



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

SPECIAL FIRST DIVISION

CTA CASE NO. 10914

PILIPINAS SHELL PETROLEUM,
Petitioner,

- versus -

NOTICE OF RESOLUTION

**COMMISSIONER OF INTERNAL
REVENUE,**
Respondent.

To:

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

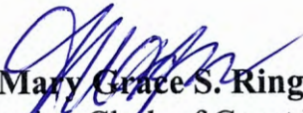
ATTY. SYLVIA R. ALMA JOSE
ATTY. LARA NICOLE T. GONZALES
Bureau of Internal Revenue
Room 703, Litigation Division, BIR National Office Building
Sen. Miriam P. Defensor-Santiago Avenue
Diliman, Quezon City

LAYUG CELICIOUS-SY & VILLAPANDO
Unit 503, 5th Floor, The Linden Suites
37 San Miguel Avenue, Ortigas Center
1600 Pasig City

GREETINGS:

You are hereby notified by these presents that on **September 11, 2026**, a Resolution was rendered in the above-entitled case, copy of which is attached hereto.

Quezon City, Philippines, **September 18, 2026.**


Atty. Mary Grace S. Ringpis
Executive Clerk of Court III

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

**PILIPINAS SHELL
PETROLEUM
CORPORATION,**

Petitioner,

CTA Case No. **10914**

Members:

BACORRO-VILLENA, *Acting Chairperson*,
and

- versus -

CUI-DAVID, II.

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

SEP 11 2026; 9:00AM
MR

x ----- x

RESOLUTION

BACORRO-VILLENA, I.:

For the Court's resolution is respondent Commissioner of Internal Revenue's (**respondent's/CIR's**) "Omnibus Motion [(1) For Clarification and (2) for Reconsideration *Ad Cautelam*] (*Re: Decision promulgated 19 January 2026*)"¹ (**Omnibus Motion**), filed on 10 February 2026 and emailed on 11 February 2026, with petitioner Pilipinas Shell Petroleum Corporation's (**petitioner's/PSPC's**) "Comment/Opposition [*Re: Respondent's Omnibus Motion dated February 10, 2026*]"² (**Comment/Opposition**) filed and emailed on 20 April 2026.

[Signature]

¹ Division Docket, Volume III, pp. 1276-1289.
² Id., pp. 1294-1303.

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In the instant Omnibus Motion,³ respondent seeks the reversal and setting aside of this Court's Decision dated 19 January 2026⁴ (**assailed Decision**), which granted petitioner's *Petition for Review*,⁵ and thereby, ordered respondent to refund or issue a tax credit certificate (TCC) in favor of petitioner in the amount of **₱18,908,370.00**. The amount represents excise taxes that petitioner allegedly erroneously paid on petroleum products sold to Shell Philippines Exploration, B.V. (SPEX), an entity exempt from excise tax, covering the period from July to November 2020.

First, respondent asserts that the Court erred in granting petitioner's *Petition for Review*. In support of this position, respondent echoes the dissenting opinions in *Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue*⁶ (**2021 Pilipinas Shell**) of Senior Associate Justice Marvic M.V.F. Leonen (**SAJ Leonen**), joined by Associate Justice Edgardo L. Delos Santos; Associate Justice Amy C. Lazaro-Javier (**Justice Lazaro-Javier**); and Associate Justice Rodil V. Zalameda (**Justice Zalameda**), joined by Associate Justice Jhosep Y. Lopez. Respondent maintains that the excise tax exemption under Section 135⁷ of the National Internal Revenue Code (NIRC) of 1997, as amended, should not inure to the benefit of PSPC (herein petitioner) as importer merely because it paid the excise taxes on petroleum products that it subsequently sold to SPEX.

Citing SAJ Leonen's Dissenting Opinion in *2021 Pilipinas Shell*, respondent argues that the doctrine of *strictissimi juris* remains firmly entrenched in cases involving tax exemptions and, by necessary consequence, applies with equal force to claims for tax refunds founded on an alleged tax exemption. Respondent maintains that the Court cannot read into the law an exemption that Congress did not expressly provide. Respondent likewise contends that an erroneous interpretation of a statute cannot acquire the force of *stare decisis* and, therefore, cannot serve as a binding precedent. Accordingly, respondent argues that any claim by petitioner, as importer of automotive diesel oil (ADO), to the benefit of an excise tax exemption must rest on a clear and unequivocal statutory grant. In respondent's view, Section 135 of the NIRC of 1997, as amended, must contain language so plain and

³ Supra at note 1.

⁴ Division Docket, Volume III, pp. 1227-1275.

⁵ Filed on 12 July 2022, Division Docket, Volume I, pp. 6-414, with annexes.

⁶ G.R. No. 211303, 15 June 2021.

⁷ SEC. 135. *Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.*



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unmistakable that it leaves no room for doubt that Congress intended to extend the claimed exemption to petitioner.

Citing Justice Lazaro-Javier's dissenting opinion in 2021 *Pilipinas Shell*, respondent further contends that petitioner cannot invoke the excise tax exemption under Section 135⁸ of the NIRC of 1997, as amended, after petitioner has already sold the petroleum products to tax-exempt international carriers or entities. Respondent argues that petitioner likewise cannot circumvent this limitation by indirectly claiming the exemption through a refund of the excise taxes that it previously paid upon the importation or purchase of the same petroleum products from its suppliers and thereafter sold to tax-exempt purchasers.

Additionally, citing Justice Zalameda's dissenting opinion in 2021 *Pilipinas Shell*, respondent asserts that the doctrine of *stare decisis* does not, and should not, apply when a precedent conflicts with the law. Respondent maintains that courts have the duty to abandon a doctrine or rule that contravenes the governing statute and should not adhere blindly to precedent merely because earlier cases have followed it. On this basis, respondent argues that this Court must not perpetuate an erroneous or inaccurate interpretation of the law through a mechanical application of the doctrine of *stare decisis*.

Respondent submits that Section 135 of the NIRC of 1997, as amended, unequivocally grants the excise tax exemption on petroleum products only to the buyers, international carriers, and other tax-exempt entities identified therein that purchase the petroleum products for the uses contemplated by law. Respondent stresses that the provision nowhere states that the exemption extends to manufacturers, sellers, or importers of petroleum products. Respondent likewise notes that no other provision of the NIRC of 1997, as amended, provides that the excise tax exemption granted to the identified tax-exempt buyers, international carriers, and entities shall redound to the benefit of manufacturers, sellers, or importers of the petroleum products.

Respondent thus insists that Section 135 of the NIRC of 1997, as amended, does not grant an excise tax exemption to manufacturers,

⁸

Supra at note 7.



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sellers, or importers of petroleum products. According to respondent, the provision merely prevents such manufacturers, sellers, or importers from passing the economic burden of the excise tax to their tax-exempt buyers and consequently requires them to absorb that burden themselves. Respondent therefore maintains that petitioner cannot claim either an exemption or a refund because Section 135 extends the statutory privilege only to the tax-exempt ultimate purchasers.

According to respondent, the plain meaning of the tax exemption under Section 135⁹ of the NIRC of 1997, as amended, limits the privilege to the statutorily identified tax-exempt purchaser that acquires the petroleum products for its own use or consumption in the manner contemplated by law. Respondent distinguishes such purchaser from petitioner, which merely serves as an intermediary in the stream of commerce and imports or acquires the petroleum products for subsequent resale. Respondent argues that this interpretation accords with both the nature of excise taxes and the rule that courts must construe tax exemptions *strictissimi juris* against the taxpayer.

To support this position, respondent cites the Court of Tax Appeals (CTA) *En Banc* ruling in *Chevron Philippines, Inc. v. Commissioner of Internal Revenue*¹⁰ that “a tax exemption being enjoyed by the buyer cannot be the basis of a claim for tax exemption by the manufacturer or seller of the goods for any tax due to it as the manufacturer or seller. The excise tax imposed on imported petroleum products under Section 131 of the Tax Code is the direct liability of the importer who cannot thus invoke the excise tax exemption granted to its buyers.” Relying on the said ruling, respondent submits that the excise tax imposed on the manufacture or importation of petroleum products constitutes the direct liability of the manufacturer or importer. Thus, according to respondent, a manufacturer or importer cannot invoke as a shield the tax immunity that the law expressly grants to its buyers.

Lastly, respondent avers that granting petitioner a refund of the excise taxes paid on the subject ADO sold to SPEX, an exempt entity

⁹ Supra at note 7.

¹⁰ CTA EB No. 964 (CTA Case No. 7939), 30 September 2013.

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under Section 135(c)¹¹ of the NIRC of 1997, as amended, would effectively allow petitioner to obtain a refund solely on the basis of SPEX's statutory exemption. Respondent contends that petitioner should not be permitted to obtain indirectly, through a refund claim, a tax exemption that the law does not directly grant to petitioner.

In sum, respondent contends that allowing manufacturers or importers of petroleum products, such as petitioner, to claim a refund of excise taxes based on the exemption enjoyed by their tax-exempt purchasers would improperly extend the statutory exemption beyond its intended beneficiaries. Respondent further argues that such an interpretation would allow petitioner to derive a benefit from an exemption that Congress never intended to confer upon manufacturers, sellers, or importers.

Additionally, apart from challenging the grant of petitioner's refund claim, respondent seeks clarification regarding the "Proceedings Before the Court" portion of the assailed Decision.¹² In particular, respondent questions the statements identifying the counsel who conducted the cross-examination of petitioner's witnesses, Berenice Angelique L. Flores¹³ (**Flores**) and Atty. Farida Nimfa G. Dimailig¹⁴ (**Atty. Dimailig**), as well as the identity of respondent's witness, Revenue Officer (**RO**) Angelika Arugay (**Arugay**).¹⁵

Respondent asks the Court to clarify whether the apparent discrepancies constitute mere typographical errors or whether the "Proceedings Before the Court" portion of the assailed Decision inadvertently pertains to a different case. Respondent asserts that, if the latter is true, the Court should vacate the assailed Decision. 

¹¹ **SEC. 135. Petroleum Products Sold to International Carriers and Exempt Entities or Agencies.** — Petroleum products sold to the following are exempt from excise tax:

- (a) International carriers of Philippine or foreign registry on their use or consumption outside the Philippines: *Provided*, That the petroleum products sold to these international carriers shall be stored in a bonded storage tank and may be disposed of only in accordance with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner.
- (b) Exempt entities or agencies covered by tax treaties, conventions and other international agreements for their use or consumption: *Provided, however*, That the country of said foreign international carrier or exempt entities or agencies exempts from similar taxes petroleum products sold to Philippine carriers, entities or agencies; and
- (c) **Entities which are by law exempt from direct and indirect taxes.** (Emphasis supplied)

¹² Supra at note 4.

¹³ Pages 8-9 of the assailed Decision.

¹⁴ Page 9 of the assailed Decision.

¹⁵ Pages 11-12 of the assailed Decision.

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On the other hand, in its Comment/Opposition,¹⁶ petitioner submits that the alleged discrepancies in the “Proceedings Before the Court” portion of the assailed Decision¹⁷ resulted from mere typographical errors that the Court may correct without affecting the validity of the assailed Decision. Petitioner maintains that the assailed Decision, when read in its entirety, clearly reflects the Court’s intent and disposition of the case.

Moreover, petitioner argues that respondent’s Omnibus Motion¹⁸ merely rehashes the arguments previously raised in his or her Answer¹⁹ and Memorandum,²⁰ which allegedly lack factual and legal bases. Petitioner points out that the Court has already considered and resolved these arguments in the assailed Decision. Thus, petitioner maintains that the instant Omnibus Motion should be denied outright for lack of merit.

Petitioner further notes that the Court already ruled in the assailed Decision that the excise taxes paid upon the importation of ADO, which petitioner subsequently sold to SPEX, a tax-exempt entity, were erroneously or illegally collected. Accordingly, petitioner maintains that it properly filed a claim for refund of the erroneously paid excise taxes pursuant to Sections 204(C)²¹ and 229²² of the NIRC of 1997, as amended.

¹⁶ Supra at note 2.

¹⁷ Supra at note 4.

¹⁸ Supra at note 1.

¹⁹ Filed on 20 October 2022, Division Docket, Volume I, pp. 425-436.

²⁰ Id., Volume III, pp. 1169-1190.

²¹ **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 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.

²² **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

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More importantly, petitioner submits that the Supreme Court *En Banc* already settled the same issue in *Chevron Philippines, Inc. v. Commissioner of Internal Revenue*²³ (**2015 Chevron**), where it held that an importer of petroleum products may claim a refund or tax credit for excise taxes erroneously paid upon importation when the importer subsequently sells the petroleum products to entities entitled to exemption under Section 135,²⁴ in relation to Section 204(C),²⁵ of the NIRC of 1997, as amended. Applying *2015 Chevron*, petitioner insists that, as the importer of the subject ADO that it subsequently sold to SPEX, a tax-exempt entity, from July to November 2020, it is entitled to a refund or tax credit for the excise taxes it paid upon importation.

Lastly, petitioner argues that the Supreme Court applied the principle enunciated in *2015 Chevron* to *2021 Pilipinas Shell*. According to petitioner, the Supreme Court ruled in *2021 Pilipinas Shell* that, upon the sale of imported petroleum products to international carriers entitled to exemption under Section 135(a) of the NIRC of 1997, as amended, the statutory tax exemption comes into operation. Consequently, the excise taxes previously paid upon the importation of those petroleum products become erroneously or illegally paid taxes that may properly form the subject of a claim for refund under Sections 204(C) and 229²⁶ of the NIRC of 1997, as amended.

We resolve.

After a careful review of the instant Omnibus Motion²⁷ and the arguments raised therein, We find the same bereft of merit. Before addressing the substantive arguments raised by respondent, however, We shall first resolve respondent's request for clarification.

THE APPARENT DISCREPANCIES IN
THE "PROCEEDINGS BEFORE THE
COURT" PORTION OF THE
ASSAILED DECISION ARE MERE



tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid.

²³ G.R. No. 210836 (Resolution), 01 September 2015.

²⁴ Supra at note 7.

²⁵ Supra at note 21.

²⁶ Supra at note 22.

²⁷ Supra at note 1.

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**CLERICAL OR TYPOGRAPHICAL
ERRORS.**

This Court acknowledges the apparent discrepancies in the “Proceedings Before the Court” portion of the assailed Decision.²⁸ As correctly observed by petitioner in its Comment/Opposition,²⁹ these discrepancies resulted from mere clerical or typographical errors that the Court may correct. When read in its entirety, particularly in light of its references to specific portions of the case record, such portion of the assailed Decision clearly reflects the proceedings that actually transpired before the Court. Accordingly, these errors neither affect the validity of the assailed Decision nor, much less, warrant vacating the same.

Specifically, on pages 8-9 of the assailed Decision, the pertinent narration of the proceedings during the presentation of petitioner’s witness, Flores, should state that “[r]espondent did not conduct any cross-examination.” Accordingly, the relevant portion is hereby corrected to read as follows:

...

In another hearing held on 14 September 2023, petitioner presented the testimonies of its witnesses, Flores and Atty. Dimailig.

Flores testified to prove the following: (1) petitioner’s general procedure and flow of documents on the importation and withdrawals of petroleum products, particularly ADO, for sale and delivery to various customers, including SPEX, as well as the payment of excise taxes thereon; (2) its general procedure and the flow of documents on its claim for refund or tax credit of excise taxes paid on the sale and delivery of ADO to tax-exempt entities like SPEX; (3) correlation between the withdrawals or removals of ADO imported for the period from July to November 2020 through petitioner’s Tabangao Refinery and the sale and delivery thereof to SPEX within the same period; (4) ADO sold and delivered to SPEX from July to November 2020 originated from imported ADO on which taxes were paid during the same period; (5) prices of ADO billed to tax-exempt entities like SPEX are net of excise taxes; and (6) filing with the BIR, through the ELTAD II, on 08 July 2021, of the administrative claim for refund or tax credit of excise taxes paid on ADO imported during the period from July to November 2020 and sold and delivered to SPEX during the same period.

²⁸ Supra at note 4.

²⁹ Supra at note 2.

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[Respondent] did not conduct any cross-examination.³⁰

...

Next, on page 9 of the assailed Decision,³¹ the pertinent narration of the proceedings during the presentation of petitioner's witness, Atty. Dimailig, should also state that "**[r]espondent did not conduct any cross-examination.**" Accordingly, the relevant portion is hereby corrected to read as follows:

...

As for Atty. Dimailig, she testified to the following: (1) petitioner is entitled to the instant claim for refund or tax credit of excise taxes paid on the ADO's importations and withdrawals for the period from July to November 2020, which ADO was subsequently sold to SPEX during the same period; and (2) the sale of ADO to SPEX for use in its petroleum operations in the Philippines is exempt from excise tax pursuant to Presidential Decree (PD) No. 87, as amended, in relation to Section 135 of the NIRC of 1997, as amended.

[Respondent] did not conduct any cross-examination.³²

...

Lastly, on pages 11-12 of the assailed Decision, the pertinent narration of the proceedings during the presentation of respondent's witness, RO Arugay, should state that "**her team recommended the denial of petitioner's refund claim,**" "**Arugay confirmed that the list of supporting documents ... does not constitute an exhaustive list,**" and "**[r]espondent did not conduct any redirect examination.**" Accordingly, the relevant portion is hereby corrected to read as follows:

...

On 06 August 2024, respondent presented his or her lone witness, Revenue Officer (RO) Angelika Arugay (**Arugay**).

RO Arugay testified to the following: (1) she holds the position of RO I and was then assigned to the BIR's ELTAD II; (2) her duties include the investigation or examination of all internal revenue tax cases; (3) she reviewed and evaluated petitioner's claim for refund on imported and locally-produced ADO allegedly sold and delivered to

³⁰ Citations omitted; emphasis in the original text; correction in brackets.

³¹ Supra at note 4.

³² Citations omitted; emphasis in the original text; correction in brackets.



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SPEX, a tax-exempt entity, in the total amount of ₱18,908,370.00; (4) Letter of Authority (LOA) SN: eLA202000003894 / LOA-124-2022-00000046 dated 01 April 2022 authorized the audit of petitioner's excise tax refund claim, and she was part of the team assigned to conduct said audit; (5) in the Memorandum Report dated 16 November 2022, [her] team recommended the denial of petitioner's refund claim for failure to comply with the mandatory requirements prescribed under the provisions of Section 135 of the NIRC of 1997, as amended; and (6) Officer-In-Charge Assistant Commissioner for Large Taxpayers Service Jethro M. Sabariaga (OIC-ACIR Sabariaga) approved her team's recommendation, leading to the issuance of the Denial Letter dated 26 January 2023, which was served on petitioner through registered mail on 02 February 2023.

On cross-examination, RO [Arugay] confirmed that the list of supporting documents enumerated under Revenue Memorandum Order (RMO) No. 19-2006 does not constitute an exhaustive list. She answered in the affirmative when asked to clarify if this would mean that petitioner may submit other documents to establish that petroleum products delivered to international or tax-exempt carriers were sold net of excise tax. She further attested that she examined importation documents submitted by petitioner, sales invoices issued to SPEX, and proofs of payment made by SPEX. She likewise acknowledged that ADO subject of this case was sold to and paid for by SPEX.

[Respondent] did not conduct any redirect examination.³³

...

It is settled that courts may correct inaccuracies appearing in the text of a decision when such inaccuracies constitute mere clerical or typographical errors or result from inadvertence. Jurisprudence recognizes that, akin to *nunc pro tunc* entries, such corrections may be made to make the record speak the truth and to cause the written decision to faithfully reflect what the court actually intended and adjudged. A *nunc pro tunc* correction does not constitute a modification of the judgment, for it neither alters the rights of the parties nor changes the court's substantive ruling; it merely rectifies an erroneous record of judicial action already taken.³⁴ 

³³ Citations omitted; emphasis in the original text; corrections in brackets.

³⁴ See *Luisa Briones-Vasquez v. Court of Appeals and Heirs of Maria Mendoza Vda. De Ocampo*, G.R. No. 144882, 04 February 2005; *Mercury Drug Corporation and Rolando J. Del Rosario v. Spouses Richard Y. Huang & Carmen G. Huang, and Stephen G. Huang*, G.R. No. 197654, 30 August 2017.

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Accordingly, this Court may correct the inaccurate portions of the assailed Decision³⁵ to conform them to the proceedings actually conducted and duly reflected in the case records. Such corrections neither constitute a new adjudication nor modify the parties' substantive rights; they merely cause the assailed Decision to accurately reflect what actually transpired before the Court.

PETITIONER IS ENTITLED TO THE
REFUND OF ERRONEOUSLY PAID
EXCISE TAX ON THE SUBJECT
IMPORTED AUTOMOTIVE DIESEL
OIL (ADO) SUBSEQUENTLY SOLD
TO SHELL PHILIPPINES
EXPLORATION, B.V. (SPEX).

Respondent's arguments fail to persuade.

In 2021 *Pilipinas Shell*, the Supreme Court *En Banc* clarified the nature and operation of the excise tax exemption under Section 135³⁶ of the NIRC of 1997, as amended. In doing so, the Supreme Court revisited its earlier pronouncements and applied the doctrine laid down in 2015 *Chevron*, viz:

...
[F]or the guidance of the bench, bar, and the public, the Court takes this opportunity to elucidate on certain conceptual distinctions in the 2014 *Pilipinas Shell* Resolution vis-à-vis the Court's subsequent pronouncements in the 2015 *Chevron*. Furthermore, the *ponencia* deems it apt to lay down the foundational principles and concepts relative to excise taxes to sufficiently address the counterarguments offered by the other members of the *Banc* who have dissented against the majority ruling.

...

At its core, the purpose of a grant of tax exemption is "some public benefit or interest, which the law-making body considers sufficient to offset the monetary loss entailed in the grant of the exemption." However, the **object of the grant of tax exemption** is not necessarily a natural person similar to how "the objects of taxation are either person, property[,] and property rights within the jurisdiction of the taxing authority." As such, generally speaking, the

³⁵ Supra at note 4.

³⁶ Supra at note 7.



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object of tax exemptions may either be **personal or impersonal**. Personal exemptions conceptually pertain to those “granted directly in favor of such persons as are within the contemplation of the law granting the exemption.” On the other hand, **an impersonal exemption may be said to exist when a tax exemption is “granted directly in favor of a certain class of property.”** If the tax exemption is impersonal in nature, then, regardless of who transacts with the property, the exemption should still apply. This framework of personal and impersonal tax exemptions underpins the exemption granted under Section 135 on excisable articles.

Notably, the Court, in the 2014 Pilipinas Shell Resolution, stated that the “exemption from payment of excise tax” under Section 135 is “conferred on international carriers who purchased the petroleum products of respondent”; thus, in said case, the tax exemption under Section 135 covering said products was characterized as a grant of a personal tax exemption.

However, in the subsequent case of 2015 Chevron, the Court effectively abandoned the foregoing characterization, and instead, correctly categorized that the tax exemption under Section 135 is “**in favor of the petroleum products on which the excise tax was levied in the first place.**” As such, the Court, in 2015 Chevron, validated the nature of Section 135 as a provision conferring an impersonal tax exemption, which, in fact, cogently squares with the nature of excise taxes being a tax on property, rather than a tax on persons.

Being an impersonal tax exemption, Section 135 cannot be therefore interpreted as an exemption primarily conferred to the buyers because “they are not under any legal duty to pay the excise tax.” To reiterate, upon the buyers’ purchase of the articles, the “excise tax” they pay, if any, is, in reality, a mere passed-on cost that forms part of the purchase price. Hence, while purchasers bear the economic burden, they do not, by the mere fact of assuming the passed-on costs, become legally regarded as statutory taxpayers. In this regard, Associate Justice Henri Jean Paul B. Inting aptly observed that “a tax immunity would lose its meaning if we insist that it is available only to a person who, in the first place, has no obligation to pay the tax due on the subject article/transaction. **It can only be enjoyed in its truest sense by the person who is liable for the tax and wishes to be immune from therefrom.**”³⁷

...



³⁷

Pilipinas Shell Petroleum Corporation v. Commissioner of Internal Revenue, supra at note 6; Citations omitted; italics in the original text, emphasis and underscoring in the original text and supplied.

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Significantly, the Supreme Court explained in 2021 *Pilipinas Shell* that 2015 *Chevron* had effectively abandoned the earlier characterization of the exemption under Section 135 of the NIRC of 1997, as amended, as a personal exemption conferred upon the enumerated tax-exempt purchasers. Instead, 2015 *Chevron* correctly characterized the exemption as one **“in favor of the petroleum products on which the excise tax was levied in the first place.”** Thus, Section 135 confers an **impersonal tax exemption** — one that attaches to a certain class of property — consistent with the very nature of an excise tax as a tax imposed on goods or articles, rather than on persons.

The language of Section 135 of the NIRC of 1997, as amended, itself supports this characterization. The provision exempts from excise tax the **“petroleum products sold”** to the entities enumerated therein. As the Supreme Court explained, the enumerated entities merely describe the persons to whom the petroleum products must be sold for the exemption to become operative. In other words, the exemption does not primarily attach to the identity or personality of the purchaser; rather, it attaches to the petroleum products once the statutory condition governing their disposition is fulfilled.

Accordingly, the tax-exempt status of the petroleum products becomes operative upon their sale to any of the entities enumerated under Section 135³⁸ of the NIRC of 1997, as amended. Thus, in 2021 *Pilipinas Shell*, the Supreme Court held that when PSPC sold the petroleum products that it had imported to international carriers, the exemption under Section 135(a) came into effect. Consequently, the excise taxes that it had previously paid upon importation of those petroleum products became erroneously or illegally collected taxes that could properly form the subject of a claim for refund.

Equally significant, the Supreme Court distinguished between the **tax incidence** and the **tax burden** of an excise tax. The tax incidence refers to the legal liability to pay the tax, which the law imposes upon the manufacturer or importer of the excisable article. The tax burden, on the other hand, refers to the economic burden that the statutory taxpayer may pass on to the purchaser as part of the selling price. The mere shifting of this economic burden does not transfer the legal

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incidence of the excise tax to the purchaser or transform the latter into the statutory taxpayer.

It thus follows that the exemption under Section 135³⁹ of the NIRC of 1997, as amended, must benefit the person who bears the legal incidence of the excise tax — namely, the manufacturer or importer of the petroleum products — and not the purchaser who merely bears its economic burden through passed-on costs. As the Supreme Court stressed in *2021 Pilipinas Shell*, the entities enumerated in Section 135 do not themselves bear the legal incidence of the excise tax. Consequently, construing the exemption as exclusively personal to those entities would effectively confer a tax immunity upon persons who have no statutory obligation to pay the tax in the first place.

The foregoing principles squarely apply here. Petitioner, as importer of the subject ADO, bore the legal incidence of and actually paid the corresponding excise taxes upon importation. When petitioner subsequently sold the subject ADO to SPEX, an entity falling under Section 135(c)⁴⁰ of the NIRC of 1997, as amended, the statutory exemption became operative with respect to the petroleum products so sold. Consequently, the excise taxes that petitioner had previously paid on the subject ADO became erroneously or illegally collected taxes, properly subject to refund under Sections 204(C)⁴¹ and 229⁴² of the NIRC of 1997, as amended, subject to compliance with the applicable statutory requirements.

Respondent's reliance on the dissenting opinions in *2021 Pilipinas Shell* does not warrant a different conclusion. While the dissenting opinions form part of the Court's deliberative discourse, the majority ruling of the Supreme Court *En Banc* constitutes the controlling precedent. That ruling expressly adopted the characterization in *2015 Chevron* that Section 135 of the NIRC of 1997, as amended, confers an impersonal exemption upon the petroleum products and held that such exemption must ultimately benefit the manufacturer or importer that bears the legal incidence of the excise tax. This Court remains bound to apply that controlling doctrine to the present case. 

³⁹ Supra at note 7.

⁴⁰ Supra at note 11.

⁴¹ Supra at note 21.

⁴² Supra at note 22.

RESOLUTION

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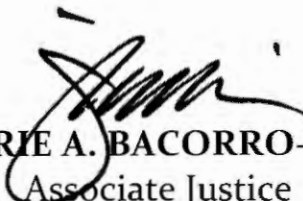
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In light of the foregoing discussion, apart from the corrections necessitated by the aforesaid clerical or typographical errors, this Court finds no compelling reason to modify or overturn the assailed Decision.⁴³

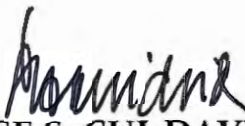
WHEREFORE, premises considered, the instant “Omnibus Motion [(1) For Clarification and (2) for Reconsideration *Ad Cautelam*] (*Re: Decision promulgated 19 January 2026*),” filed by respondent Commissioner of Internal Revenue on 10 February 2026, is hereby **DENIED** for lack of merit.

Further, the relevant portions of the Decision dated 19 January 2026 are hereby **AMENDED** to reflect the necessary corrections on pages 8-9 and 11-12 thereof. Accordingly, the Division Clerk of Court is **DIRECTED** to replace the affected pages of the Decision with the corresponding corrected pages.

SO ORDERED.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:


LANEE S. CUI-DAVID
Associate Justice