

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

EN BANC

**PHILIPPINE AIRLINES,
INC.,**

Petitioner,

**CTA EB NO. 2639
(CTA Case No. 9913)**

Present:

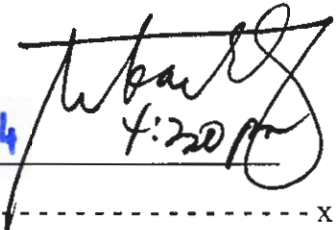
- versus -

**DEL ROSARIO, P.J.,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE,**
Respondent.

Promulgated:

MAY 28 2024


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AMENDED DECISION

FERRER-FLORES, J.:

Before this Court is the *Motion for Reconsideration (Re: Decision dated June 22, 2023)* (**Motion for Reconsideration**) filed on July 25, 2023 by **Philippine Airlines, Inc. (PAL/petitioner)** with *Opposition (Re: Motion for Reconsideration of the Decision dated 22 June 2023)* filed by the **Commissioner of Internal Revenue (CIR/respondent)** on September 28, 2023. 

In the instant motion, PAL prays that the Court *En Banc* reconsiders its *Decision* dated June 22, 2023 (**assailed Decision**)¹ which dismissed the Petition for Review dated July 4, 2022 due to the lack of required votes to reverse the Decision dated July 29, 2021 (**assailed Division Decision**)² and the Resolution dated May 26, 2022 (**assailed Division Resolution**)³ both rendered by the First Division of the Court (**Court in Division**).

The dispositive portion of the assailed Decision reads as follows:

WHEREFORE, the present Petition for Review is **DISMISSED** pursuant to Section 2 of Republic Act No. 1125, as amended, in relation to Section 3, Rule 2 of the Revised Rules of the Court of Tax Appeals.

The assailed Decision dated July 29, 2021 and Resolution dated May 26, 2022 of the First Division of this Court in CTA Case No. 9913 shall stand **AFFIRMED**.

SO ORDERED.

To recall, the Court in Division, in the assailed Division Decision, denied PAL's claim for refund of ₱4,492,243.43, representing illegally collected excise tax imposed on its importations of alcohol and tobacco products, for failure to present sufficient and convincing evidence to prove that the imported tobacco and alcohol products were not locally available in reasonable quantity, quality, or price, at the time of importation.

In support of its *Motion for Reconsideration*, PAL argues that the evidence it presented sufficiently established that the subject imported liquors and wine products are not locally available in reasonable quantity, quality, or price. Moreover, PAL claims that the Supreme Court, in several cases, upheld the sufficiency of the evidence presented before the Court of Tax Appeals (CTA); hence, with the similar pieces of evidence presented by PAL in the case at bar, it sufficiently established that its imported liquors and wines are not locally available in reasonable quantity, quality, or price.

On the other hand, in his *Opposition*, the CIR avers that it is incumbent upon PAL to prove that it is entitled to the refund sought and that PAL failed to discharge its burden of establishing its claim for a tax refund or credit. Being in the nature of tax exemptions, claims for refund are regarded as in derogation of sovereign authority and to be construed *strictissimi juris* against the claimant and liberally in favor of the taxing authority.

¹ *Rollo*, pp. 97 to 111

² Penned by Associate Justice Catherine T. Manahan and concurred in by Presiding Justice Roman G. Del Rosario; *Rollo*, pp. 45 to 67.

³ *Rollo*, pp. 72 to 78.

RULING OF THE COURT *EN BANC*

After a careful re-evaluation of the case and the arguments raised by PAL in its motion for reconsideration, this Court finds the instant motion partly meritorious.

As discussed in the assailed Division Decision, based on *Commissioner of Internal Revenue vs. Philippine Airlines, Inc.*⁴ and Section 13(b)(2) of Presidential Decree (P.D.) No. 1590,⁵ in order to be exempt from payment of excise tax on its importation of tobacco and alcohol products, PAL must comply with the following conditions, to wit:

1. Payment of the corporate income tax;
2. The articles, materials, or supplies are imported for the use of the franchisee in its transport or non-transport operations and other incidental activities; and,
3. The imported articles, materials or supplies are not locally available in reasonable quantity, quality, or price.

As to the importation of alcohol products, there is no dispute that PAL was able to comply with the *first* and *second* conditions. The issue lies with the *third* condition.

In several cases involving the same parties,⁶ to prove the *third* condition, PAL has consistently offered before this Court the following pieces of evidence:

1. Testimonies of PAL's Assistant Vice-President in charge of Catering and In-flight Sub-Department and/or Manager for In-Flight Materials Purchasing Division, Catering & In-flight Materials Purchasing Sub-Department;
2. Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies; and,

⁴ G.R. Nos. 215705-07, February 22, 2017.

⁵ An Act Granting a New Franchise to Philippine Airlines, Inc. to Establish, Operate, and Maintain Air-Transport Services in the Philippines and Between the Philippines and Other Countries.

⁶ *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs*, CTA Case No. 8153, January 17, 2013; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs*, CTA Case No. 8198, June 2, 2015; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs*, CTA Case No. 8130, December 1, 2014; *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue and Commissioner of Customs*, CTA Case No. 8514, January 6, 2015.

3. Price List/s for specific period/s.

Upon evaluation of the Court in those cases, in some instances, it deemed the above pieces of evidence, among others, sufficient to establish that the imported alcohol products were not locally available in reasonable quantity, quality, or price. On the other hand, in those cases where the Court in Division deemed the evidence insufficient, the same was reversed by the Court *En Banc* or even by the Supreme Court. Notably, the Supreme Court ultimately found that the pieces of evidence presented by PAL were sufficient to prove the *third* condition. We summarize these cases as follows:

Ruling of the CTA	Ruling of the Supreme Court	Relevant Periods (Importations vis-à-vis Price Lists)
1. CTA Case No. 8153, January 17, 2013. The CTA Division <u>partially granted</u> PAL's refund finding that PAL has sufficiently proven its exemption from the payment of excise taxes pertaining only to its importation of liquors. CTA EB Nos. 1029, 1031 & 1032, April 30, 2014. The Court <i>En Banc</i> affirmed the above ruling.	G.R. No. 215705-07, February 22, 2017. (<i>2017 PAL case</i>) The Supreme Court affirmed the ruling of the CTA granting PAL's claim for refund and held that: <i>"...the matter as to PAL's supposed noncompliance with the conditions set by Section 13 of P.D. 1590 for its imported supplies to be exempt from excise tax, are factual determinations that are best left to the CTA, which found that PAL had, in fact, complied with the above conditions. xxx Thus, without any showing that the findings of the CTA are unsupported by substantial evidence, its findings are binding on this Court."</i>	Period of Importation: October to December 2007 Price Lists: Philippine Wine Merchants Price List dated January 11, 2007
2. CTA Case No. 8198, June 2, 2015. The CTA Division <u>denied</u> PAL's refund holding that PAL failed to prove the third condition. CTA EB No. 1363 (Amended Decision), dated February 13, 2018. The Court <i>En Banc</i> reversed the CTA Division's decision denying the refund. The case was then remanded for determination of the refundable amount. The Court <i>En Banc</i> found that the evidence presented by PAL is sufficient for the CTA Division to evaluate that the costs of importing liquors are lower than purchasing them locally.	G.R. No. 240532, March 27, 2019. (<i>2019 PAL case</i>) The Supreme Court affirmed the ruling of the CTA granting PAL's claim for refund and held that: <i>"...factual determinations that are best left to the CTA and cannot be reviewed by this Court under Rule 45. The CTA is a highly specialized body that reviews tax cases and conducts trial de novo. Thus, without any showing that the findings of the CTA are completely unsupported by substantial evidence, as in this case, its findings are binding on this Court"</i>.	Period of Importation: January to July 2008 Price Lists: Philippine Wine Merchants Price List (for 2008)

Ruling of the CTA	Ruling of the Supreme Court	Relevant Periods (Importations vis-à-vis Price Lists)
3. CTA Case No. 8130, December 1, 2014. The CTA Division <u>denied</u> the refund finding that the information gathered from the two price lists are seriously deficient to justify conclusion that the said imported items are not available in reasonable quantity, quality or price in the local market. CTA EB No. 1299, October 3, 2016. The Court <i>En Banc</i> affirmed the CTA Division's ruling denying the claim for refund. The Court <i>En Banc</i> held that the evidence presented by PAL was inadequate to prove that the imported liquors, wines, and cigarettes were not locally available in reasonable quantity, quality or price, and is insufficient to establish its claim for a tax refund.	G.R. No. 231638, February 17, 2021. (<i>2021 PAL case</i>) The Supreme Court partially granted PAL's petition and ordered the remand of the case for determination of PAL's entitlement to a refund. The Supreme Court found the evidence presented adequate to prove compliance with the conditions for exemption, to wit: <i>"Following prevailing jurisprudence, we are convinced that PAL sufficiently proved compliance with the second condition for excise tax exemption under Section 13 (b) (2). The CTA committed a severe departure from settled jurisprudence amounting to abuse or improvident exercise of authority when it ruled that the pieces of evidence PAL presented are 'inadequate' to show compliance with Section 13 (b) (2). While we have generally deferred and respected the tax court's factual findings, the Court will not hesitate to reverse its factual findings when there is a showing of gross error or abuse on the part of the CTA.</i>	Period of Importation: March to November 2007 Price Lists: Philippine Wine Merchants Price List for 2007
4. CTA Case No. 8514, January 6, 2015. The CTA Division <u>partially granted</u> PAL's refund ruling that PAL was able to substantiate its compliance with the requisites finding that the witnesses sufficiently corroborated that the imported liquors, wines and cigarettes were not locally available in reasonable quantity, quality or price and that the said goods were In-flight Materials. CTA EB Nos. 1308, 1309, & 1311 April 30, 2014. The Court <i>En Banc</i> affirmed the above ruling. The Court <i>En Banc</i> agreed with the CTA Division's conclusion that PAL's evidence sufficiently established that the imported liquors, wines and cigarettes were not locally available in reasonable quantity, quality or price.	G.R. Nos. 236343-45 & 236372-74, January 17, 2023. (<i>2023 PAL case</i>) The Supreme Court ruled in favor of PAL and ordered the refund of erroneously paid excise taxes. With regard to the <i>third</i> condition, the Supreme Court held that: <i>"...We also note that the Tables of Comparison and supporting price lists submitted by PAL corroborated Capinpin's testimony that the imported items were not locally available in reasonable quantity, quality or price. Thus, in line with prevailing jurisprudence, We agree with PAL that the CTA erred in ruling that PAL has inadequately shown its compliance with Section 13 (b) (2) of PD 1590 as regards the amount of P240,283.71."</i>	Period of Importation: June 2007 to October 2009 Price Lists: Philippine Wine Merchants Price Lists for the years 2006, 2007, 2008, and 2009, Future Trade International Price List dated April 8, 2009, Future Trade International Price List as of February 2009, Price List of Duty-Free Philippines

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As can be gleaned from the foregoing cases, the Supreme Court gave weight to the factual findings of this Court stating that, without any showing that the findings of the CTA are unsupported by substantial evidence, its findings are binding on the Supreme Court. Stated otherwise, the Supreme Court deemed the findings of the CTA in the above cases to be supported by substantial evidence.

It is also worth noting that, in the *2021 PAL case*,⁷ the Supreme Court categorically declared that PAL sufficiently proved compliance with the second condition for excise tax exemption under Section 13(b)(2) of P.D. No. 1590.⁸ In said case, PAL presented Ms. Capinpin's sworn testimony, **price list from one (1) local supplier** (i.e., Philippine Wine Merchants Price List) and the Table of Comparison which were found to be sufficient to establish the non-availability of imported liquors and wines in reasonable quantity, quality, or price.

Finally, it should be emphasized that in the above cases, the covered periods of the price lists presented to prove the non-availability of the alcohol products coincided with the periods of the subject importations.

In the instant case, the subject of the claim for refund were the alleged erroneously paid excise taxes on alcohol products imported on various dates from **October 2012 to March 2013**. To prove that the alcohol products imported during said period were not locally available in reasonable quantity, quality, or price, PAL presented the following pieces of evidence:

1. Judicial Affidavit of Ms. Cheryl V. Capinpin, its Manager for In-Flight Materials Purchasing Division;

⁷ G.R. No. 231638, February 17, 2021

⁸ SECTION 13. xxx

- (b) A franchise tax of two per cent (2%) of the gross revenues derived by the grantee from all sources, without distinction as to transport or nontransport operations; xxx.

The tax paid by the grantee under either of the above alternatives shall be in lieu of all other taxes, duties, royalties, registration, license, and other fees and charges of any kind, nature, or description, imposed, levied, established, assessed, or collected by any municipal, city, provincial, or national authority or government agency, now or in the future, including but not limited to the following:

xxx xxx xxx

- (2) All taxes, including compensating taxes, duties, charges, royalties, or fees due on all importations by the grantee of aircraft, engines, equipment, machinery, spare parts, accessories, commissary and catering supplies, aviation gas, fuel, and oil, whether refined or in crude form and other articles, supplies, or materials; provided, that such **articles or supplies or materials are imported for the use of the grantee in its transport and nontransport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price**; (*Emphasis and underscoring supplied*)

2. Absolute Sales Corporation Price List for **2013**;
3. Future Trade International Price List Effective **February 1, 2013**;
4. BIR Revenue Memorandum Circular (RMC) No. 90-2012;
5. Report of the Court-commissioned Independent Certified Public Accountant (ICPA); and,
6. Judicial Affidavit of the ICPA.

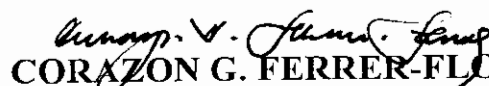
From the foregoing evidence, this Court, however, can only draw a conclusion as to the availability or non-availability of the alcohol products during **2013** based on the price lists from the **two (2) local suppliers**. With regard to the 2012 importations, while PAL presented RMC No. 90-2012, the same cannot be used as basis for comparison of prices or availability or non-availability of the alcohol products during 2012 considering that the listing in the said RMC was based on the 2010 BIR Price Survey.

Prescinding from the above, PAL was only able to sufficiently prove its compliance with the *third* condition **only insofar as the 2013 importations of alcohol products are concerned**.

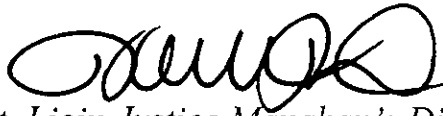
With regard to the imported tobacco products during October 2012 to March 2013, as we have already held in the assailed Decision, the Court agrees with the ruling of the Court in Division that the testimony of Ms. Capinpin, standing alone, is insufficient to ascertain whether the subject tobacco products were, indeed, not locally available in reasonable quantity, quality or price.

WHEREFORE, petitioner Philippine Airlines, Inc.'s *Motion for Reconsideration (Re: Decision dated June 22, 2023)* is **PARTIALLY GRANTED**. Let this case be **REMANDED** to the Court in Division for the determination of the refundable amount insofar as the excise taxes erroneously paid on its importation of alcohol products from **January to March 2013**.

SO ORDERED.


CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:



With due respect, I join Justice Manahan's Dissenting Opinion

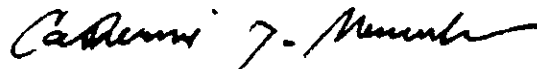
ROMAN G. DEL ROSARIO

Presiding Justice



MA. BELEN M. RINGPIS-LIBAN

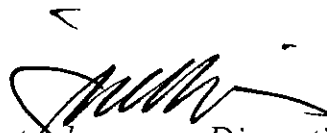
Associate Justice



With due respect, I maintain my Dissenting Opinion

CATHERINE T. MANAHAN

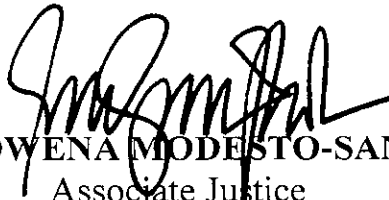
Associate Justice



With due respect, please see Dissenting Opinion

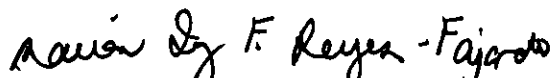
JEAN MARIE A. BACORRO-VILLENA

Associate Justice



MARIA ROWENA MODESTO-SAN PEDRO

Associate Justice



MARIAN IVY F. REYES-FAJARDO

Associate Justice



LANEE S. CUI-DAVID

Associate Justice



With due respect, I join Justice Manahan's Dissenting Opinion

HENRY S. ANGELES

Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Amended Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

PHILIPPINE AIRLINES, INC.,
Petitioner,

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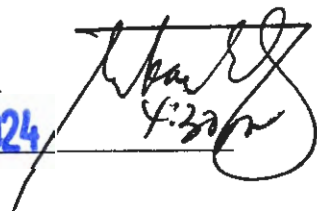
- versus -

DEL ROSARIO, P.L.,
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REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, JL.

COMMISSIONER OF
INTERNAL REVENUE,
Respondent.

Promulgated:

MAY 28 2024



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DISSENTING OPINION

BACORRO-VILLENA, J.:

With all due respect, I register my dissent to the *ponencia* as it partially grants petitioner Philippine Airlines, Inc.'s (**petitioner's/PAL's**) "Motion for Reconsideration (Re: Decision dated 22 June 2023) [**Assailed Decision**]" (**MR**) and remands the case to the First Division for the determination of the refundable amount insofar as the excise taxes erroneously paid on petitioner's importation of alcohol products from January to March 2013.

The *ponencia* ruled that the 2013 price lists obtained from two (2) local suppliers are sufficient to establish herein petitioner's compliance with the *third condition* required by Presidential Decree (PD) 

DISSENTING OPINION

CTA EB No. 2639 (CTA Case No. 9913)

Philippine Airlines, Inc. v. Commissioner of Internal Revenue

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No. 1590, as amended¹, *i.e.*, the non-availability of the subject imported alcohol products in the local market at a reasonable quantity, quality, or price, **but only for those imported in 2013**. As such, the *ponencia* remanded the case to the First Division for the determination of the refundable amount insofar as the excise taxes erroneously paid on petitioner's importation of alcohol products **from January to March 2013**.

The *ponencia* cited the 2017 PAL Decision² and the PAL Minute Resolutions of 2019³, 2021⁴, and 2023⁵ as the basis for considering the submission of the 2013 price lists from two (2) local suppliers as sufficient compliance with the *third condition*.

I, respectfully, beg to differ.

It is worth noting that, as regards petitioner's importation of alcohol products in 2013, reliance cannot be made on the aforesaid 2017 PAL Decision and the PAL Minute Resolutions of 2019, 2021, and 2023 in terms of appreciating the price lists from two (2) local suppliers to establish compliance with the *third condition* since the subject matter of these cases pertain to importations made prior to the issuance of the Bureau of Internal Revenue's (BIR's) Revenue Memorandum Circular (RMC) No. 90-2012.⁶ Particularly, the 2017 PAL Decision involved importations of various liquors and wines **from October to December 2007**, whereas the PAL Minute Resolutions of 2019, 2021, and 2023 involved those imported **from January to April 2008, from March to November 2007 and from June 2007 to October 2008 and July 2009 to October 2009**, respectively.

Notably, RMC No. 90-2012 was based on the BIR's 2010 price survey of alcohol products. Therefore, it is understandable that for liquors and wines imported before and during 2010, a price list from a single local supplier would suffice to meet the *third condition*, as RMC No. 90-2012 already provides a benchmark for the prices of those available in the local market. 8

¹ AN ACT GRANTING A NEW FRANCHISE TO PHILIPPINE AIRLINES, INC. TO ESTABLISH, OPERATE, AND MAINTAIN AIR-TRANSPORT SERVICES IN THE PHILIPPINES AND BETWEEN THE PHILIPPINES AND OTHER COUNTRIES.

² *Commissioner of Internal Revenue and Commissioner of Customs v. Philippine Airlines, Inc.*, G.R. Nos. 215705-07, 22 February 2017.

³ *Commissioner of Internal Revenue (CIR), et al. v. Philippine Airlines, Inc. (PAL)*, G.R. No. 240532 (Notice), 27 March 2019.

⁴ *Philippine Airlines, Inc. v. Commissioner of Internal Revenue, et al.*, G.R. No. 231638 (Notice), 17 February 2021.

⁵ *Commissioner of Internal Revenue, et al. v. Philippine Airlines, Inc.*, G.R. Nos. 236343-45 (Notice), 17 January 2023.

⁶ *Revised Tax Rates of Alcohol and Tobacco Products Under Republic Act No. 10351, "An Act Restructuring the Excise Tax on Alcohol and Tobacco Products by Amending Sections 141, 142, 143, 144, 145, 8, 131 and 288 of Republic Act No. 8424, Otherwise Known as the National Internal Revenue Code of 1997, as Amended by Republic Act No. 9334, and for Other Purposes"*.

DISSENTING OPINION

CTA EB No. 2639 (CTA Case No. 9913)

Philippine Airlines, Inc. v. Commissioner of Internal Revenue

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Since the instant case involves petitioner's imported alcohol products for the period from October 2012 to March 2013, which is beyond the scope of the BIR's 2010 price survey of alcohol products as *per* RMC No. 90-2012, it is reasonable to conclude that this issuance can no longer serve as a benchmark for the prices of those available in the local market. Without such a benchmark, the 2013 price lists obtained from two (2) local suppliers in this case cannot be deemed sufficient, as it can hardly be said that the prices indicated therein are representative of the local prices corresponding to petitioner's imported alcohol products.

In this regard, I echo Associate Justice Catherine T. Manahan's Dissenting Opinion, where she expressed reservations about the probative value of the 2013 price lists obtained from two (2) local suppliers. This doubt stems from the testimony of Cheryl V. Capinpin, petitioner's Manager for the In-flight Materials Purchasing Division, that her observation—that the imported alcohol products are not available locally in reasonable quantity, quality, or price—is based solely on the 2013 price lists obtained from Absolute Sales Corporation and Future Trade International. Furthermore, she admitted that petitioner did not conduct a price survey with other companies apart from these dealers.

I also wish to emphasize that, in determining compliance with the *third condition*, the focus should not be on the number of price lists obtained from local suppliers. Instead, it should be on whether petitioner was able to ascertain, within a reasonable time prior to importation, that the alcohol products sought to be imported could not be sourced from the local market in the necessary quantity, quality, or price—thereby justifying the need for importation. There should be evidence that petitioner determined the prices and availability of each imported alcohol product through a survey conducted with a representative number of local dealers, in order to reasonably conclude that such products cannot be sourced locally and must be imported.

Certainly, since a statute granting tax exemption is strictly construed against the person or entity claiming the exemption⁷, it is incumbent upon petitioner to demonstrate that the *third condition* for excise tax exemption on the importation of alcohol products under PD 1590 was met not after, but within a reasonable time before or at the very least by the date of importation.

It must be remembered that every case is evaluated and decided based on the evidence presented. A divergence in the rulings of the priorly-promulgated cases is not violative of the doctrine of *stare decisis*. 

⁷ *Commissioner of Internal Revenue v. Eastern Telecommunications Philippines, Inc.*, G.R. No. 163835, 07 July 2010.

Additionally, the rulings in the PAL Minute Resolutions of 2019⁸, 2021⁹, and 2023¹⁰ are not applicable since a minute resolution is not considered a binding precedent. Citing *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue*¹¹, in *San Miguel Corporation v. Commissioner of Internal Revenue*¹² (**San Miguel**), the Supreme Court clarified that a previous case ruled with a different subject matter albeit with the same parties and same issues will not be considered *res judicata* to the other cases as well as stressed that there is a substantial distinction between a minute resolution and a decision, viz:

...
It must be noted that APC was decided through a Minute Resolution, and the petition's denial therein was due to a failure to abide by procedural requirements. Nevertheless, the Court held that even if the petitioner therein complied with the procedural requirements, the petition would still be denied for failure to show that a reversible error was committed by the appellate court.

In the case of *Philippine Health Care Providers, Inc. v. Commissioner of Internal Revenue*, the Court clarified that a Minute Resolution is not binding precedent:

It is true that, although contained in a minute resolution, our dismissal of the petition was a disposition of the merits of the case. When we dismissed the petition, we effectively affirmed the CA ruling being questioned. As a result, our ruling in that case has already become final. When a minute resolution denies or dismisses a petition for failure to comply with formal and substantive requirements, the challenged decision, together with its findings of fact and legal conclusions, are deemed sustained. But what is its effect on other cases?

With respect to the same subject matter and the same issues concerning the same parties, it constitutes *res judicata*. However, if other parties or another subject matter (even with the same parties and issues) is involved, the minute resolution is not binding precedent. Thus, in CIR v. Baier-Nickel, the Court noted that a previous case, CIR v. Baier-Nickel involving the same parties and the same issues, was previously disposed of by the Court through a minute resolution dated February 17, 2003 sustaining the ruling of the CA. Nonetheless, the Court ruled that the previous case "(h)ad no bearing" on the latter case because the two cases involved different subject matters as they were concerned with the taxable income of different taxable years.

Besides, there are substantial, not simply formal, distinctions between a minute resolution and a decision. The constitutional requirement under the first paragraph of Section 14 

⁸ Supra at note 3.
⁹ Supra at note 4.
¹⁰ Supra at note 5.
¹¹ G.R. No. 167330 (Resolution), 18 September 2009.
¹² G.R. No. 257697, 12 April 2023.

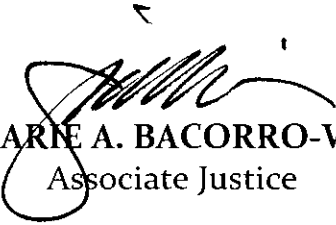
Article VIII of the Constitution that the facts and the law on which the judgment is based must be expressed clearly and distinctly applies only to decisions, not to minute resolutions. A minute resolution is signed only by the clerk of court by authority of the justices, unlike a decision. It does not require the certification of the Chief Justice. Moreover, unlike decisions, minute resolutions are not published in the Philippine Reports. Finally, the proviso of Section 4(3) of Article VIII speaks of a decision. Indeed, as a rule, this Court lays down doctrines or principles of law which constitute binding precedent in a decision duly signed by the members of the Court and certified by the Chief Justice.¹³

...

Here, the subject alcohol products were imported from October 2012 to March 2013. On the other hand, as aforementioned, the PAL Minute Resolutions dealt with importations between March 2007 and October 2009. Thus, any declarations made in the said minute resolutions will not affect the instant case.

With the foregoing disquisitions, I submit that petitioner failed to present sufficient and convincing evidence to prove that the subject alcohol products it imported were not locally available in sufficient quantity, quality, or price at the time of their importation.

All told, I vote to **DENY** the instant MR for lack of merit and thereby, **AFFIRM** the First Division’s Decision dated 29 July 2021 and Resolution dated 26 May 2022.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

¹³ Citation omitted. emphasis and italics in the original text, and underscoring supplied.