hydrocarbon as *solvent* in the manufacture of tires and rubber 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.¹³⁷

...

However, BIR Ruling No. 93-91, although signed by CIR Jose U. Ong, cannot be considered as a precedent of another ruling declaring that Aromatic Hydrocarbon is not subject to excise tax, since it pertains to the importation of *carbon black feedstock oil*. In fine, BIR Ruling No. DA-445-04 cannot be considered as a mere reiteration of BIR Ruling No. 093-91 or a ruling with established precedent. 

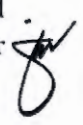
Accordingly, considering that BIR Ruling No. DA-445-04 is a ruling of first impression, respondent cannot delegate its issuance to DCIR Buñag. Consequently, DCIR Buñag issued the said ruling *without* valid delegated authority. As BIR Ruling No. DA-075-A-05 was predicated on BIR Ruling No. DA-445-04, it likewise lacked a valid legal basis. Hence, BIR Ruling No. DA-075-A-05 was similarly issued by DCIR Buñag without valid delegated authority and is, therefore, void.

Anent the letter dated 15 October 2019 that DCIR Guballa signed,¹³⁸ while not explicitly denominated as a BIR Ruling, may qualify as such considering its tenor and wording:

...

This refers to your **request for the proper tax classification of the imported product, AROMATIC HYDROCARBON VV.**

Based on your submitted documents (Material Safety Data Sheet (MSDS), product specification sheet, Inspection Certificate and Product Description Sheet), AROMATIC HYDROCARBON VV is a label-free, non-carcinogenic petroleum product, that is mainly used as an extender for synthetic rubber production and as a plasticizer in the rub[b]er and tire industries. It may also be used in the ink industrial applications. It is not intended as a catalytic or motive power enhancer. It has high solvency, low volatility, high aromatic content, and good compatibility with natural and synthetic rubbers.

Extender oils that are generally used for rubber and tire compounds are aromatic oils. They are generally added in the compounds to improve processing properties, low temperature properties, dispersion of fillers, and to reduce cost. The conventionally widely used oils in tire compounds are Highly Aromatic (HA) oils because they provide good compatibility with both natural and some synthetic rubbers. Aromatic oils are normally used where a degree of solvency is desired for a softening, or plasticizing effect. HA oils, also referred to as distillate aromatic extract oils (DAE), are oils with high polycyclic aromatic hydrocarbon (PAH) content, hence, they are classified as carcinogenic. PAH from tires are released to the environment by tire wear. Aromatic oils with PAH greater than 3% wt. must be labelled with the risk phrase 'R45' (may cause cancer) and the label 'T' (toxic, skull and crossbones) in Europe. Non-carcinogenic (unlabeled) oils, such as Treated Distillate Aromatic Extract (TDAE) and Mild Extracted Solvate (MES) are used as extender oils to replace carcinogenic HA oils for rubber compounds. TDAE is manufactured from DAE by further severe processing, such as hydrotreating or 

solvent extraction, to lower the concentration of PAHs to below the threshold of 3% wt. Aromatic oils with low toxicity (<3% wt. PAH) do not require labelling. The properties/characteristics of TDAE and MES are as follows:

...

Aromatic extracts are dark in color, ranging from green to brown. On the other hand, most solvents are 'water-white' or clear and essentially colorless. Aromatic solvents, such as xylene and toluene, have a Saybolt color value of +30, which means that they are colorless. The Saybolt color scale varies from near water white (30) to dark yellow (-16).

The article, AROMATIC HYDROCARBON VV, is described as a brown liquid with the following properties/characteristics:

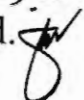
...

In view of the foregoing facts, the properties/characteristics of AROMATIC HYDROCARBON VV, which is an unlabeled/label-free and non-carcinogenic aromatic extender oil, fit those for TDAE, hence, **the said product is classified as aromatic extract, an article covered by excise tax under Sec. 148(a) of the Tax Code of 1997, as amended.**¹³⁹

...

As is apparent from the first paragraph of the said letter, the query relates to the proper tax classification of the imported product, Aromatic Hydrocarbon VV. It also calls for an interpretation of whether Aromatic Hydrocarbon VV falls under the classification of aromatic extract under Section 148(a) of the NIRC of 1997, as amended. Finally, it concludes with a determination of the taxability of petitioner's importation.

Considering the clarificatory/interpretative tenor of the BIR letter dated 15 October 2019¹⁴⁰ relative to petitioner's excise tax liability, it is effectively a BIR Ruling issued to petitioner, and which must likewise follow the rules earlier set forth for issuing a BIR Ruling. Since it is a ruling of first impression (without established precedent), DCIR Guballa was not authorized to issue the same. Consequently, the BIR letter dated 15 October 2019 is similarly an invalid exercise of delegated authority, therefore, void.



¹³⁹

Emphasis supplied.

¹⁴⁰

Supra at note 12.

PETITIONER'S IMPORTATION OF AROMATIC HYDROCARBON VV IS NOT SUBJECT TO EXCISE TAX UNDER SECTION 148(A) OF THE NATIONAL INTERNAL REVENUE CODE (NIRC) OF 1997, AS AMENDED.

Section 148(a) of the NIRC of 1997, as amended, subjects to excise tax lubricating oils and greases, to wit:

...
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:
...

Effective January 1, 2020

(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, rerefined or recycled shall likewise be subject to the tax imposed under this Subsection.¹⁴¹
...

The crux of the controversy is the taxability of aromatic extracts, as mentioned in Section 148(a) of the NIRC of 1997, as amended.

Petitioner argues that although the Aromatic Hydrocarbon VV it imports qualifies as aromatic extract, since it is subsequently sold to YTPI for use in the manufacture of tires and rubber, and not as lubricating oil or grease, it is not within the contemplation of Section 148(a) of the NIRC of 1997, as amended. On the other hand, respondent insists that aromatic extracts are excisable articles regardless of its use 

¹⁴¹

Italics in the original text, emphasis and underscoring supplied.

as the law does not provide for a specific use of aromatic extracts before subjecting the same to excise tax.

We agree with petitioner.

As early as 1916, the manufacture and importation of mineral oils, which include lubricating oils, were already subjected to specific taxes. Section 1650 of Act No. 2657¹⁴² provides:

...

SEC. 1650. *Specific Tax on Manufactured Oils.* — On refined and manufactured mineral oils, there shall be collected the following taxes:

(1) Naphtha, gasoline, and all other lighter products of distillation, per liter of volume capacity, three centavos;

(2) Kerosene or petroleum, per liter of volume capacity, one and one-half centavos;

(3) **Lubricating oils**, per liter of volume capacity, three centavos.¹⁴³

...

The Philippines saw a repeal¹⁴⁴ and subsequent reenactment and renumbering¹⁴⁵ of the above provision. In 1936, Commonwealth Act (CA) No. 122 increased the rates of specific tax imposed on manufactured oils, viz:

...

SECTION 1495. *Specific tax on manufactured oils and other fuels.* - On refined and manufactured mineral oils and other motor fuels, there shall be collected the following taxes:

(1) Kerosene or petroleum, per liter of volume capacity, one and one-half centavos;

(2) Lubricating oils, per liter of volume capacity, four centavos;

(3) Naphtha, gasoline, and all other lighter products of distillation, per liter of volume capacity, five centavos[.]¹⁴⁶

...

¹⁴² AN ACT CONSISTING AN ADMINISTRATIVE CODE. Enacted on 31 December 1916.

¹⁴³ Emphasis supplied and italics in the original text.

¹⁴⁴ See Section 1495 of Act No. 2711, enacted on 10 March 1917.

¹⁴⁵ See Act No. 3248, enacted on 01 December 1925.

¹⁴⁶ Emphasis and italics in the original text and underscoring supplied.

The above provision was adopted, albeit modified, in the NIRC of 1939:¹⁴⁷

...

SECTION 142. *Specific Tax on Manufactured Oils and Other Fuels.* — On refined and **manufactured mineral oils and motor fuels**, there shall be collected the following taxes:

(a) Kerosene or petroleum, per liter of volume capacity, one and one-half centavos;

(b) **Lubricating oils**, per liter of volume capacity, four centavos;

(c) Naphtha, gasoline, and all other similar products of distillation, per liter of volume capacity, five centavos; and

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, one-half centavo[.]¹⁴⁸

...

The NIRC of 1977¹⁴⁹ similarly imposed specific taxes on manufactured oils and other fuels and expanded the enumeration of the same:

...

SECTION 153. *Specific tax on manufactured oils and other fuels.* — On refined and manufactured mineral oils and motor fuels, there shall be collected the following taxes; which shall attach to the articles hereunder enumerated as soon as they are in existence as such:

(a) Kerosene, per liter of volume capacity, seven centavos;

(b) Lubricating oils, per liter of volume capacity, sixty-five centavos;

(c) Naptha, gasoline and all other similar products of distillation, per liter of volume capacity, fifty centavos: *Provided*, That on premium and aviation gasoline the tax shall be fifty-five centavos per liter of volume capacity;

(d) On denatured alcohol to be used for motive power, per liter of volume capacity, one centavo[;]

(e) Processed gas, per liter of volume capacity, two centavos;

¹⁴⁷ Commonwealth Act No. 466, enacted on 15 June 1939.

¹⁴⁸ Emphasis supplied and italics in the original text.

¹⁴⁹ Presidential Decree No. 1158, enacted on 03 June 1977.

(f) Thinners and solvents, per liter of volume capacity, forty centavos;

(g) Liquefied petroleum gas, per kilogram, twelve centavos[;]

(h) Asphalts, per kilogram, five centavos;

(i) Greases, waxes and petrolatum, per kilogram, thirty-five centavos;

(j) Aviation turbo jet fuel, per liter of volume capacity, thirty centavos.

...

On 10 October 1984, Section 153 of the NIRC of 1977 was amended with the enactment of Presidential Decree (PD) No. 1956, which imposed an *ad valorem* tax on certain manufactured oil and other fuels. It was then further amended and renumbered to Section 128 when PD 1994 was enacted on 05 November 1985. Moreover, the specific tax on manufactured oils and other fuels was then designated as *excise tax*. After these amendments, the provision imposing tax on manufactured oils and other fuels read:

...

Sec. 128. *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 articles hereunder enumerated as soon as they are in existence as such:

(a) *For products subject to specific tax only:*

- (1) Lubricating oils, per liter of volume capacity, four pesos and fifty centavos;
- (2) Processed gas, per liter of volume capacity, five centavos;
- (3) Greases, waxes and petrolatum, per kilogram, four pesos and fifty centavos; and
- (4) On denatured alcohol to be used for motive power, per liter of volume capacity, five centavos[;]

(b) *For products subject to ad valorem tax only:*

- (1) Kerosene, fourteen percent;
- (2) Asphalt, fourteen percent; and
- (3) Fuel oil commercially known as diesel fuel oil, and on similar fuel oils, having more or less the same generating capacity, and liquefied petrolatum gas used for motive power, twenty-two percent.

...



On 25 July 1987, Section 128, along with other provisions of the NIRC of 1977, was renumbered and amended in Executive Order (EO) No. 273, viz:

...

SEC. 145. *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:

(a) For products subject to specific tax only:

(1) 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 of volume capacity, four pesos and fifty centavos (P4.50): *Provided, however,* That the excise taxes paid on the purchased feedstock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the excise tax due therefrom: *Provided, further,* That lubricating oils and greases produced from basestocks and additives on which the specific tax has already been paid, shall no longer be subject to specific tax;

(2) Processed gas, per liter of volume capacity, five centavos;

(3) Waxes and petrolatum per kilogram, three pesos and fifty centavos; and

(4) On denatured alcohol to be used for motive power, per liter of volume capacity, five centavos: *Provided,* That unless otherwise provided by special laws, if the denatured alcohol is mixed with gasoline, the excise tax on which has already been paid, only the alcohol content shall be subject to the tax herein prescribed. For purposes of this subsection, the removal of denatured alcohol of not less than one hundred eighty degrees proof (ninety percent absolute alcohol) shall be deemed to have been removed for motive power, unless shown otherwise.

(b) For products subject to *ad valorem* tax only:

Ad valorem
Tax Rate

(1)	Naphtha, gasoline and other similar products of distillation; and aviation turbo jet fuel	48%
-----	---	-----



- | | | |
|-----|--|-----|
| (2) | Fuel oil, commercially known as diesel fuel oil, and on similar fuel oils having more or less the same generating power; kerosene; liquified petroleum gas; asphalts; and thinners | 24% |
| (3) | Fuel oil, commercially known as bunker fuel and on similar fuel oils having more or less the same generating power | 0% |

The *ad valorem* tax imposed in this paragraph shall be based on the company take or netback on the product as approved by the Energy Regulatory Board including the said *ad valorem* tax.¹⁵⁰

...

As can be gleaned from above, the amendment moved *greases* in item (a)(1), with lubricating oils, and provided the articles that may be considered included in the said item. It was also the first time that aromatic extracts were mentioned in the National Internal Revenue Code.

Section 145 was subsequently amended by RA 6965 and RA 8184, which revised the form of taxation on petroleum products from *ad valorem* to specific and restructured the excise tax on petroleum products. After these amendments, Section 145 read as follows:

...

Sec. 145. *Manufactured oils and other fuels.* — There shall be collected on refined and manufactured mineral oils and motor fuels, the following specific taxes which shall attach to the goods hereunder enumerated as soon as they are in existence as such:

- (1) 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 of volume capacity, Four pesos and fifty centavos (P4.50): *Provided, however,* That the specific taxes paid on the purchased feedstock (bunker) used in the manufacture of excisable articles and forming part thereof shall be credited against the specific tax due therefrom:

Provided, further, That lubricating oils and greases produced from base stocks and additives on which the specific tax had already been paid shall no longer be subject to specific tax;

(2) Processed gas, per liter of volume capacity, Five centavos (Po.05);

(3) Waxes and petrolatum, per kilogram, Three pesos and fifty centavos (P3.50);

(4) On denatured alcohol to be used for motive power, per liter of volume capacity, Five centavos (Po.05)[;] ...

(5) Naphtha, regular gasoline and other similar products of distillation, per liter of volume capacity, Four pesos and eighty centavos (P4.80)[;] ...

(6) Leaded premium gasoline, per liter of volume capacity, Five pesos and thirty-five centavos (P5.35); unleaded premium gasoline, per liter of volume capacity, Four pesos and thirty-five centavos (P4.35);

(7) Aviation turbo jet fuel, per liter of volume capacity, Three pesos and sixty seven centavos (P3.67);

(8) Kerosene, per liter of volume capacity, Sixty centavos (Po.60): *Provided,* That kerosene, when used as aviation fuel, shall be subject to the same tax on aviation turbo jet fuel under the preceding paragraph (7), such tax to be assessed on the user thereof;

(9) Diesel fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, One peso and sixty-three centavos (1.63);

(10) Liquefied petroleum gas, per liter, Zero (Po.00): *Provided,* That liquefied petroleum gas used for motive power shall be taxed at the equivalent rate as the specific tax on diesel fuel oil;

(11) Asphalts, per kilogram, Fifty-six centavos (Po.56); and

(12) Bunker fuel oil, and on similar fuel oils having more or less the same generating power, per liter of volume capacity, Thirty centavos (Po.30).

...

Section 145(1) of the NIRC of 1977, as amended, was reenacted as Section 148(a) in the NIRC of 1997, albeit with an increase in the rate imposed. Several further increases in the rate imposed were introduced through the enactment of RA 10963 or the Tax Reform for Acceleration 

and Inclusion (TRAIN) Act. Nonetheless, the tenor of Section 148(a) remained unchanged.

The foregoing statutory history of Section 148(a) demonstrates that aromatic extracts were mentioned, alongside base stock for lube oils and greases, and high vacuum distillates, to clarify which other articles may be considered as lubricating oils and greases (which had long been imposed with excise tax¹⁵¹).

If the legislative and the President (in EO 273) intend to impose excise tax on aromatic extracts, regardless of whether they are used as lubricating oil or grease or as base stock for such, they should have added another item, for aromatic extracts alone, in the enumeration of Manufactured Oils and Other Fuels subject to excise tax, rather than merely including it under lubricating oils and greases.

Further, under the principle of *noscitur a sociis*, the construction of a particular word or phrase, which is in itself ambiguous, or is equally susceptible of various meanings, may be made clear and specific by considering the company of words in which it is found or with which it is associated. In other words, the obscurity or doubt of the word or phrase may be reviewed by reference to associated words.¹⁵²

Thus, the term "aromatic extracts" in Section 148(a) cannot be construed in isolation but must be read in conjunction with the surrounding text. The phrase "for lubricating oils and greases" qualifies the preceding enumeration and evinces the legislative intent to cover only those items that are utilized for lubricating oils and greases.

Applying the above disquisitions to the present case, the Court notes that the BIR's Laboratory Report¹⁵³ confirmed that the Aromatic Hydrocarbon VV which petitioner imports is an aromatic extract. Engr. Pranada likewise confirmed the same in his testimony. However, Engr. Pranada clarified that while Aromatic Hydrocarbon VV is an aromatic extract, it is neither used as lubricating oil and/or grease nor as base stock for the manufacture of lubricating oil or grease, viz: 

¹⁵¹ Formerly referred to as specific tax.

¹⁵² *Commissioner of Internal Revenue v. Arturo E. Villanueva, Jr.*, G.R. No. 249540, 28 February 2024.

¹⁵³ Supra at note 71.

...

Q14: Let's go the technicalities... from a technical standpoint, what is a lubricating oil or grease?

A14: Lubricating oils and greases, collectively known as lubricants are substances or materials that are interposed between mating or rubbing surfaces to reduce friction and wear between them. Other functions of lubricants are to clean, protect, cool and transmit power. These mixtures are blends of base oils and additives in a precise formulation or recipe to achieve consistent physical and chemical properties specified by global industry bodies like the American Petroleum Institute ("API"), Society of Automotive Engineers ("SAE") and American Society of Testing and Materials to name a few. I have printed out some pictures of oil containers to show you that these organizations are mentioned in the label. In this printout of a picture of a Shell Helix bottle, it says here "API" and the term "5W-30" is the viscosity grade given by SAE. And in this printout of a photo of a Petron 5W-40, it is written at the bottom part of the bottle "API" and "SAE" with the SAE donut logo.

Lubricating grease, n—a semi-fluid to solid product of a dispersion of a thickener in a liquid lubricant. It can be compared to a paste with slippery feel. It's an oily stuff but it does not flow like a normal lubricating oil. This type of lubricant is useful in lubricating machine parts where liquid lubricants can't stay in place for long periods or can be circulated like in internal combustion engine.

...

Q15: In [layperson]'s terms, can you please explain what is a lubricating oil or grease?

A15: I will explain to you by giving examples...Examples of lubricating oils are your engine oils, automatic transmission fluids, gears oils, and your four stroke oils for your motorcycles. For industrial applications [like] hydraulic oil, gear oils, compressor oils, turbine oils to name a few.

Now... greases are those applied in automobile underchassis to lubricate parts like ball joints, wheel bearings, bushings, ball bearings and others. In industrial machineries, it is used to lubricate bearings and gears.

Q16: Is the Aromatic Hydrocarbon that petitioner imports considered a lubricating oil or grease?

A16: No, of course not. And neither is it intended for use as lubricating oil and/or grease. Unioil's imported Aromatic



Hydrocarbon is used as solvent, plasticizer, extender and binder in the manufacture of tires and rubber[.] ...

Q17: When you say Aromatic Hydrocarbon, does this include Aromatic Hydrocarbon VV?

A17: Yes, they are substantially similar except that the VV version is more refined and more environmentally friendly.

...

Q26: Just to clarify Mr. Witness, is Aromatic Hydrocarbon VV an aromatic extract?

A26: Yes, Aromatic Hydrocarbon VV is a type of aromatic extract, classified under treated distillate aromatic extract (TDAE), but it is not an aromatic extract that is used for lubricating oils and greases. In fact, in my years of practice as a chemical engineer, I have not encountered Aromatic Hydrocarbon VV being used as or for lubricating oils and greases or as base stock for lubricating oils and greases. The reason for this is in the way Aromatic Hydrocarbon VV is manufactured; it has a high content of aromatic compounds and sulfur, which are less desirable components in the formulation of lubricating oils and greases. Aromatic Hydrocarbon VV generally lacks the necessary thermal stability (the ability of oil to remain stable and functional at high temperatures), oxidation stability (ability to resist oxidation) and can lead to higher emissions, which are problematic for applications where consistent performance under wide operating temperature range, high load and strict emission compliance are required in lubricating oils and greases application. For example, sulfur, to be specific, is detrimental as it can form sulfur oxides during combustion, which may lead to increased emissions that are harmful to the environment and can cause corrosion in critical engine and machine parts.¹⁵⁴

...

Engr. Pranada added that Aromatic Hydrocarbon VV is utilized as solvent in the manufacture of tires and rubber, to wit:



¹⁵⁴

Judicial Affidavit of Engr. Eugenio M. Pranada, Jr. dated 18 March 2025, supra at note 85, emphasis supplied.

...

Q19: You mentioned that Aromatic Hydrocarbon VV is used as solvent by YTPI in the manufacture of tires, what do you mean by this?

A19: Before we dwell into that question, let's understand first the three important terminologies in general chemistry – Solute, Solvent and Solution. Solute + Solvent = Solution. Solvent is the substance that dissolves (solubilize) the solute, in the same manner, solute is the substance being dissolved (solubilized), thereby forming a solution.

In the case of Aromatic Hydrocarbon VV, due to its inherently high aromatic content, it has the ability to solubilize (functions as solvent) or plasticize both natural rubber and synthetic rubber to improve the vulcanization process making the rubber more elastic and easier to form. That's the reason why it is described as a solvent because of its ability to dissolve or solubilize.

Q20: Is Aromatic Hydrocarbon VV a solvent or not a solvent?

A20: In tire manufacturing process, it functions as a solvent, plasticizer, extender or binder as I explained in my previous answer.¹⁵⁵

...

Chua likewise testified that Aromatic Hydrocarbon VV that petitioner imports are sold to YTPI, which uses it as raw materials for the manufacture of tire and rubber:

...

Q16: Mr. Witness, in connection with BIR Ruling No. DA-075-A-05 dated 10 March 2005, earlier you said that the Aromatic Hydrocarbon you import is exempt from excise tax because it is used as raw material in the manufacture of tires and rubber which are non-excisable products – what is your proof that the Aromatic Hydrocarbon is used as raw material for tire production?

A16: **Ma'am, we sell all our importation of Aromatic Hydrocarbon to YTPI or Yokohama Tires Philippines, Inc., and it uses the Aromatic Carbon as raw materials in tire production...as far as I know.**¹⁵⁶ 

...

¹⁵⁵ Id.

¹⁵⁶ Supra at note 39; Emphasis supplied.

Panergo, YTPI's Purchasing Manager, corroborated Chua's statements, as follows:

...

Q7: How does YTPI use the Aromatic Hydrocarbon purchased from petitioner?

A7: **YTPI uses the Aromatic Hydrocarbon as a raw material in making rubber compounds used to produce tires.** To be used as raw material, the delivered Aromatic Hydrocarbon in tanker lorry is transferred or unloaded into a storage tank in YTPI. It is then pumped into the Day Tank located inside Mixing Process to elevate its temperature, and then it is injected to the Mixer to be incorporated with the other raw materials to make the rubber compound for tires.

Q8: Do you know since when YTPI started purchasing Aromatic Hydrocarbon from petitioner?

A8: Yes. We purchased our Aromatic Hydrocarbon requirement from Unioil since year 2000 for Uniflex 655 brand, and then Vivatex brand from 2009 up to the present.

Q9: Do you know how much Aromatic Hydrocarbon did YTPI purchase from petitioner Unioil for the following periods: 03 May 2021 to 10 August 2021; 11 August 2021 to 07 December 2021; and 08 December 2021 to 30 March 2022?

A9: Yes, ma'am. For the period from 03 May 2021 to 10 August 2021, we purchased and received from Unioil 1,383,589 liters of Aromatic Hydrocarbon; for the period of 11 August 2021 to 07 December 2021, it was 1,386,159 liters; and 1,398,577 liters for the period of 08 December 2021 to 30 March 2022.

Q10: And, what did YTPI do with the Aromatic Hydrocarbon it ordered from and was delivered by petitioner Unioil?

A10: **Like how we always use it, we used it as raw material for the manufacture of our main product – automotive and truck tires. As a raw material it improves the blending of the rubber formulations or improves the incorporation of fillers and other additives.**

Q11: **Aside from using Aromatic Hydrocarbon in the manufacture of automotive and truck tires, do you use it for any other purpose?**



A11: No, ma'am.¹⁵⁷

...

Considering the foregoing, petitioner has satisfactorily proven, by preponderance of evidence, that the Aromatic Hydrocarbon VV it imports is not utilized as lubricating oil or grease, nor as base stock for such. Rather, the same is being used exclusively in the production of tire and other rubber as solvent. Consequently, it is not an aromatic extract contemplated under Section 148(a) of the NIRC of 1997, as amended, and should not have been imposed with excise tax.

To be clear, contrary to respondent's assertion that claims for refund partake the nature of exemption from taxation, thus, are construed strictly against the claimant, jurisprudence is replete with cases declaring that not all claims for refund must be construed *strictissimi juris* against the taxpayer.

In *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (Formerly Southern Energy Quezon, Inc.)*,¹⁵⁸ the Supreme Court ruled:

...

Verily, a claim for tax refund may be based on a statute granting tax exemption, or, as *Commissioner of Internal Revenue v. Fortune Tobacco Corporation* would have it, the result of legislative grace. In such case, the claim is to be construed *strictissimi juris* against the taxpayer, meaning that the claim cannot be made to rest on vague inference. Where the rule of strict interpretation against the taxpayer is applicable as the claim for refund partakes of the nature of an exemption, the claimant must show that he clearly falls under the exempting statute. **On the other hand, a tax refund may be, as usually it is, predicated on tax refund provisions allowing a refund of erroneous or excess payment of tax. The return of what was erroneously paid is founded on the principle of *solutio indebiti*, a basic postulate that no one should unjustly enrich himself at the expense of another. The caveat against unjust enrichment covers the government. And as decisional law teaches, a claim for tax refund proper, as here, necessitates only the preponderance-of-evidence threshold like in any ordinary civil case.**

...

¹⁵⁷ Supra at note 39.

¹⁵⁸ G.R. No. 172129, 12 September 2008; Citations omitted, italics in the original text, emphasis and underscoring supplied.

Further, in *Petron Corporation v. Commissioner of Internal Revenue*,¹⁵⁹ the Supreme Court declared:

...

The Court has long settled that "[t]here is parity between tax refund and tax exemption only when the former is based either on a tax exemption statute or a tax refund statute." In such case, the rule of strict interpretation against the taxpayer is applicable as the claim for refund partakes of the nature of an exemption, a legislative grace, which cannot be allowed unless granted in the most explicit and categorical language.

However, when the claim for tax refund is premised on the taxpayer's erroneous payment of the tax or the government's exaction in the absence of a law, the rule to be applied must be the well-settled doctrine of strict interpretation in the imposition of taxes, not the similar doctrine as applied to tax exemptions.

...

In this case, petitioner's claim for refund or TCC issuance is not founded on any tax exemption clause in its favor, but on the government's erroneous assessment and collection of excise tax on its importation of Aromatic Hydrocarbon VV, without clear legal basis. Stated differently, petitioner's entitlement to a tax refund or TCC issuance is not based on the existence of a tax exemption clause in its favor but premised on its allegation that Aromatic Hydrocarbon VV is not an article subject to excise tax under Section 148(a) of the NIRC of 1997, as amended.

Hence, petitioner is not burdened to prove that the legislature clearly intended to exempt it from tax. Rather, as there is no law expressly imposing excise tax on Aromatic Hydrocarbon VV, the appropriate rule to be applied is the strict interpretation in the imposition of taxes such that the statute must be construed most strongly against the government and in favor of the taxpayer.¹⁶⁰ Accordingly, since Aromatic Hydrocarbon VV is not expressly included among the articles subject to excise tax under Section 148(a) of the NIRC of 1997, as amended, the doubt must be resolved in petitioner's favor. 

¹⁵⁹

G.R. No. 255961, 20 March 2023; Citations omitted, emphasis and underscoring supplied.

¹⁶⁰

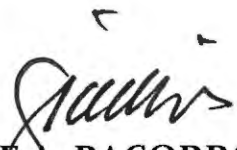
See *Commissioner of Internal Revenue v. The Philippines American Accident Insurance Company, Inc., et al.*, G.R. No. 141658, 18 March 2005.

Substantial justice dictates that the government should not keep money that does not belong to it.¹⁶¹ Taking all the above circumstances together, it is evident that petitioner was able to sufficiently establish, by preponderance of evidence, that it is entitled to the refund or credit of the total amount of ₱14,746,540.00, representing its erroneously paid excise tax for its importation of Aromatic Hydrocarbon VV under ATRIG Control No. ELTRDOIL197705 dated 01 October 2021.

WHEREFORE, premises considered, the Petition for Review filed by petitioner Unioil Petroleum Philippines, Inc. on 02 October 2023 is hereby **GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND OR ISSUE TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **₱14,746,540.00**, representing petitioner's erroneously paid excise tax for its importation of Aromatic Hydrocarbon VV under Authority to Release Imported Goods (ATRIG) Control No. ELTRDOIL197705 dated 01 October 2021.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

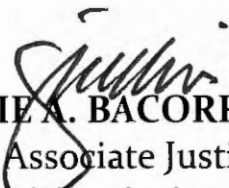
I CONCUR:


LANEE S. CUI-DAVID
Associate Justice

¹⁶¹See *BPI-Family Savings Bank, Inc. v. Court of Appeals, et al.*, G.R. No. 122480, 12 April 2000.

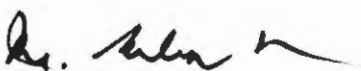
ATTESTATION

I attest 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.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 1st Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 1st Division Acting Chairperson's Attestation, 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.


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice