

REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

PHILIPPINE AIRLINES, INC., **CTA *EB* NO. 2730**
Petitioner, (*CTA Case No. 9979*)

-versus-

Present:
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 08 2024

[Signature] 9:20 a.m.

X ----- X

DECISION

MODESTO-SAN PEDRO, J.:

The Case

Before the Court *En Banc* is a *Petition for Review* (“Petition”), filed on February 2, 2023,¹ with respondent’s Opposition (Re: Petition for Review dated 02 February 2023) filed on March 27, 2023.² The Petition assails the September 20, 2022 Decision³ of the Court’s First Division denying its Petition for Review, which sought the refund of or issuance of a tax credit certificate for the amount of ₱5,847,417.35 representing excise taxes it paid under protest on November 25, 2016 for importations of cigarettes, liquor,

¹ *Rollo*, pp. 1-70.

² *Id.* at 74-86.

³ *Docket*, Vol. III, pp. 1614-1632.

and wine, as well as the January 12, 2023 Resolution⁴ denying its Motion for Reconsideration.

The Parties

Petitioner, Philippine Airlines, Inc., is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines with registered address at PNB Financial Center, President Diosdado P. Macapagal Avenue, CCP Complex, Pasay City.⁵

On the other hand, respondent is the Commissioner of the BIR, vested with the authority to decide, approve, and grant tax refunds pursuant to *Section 112 (C) of the National Internal Revenue Code of 1997, as amended* (“Tax Code”). He may be served with summons and other Court processes at the BIR National Office Building, Agham Road, Diliman, Quezon City.⁶

The Facts

The case began on November 22, 2018 when petitioner submitted a letter to respondent requesting for refund of or issuance of tax credit certificate for the amount of P5,847,417.35 representing excise taxes it paid on November 25, 2016 for its importation of cigarette and alcohol products, which, under *Presidential Decree No. 1590*, are exempt from excise tax.⁷

Considering that it had only had two years from the payment of taxes within which to file an action with this Court, petitioner filed its Petition for Review a mere three days after its refund letter, or on November 25, 2023.⁸ Respondent filed his Answer⁹ on March 15 2019, after being granted extended periods twice.

Following trial, the Court, acting through its First Division, issued the assailed Decision denying the case for lack of merit. Petitioner’s Motion for Reconsideration, filed on October 10, 2022¹⁰, was denied per the January 12, 2023 Resolution.

Having received said Resolution on January 18, 2023, petitioner filed the instant Petition for Review on February 2, 2023 before the Court *En Banc*. ✓

⁴ *Id.* at 1690-1696.

⁵ Petition for Review, *id.*, p. 2.

⁶ *Id.*

⁷ See Exhibit “P-2”; Docket Vol. II, pp. 1292-1302.

⁸ Docket Vol. I, p. 10-134.

⁹ *Id.* at 155-162.

¹⁰ *Id.* at 1653-1669.

The Court *En Banc* then issued a Resolution, dated March 13, 2023, requiring respondent to file its Comment/Opposition to the Petition within 10 calendar days from notice.¹¹ On March 27, 2023, respondent filed its Opposition (Re: Petition for Review dated 02 February 2023).¹²

On May 4, 2023, this Court *En Banc* issued a Resolution submitting the instant case for Decision.¹³

Hence, this Decision.

The Issue

The sole issue for this Court's resolution is whether denial of the Petition for Review before the Court in Division was proper as petitioner's evidence did not sufficiently establish that the subject imported alcohol and tobacco products were not locally available in reasonable quantity, quality or price at the time of importation.

Arguments of the Parties

Petitioner's Arguments

Petitioner insists that the evidence it presented sufficiently established that the subject imported alcohol and tobacco products are not locally available in reasonable quantity, quality or price. It holds out that in several cases involving the same parties, this Court and the Supreme Court have ruled that the Table of Comparison with testimonial evidence and price list of just one retailer has been found to be sufficient and convincing evidence. It stresses that respondent never presented any counter evidence such that its preponderant evidence is uncontroverted.

Respondent's Counter-Arguments

Respondent relies on the doctrine that claims for refund are construed strictly against the claimant and insists that petitioner failed to discharge its burden of establishing its claim for such.

The Ruling of the Court

Petitioner's claim for refund is anchored upon *Presidential Decree No. 1590* which exempts it from the payment of excise taxes for its imported commissary and catering supplies, subject to its compliance with set requirements.

¹¹ Rollo, at 72-73.

¹² *Id.* at 74-86.

¹³ *Id.* at 88-89.

The pertinent section of *PD No. 1590* provides, as follows –

Section 13. In consideration of the franchise and rights hereby granted, the grantee shall pay to the Philippine Government during the life of this franchise whichever of subsections (a) and (b) hereunder will result in a lower tax:

(a) The basic corporate income tax based on the grantee's annual net taxable income computed in accordance with the provisions of the National Internal Revenue Code; or

(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; provided, that with respect to international air-transport service, only the gross passenger, mail, and freight revenues from its outgoing flights shall be subject to this tax.

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:

1. All taxes, duties, charges, royalties, or fees due on local purchases by the grantee of aviation gas, fuel, and oil, whether refined or in crude form, and whether such taxes, duties, charges, royalties, or fees are directly due from or imposable upon the purchaser or the seller, producer, manufacturer, or importer of said petroleum products but are billed or passed on the grantee either as part of the price or cost thereof or by mutual agreement or other arrangement; provided, that all such purchases by, sales or deliveries of aviation gas, fuel, and oil to the grantee shall be for exclusive use in its transport and nontransport operations and other activities incidental thereto;

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 transport operations and other activities incidental thereto and are not locally available in reasonable quantity, quality, or price;*

....

(Emphasis, supplied)

Hence, the issue in the case is whether the imported products for which petitioner claims a tax refund *are not locally available in reasonable quantity, quality or price.*

In denying the claim for refund, the Court, acting in Division, elucidated as follows –

Petitioner’s comparison or price based on the invoice presented by its suppliers vis-à-vis the pricing indicated in Revenue Memorandum Circular (RMC) No. 90-2012 is misplaced. Suffice it to say that RMC 90-2012 was based on the 2010 price survey of products conducted by the BIR, and that the figures reflected therein cannot be considered as valid basis for a price comparison of products in the year 2014

Also, the Court cannot simply rely on the product price lists from two (2) dealers (i.e., Absolute Sales Corporation and Future Trade International) and the testimony of petitioner’s witness which was merely based thereon. The price lists from the said dealers can hardly represent the prevailing market price of the local products in 2014 for the entire country vis-à-vis the totality of the local suppliers who are engaged in selling similar products in the same year.”¹⁴

At this point, it would be instructive to review jurisprudence on this issue. It would appear that there are seven Supreme Court decisions touching on the issue of whether petitioner has presented evidence sufficient to entitle it to its claim for refund of excise taxes it paid under protest for importations of cigarettes, liquor and wine. Of these seven, four are Notices of unsigned Resolutions, and three are full Decisions. A summary of the conclusions in these cases and those in the corresponding En Banc and Division cases appealed from is contained in the table below –

	CASE NO.	TESTIMONY	EVIDENCE	WHY REJECTED	CONCLUSION
1	G.R. No. 236343-45, 236372-74; Notice (2023-01-17) – granted; sufficient Unsigned Resolution but discussed facts and law on which it was based	Capinpin – Carlsberg, Absolut, Gordons	Tables of Comparison; Supporting price list – corroborated Capinpin’s testimony		Disagreed with CTA finding that PAL has inadequately shown its compliance with Section 13 (b) (2) of PD 1590 as regards the amount of P240,283.71.
	CTA EB No. 1308, 1309, 1311 (2017-02-27) J Liban – partially granted	Capinpin - No local suppliers; no reasonable quantity available locally – as to Volupta Blanco and Rosso Lee; Galeado	Table of Comparison;	Testimony that PAL imported because cheaper than buying locally insufficient - Local prices not available for comparison	Due to testimony on no local suppliers, as to one product, additional P550,810.26 refunded; alternative, not cumulative qualification for exemption; partial refund of P3,983,223.10
	CTA Case No. 8514 (2015-01-06) J	Capinpin; Lee; Galeado	Table of Comparison; Philippine Wine	Local prices of some alcohol products not	Costs of importing identified liquors

¹⁴ Decision, p. 17; Rollo, p. 59; Records, Vol. III, p. 1630.

	Casanova – partially granted		Merchants Price List; Future Trade International Price List; Duty Free Price List	available for comparison;	and wines are lower than the costs of purchasing them locally – Partial refund granted
2	G.R. No. 231638 Notice (2021-02-16) – granted; sufficient Unsigned Resolution but discussed facts and law on which it was based	Capinpin - PAL imported because cheaper than buying locally	Philippine Wine Merchants Price list; Table of Comparison		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)
	CTA EB No. 1299 (2016-10-03) J Uy – dismissed; insufficient	Alcohol - PAL imported because cheaper than buying locally Cigarettes – no local suppliers		Capinpin Cross Examination – only Phil Wine Merchants submitted quotation; Duty Free – only visited to see prices; did not try to obtain price from other suppliers; none of the comparative price list contain price on cigarettes	Affirmed Division dismissing Petition; PJ Del Rosario dissented
	CTA Case No. 8130 (2014-12-01) J Victorino – dismissed; insufficient	Capinpin – only 1 supplier granted request for price list; but request was only to Duty Free			The information gathered from the two sources insofar as imported wine and liquors are concerned are seriously deficient to justify conclusion that the said imported items are not available in reasonable quantity, quality or price in the local market ; Denied Petition
3	G.R. No. 240532 Notice (2019-03-27) - sufficient				Respect CTA findings of fact
	EB No. 1363 – Amended Decision (2018-02-13) – PJ	Capinpin	Philippine Wine Merchants Price List		Followed 2 other CTA cases where Table of

	Del Rosario - sufficient				Comparison and local prices reflected in 1 price list found sufficient; remanded to Division to determine refund amount 2 other cases - CTA Case Nos. 7677, 7685, and 7746 (Decision and Amended Decision) affirmed with modifications in CTA EB 954 & 1046, October 14, 2014; and CTA Case No. 8153, January 17, 2013 (affirmed in CTA EB Nos. 1029, 1031 and April 30, 2014)
	Original Decision CTA EB No. 1363 (2017-04-05) J Grulla; insufficient	Capinpin -- only 1 price list because other local merchants refused to give their price list	Philippine Wine Merchant		Affirmed Division -- only 1 supplier insufficient; Capinin testimony is uncorroborated
	CTA Case No. 8198 (2015-06-02) J Bautista - insufficient	Capinpin - only 1 price list because other local merchants refused to give their price list	Table of Comparison; Philippine Wine Merchants Price List	PAL could not have determined the availability of the imported wines or liquors in reasonable quantity, quality or price in the local market based solely on the price list provided by only one supplier.	Denied Petition Presenting only 1 supplier is insufficient
4	G.R. No. 238672 Notice (2018-07-09) sufficient				Respect CTA findings of fact
	CTA EB No. 1433 (2017-10-18) J Casanova - sufficient	Capinpin	Table of Comparison; Philippine Wine Merchants price list; Future Trade International Price List; Duty Free Retail Prices		Cited several CTA EB cases (CTA EB Case Nos. 1216, 1217 and 1221 {CTA Case No. 8184}, May 27, 2016, CTA EB Case Nos. 954 & 1046 (CTA Case Nos. 7677, 7685 and 7746), October 14, 2014; CTA EB Case Nos. 920 & 922 (CTA

					Case Nos. 7665 and 7713), September 9, 2013 (G.R. Nos. 209353-54, 211733-34, July 6, 2015); CTA EB Case Nos. 1029, 1031 & 1032 (CTA Case No. 8153), April 30, 2014; CTA Case No. 8236, December 18, 2013.) which consistently ruled that the Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies with local prices reflected in the Philippine Wine Merchants' Price List <i>and/or</i> Duty Free Philippines Retail Prices, together with the testimony of petitioner's witness, were deemed sufficient Also cited SC ruling in G.R. Nos. 215705-07 where there was only one price list presented and evidence still found sufficient Noted that PAL's evidence remained un rebutted as the BIR did not present any evidence to refute PAL's claim Remand to Division to determine refund amount
	CTA Case Nos. 8529 and 8590 (2015-10-27) J	Capinpin	Table of Comparison; Philippine Wine Merchants Price	Imported brands not mentioned in price list of	Denied Petition

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	Victorino - insufficient		List; Duty Free Retail Prices	Philippine Wine Merchants nor Duty Free When the subject importations were made in 2009, petitioner did not have any data, reliable or otherwise, on the price and availability of the subject imported items; Witness also admitted in open court that petitioner had nothing to show that it conducted internal canvassing pertaining to the local availability of the subject imported products	
5	G.R. No. 215705-07 (2017-02-22) – sufficient				Respect CTA findings of fact
	CTA EB No. 1029, 1031, 1032 (2014-04-30) J Uy - sufficient	Santos	Philippine Wine Merchants Price List; Table of Comparison; Prima facie case established, burden of evidence shifts to respondent which presented no controverting evidence		Affirmed Division in toto
	CTA Case No. 8153 (2013-01-17) J Castaneda - sufficient	Santos – importing supplies cheaper than purchasing locally	Philippine Wine Merchants Price List; Table of Comparison		Partially granted as to wine products; 1 supplier sufficient
6	G.R. No. 209353-54, 211733-34 (2015-07-06) – sufficient				Respect CTA findings of fact
	CTA EB No. 920, 922 (2013-09-09) J Grulla -sufficient				Affirmed Division; issue not discussed
	CTA Case No. 7665, 7713 (2012-04-17) J Castaneda - sufficient	Li – importation cheaper than purchasing locally	Duty Free Price list; Table of Comparison		One supplier sufficient; Refund granted
7	G.R. No. 212536-37 (2014-08-27) – sufficient				Respect CTA findings of fact

	CTA EB No. 942, 944 (2013-12-09) J Castaneda – sufficient				Affirmed Division
	CTA Case No. 7868 (2012-06-22) J Casanova - sufficient	Santos – importing is cheaper than purchasing locally	Various price lists (3)		Refund granted

As it stands, then, it would appear that the presentation of just one supplier cannot be the basis for finding the evidence of petitioner insufficient. Indeed, in six of the seven cases, above, the ultimate holding is that the presentation of one supplier's price list, together with a Table of Comparison and testimonial evidence that importing the subject alcohol products is cheaper than purchasing them locally, is sufficient to prove that the subject imported products were not locally available in reasonable quantity, quality or price at the time of importation.

At first blush, then, it would appear that the Court in Division erred in finding the evidence of petitioner insufficient, given that not only did it present the testimony of its usual witness, Cheryl V. Capinpin, but also a Table of Comparison and price lists from two sources.

Yet, the Court still agrees with the Division's finding.

The rationale is found in the following disquisition found in the questioned Resolution –

Apart from the findings in the assailed Decision, it must be emphasized that the Court cannot rely on the price lists from Future Trade International since the same pertains to the products' price list of said supplier effective February 1, 2013. There is no indication that the prices of the products in **2013** as shown in the **2013 price list** prepared by Future Trade International Inc. are the same in **2014**, the subject year involved in this case.

Moreover, the Table of Comparison presented by petitioner shows its products importations, and the corresponding Dutiable Value per Informal Import Declaration and Entry (IIDE)/Product Value per Sales Invoice of the imported products. Most of these products with cost comparison were compared with the price lists from Future Trade International and the price survey as found in RMC 90-2012. The comparison based on products' Dutiable value/Product value, on one hand, and the pricing from Future Trade International or the price survey based on RMC, upon the other hand, is misplaced since the pricing pertains to different years, other than year 2014.

Interestingly, the Table of Comparison depicts that not all imported products were compared with the products' pricing offered by the local supplier. This only shows that petitioner miserably failed to exert diligent *effort* to study the availability of the local products and the reasonableness of their prices from other local suppliers.

It is noted that there is only one imported product that was compared to the price list of Absolute Sales Corporation, that is- *Asahi Super Dry Beer*. The pricing from one local supplier alone cannot be considered as a reasonable basis to make a conclusion that the imported product was not locally available in reasonable price. The price from Absolute Sales Corporation of *Asahi Super Dry Beer* can hardly represent the prevailing market price of said product in 2014 for the entire country *vis-a-vis* the totality of local suppliers who are engaged in selling similar product in the same year.

More importantly, the Court observed that the Table of Comparison failed to present a fair comparison as regards the *Asahi Super Dry Beer* product. Petitioner used as the price point for said imported product the Product Value (*based on Sales Invoice*) amounting to HKD12,000.00, and not the Dutiable Value (*based on IDE*) of USD2, 199.70 [*or HKD 17,056.57, if converted*] *vis-a-vis* the local price provided by Absolute Sales Corporation. The Value-Added Tax (VAT) for the imported product was not also considered in the Table of Comparison. Hence, it cannot be concluded that the said local product is not available in reasonable price since not all factors affecting the costs of importations are fully considered in the computation.

Petitioner asserts that, in several cases involving the same parties, the Court have previously ruled that the *"Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies"* is more than sufficient to rule that the cost of importing commissary and catering supplies is lower than purchasing them locally. The Court finds the assertion misplaced.

There is nothing in the cases cited by petitioner which suggests, even remotely, that a *"Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies"* is more than sufficient to establish that the cost of importing commissary and catering supplies is lower than purchasing them locally. Other pieces of evidence were considered by the Court in reaching the decision in those cited cases. To be sure, cases are evaluated based on evidence presented and prevailing jurisprudence.

Petitioner's reliance on the 2017 and 2021 PAL cases could not change the outcome of this case.

In the 2017 PAL case, the Supreme Court sustained the findings of the CTA as it rules that there was no showing that the findings of the CTA are unsupported by substantial evidence. In that case, the CTA found that PAL has sufficiently established that the imported alcohol products which arrived in October to December 2007 are not locally available in reasonable price after considering the testimony of Mr. Victor Santos, PAL's Assistant Vice President in charge of the Catering and In-flight Materials Purchasing Sub-department, together with the Table of Comparison Between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies, Philippine Wine Merchant's January 11, 2007 Price List, and Monthly PDS rates for the year 2007-2008, 2008-2009, and 2009-2010.

Similarly, in the 2021 PAL case, the Supreme Court in the Minute Resolution declared that the testimony of PAL's witness Cheryl V. Capinpin that importing alcohol products is cheaper than buying them locally, the Philippine Wine Merchants' Price List, and the Table of Comparison

between Cost of Importing and Cost of Locally Purchasing Commissary and Catering Supplies are sufficient proofs that the imported liquors and wines were not locally available in reasonable quantity, quality, or price. A revisit of the related CT A case reveals that the same involves PAL's importations of liquors, cigarettes and wines which arrived from March to November **2007**, and the aforesaid price list was for **2007**.

Here, the price list prepared by Future Trade International was for **2013** and petitioner's present claim involves the year **2014**, unlike in the 2017 and 2021 PAL cases. And while there was a **2014** price list prepared by Absolute Sales Corporation pertaining to the *Asahi Super Dry Beer*, petitioner, nonetheless, failed to make a fair comparison of the said local price with the total costs of product's importation.
(Citations omitted)

Clearly, the denial of the claim for refund is not simply because there were only two price lists presented (as the presentation of one price list will suffice) but because the evidence presented was not reliable.

To reiterate, the following reasons were additional basis for the denial of the refund claim –

1. Price list prepared by Future Trade International was effective February 1, 2013 and there was no indication that prices were the same in 2014;
2. Table of Comparison – pricing pertains to different years, other than 2014;
3. Table of Comparison – not all imported products were compared with the products' pricing offered by the local supplier; shows that petitioner miserably failed to exert diligent effort to study the availability of local products and the reasonableness of their prices from other local suppliers;
4. Table of Comparison – failed to present a fair comparison as regards Asahi Super Dry Beer as not all factors affecting the costs of importation were fully considered in the computation.

With respect to the effective date of the price list of Future Trade International, petitioner argues that the effective date “pertains to the beginning of the period, not to its end” and that “the supplier will offer the products at the rates indicated in the price lists begins 01 February 2013 and until a new pricelist is issued, the price as listed still stands”.

This argument fails to convince since the price lists were presented in 2019. At the very least, an explanation should have been offered to explain why for a period covering the year 2014, the price list presented was for 2013 when the list was presented in 2019, certainly with enough time to obtain an applicable and matching price list. ✓

All told, in finding that petitioner's evidence was insufficient to prove that the imported products were not locally available in reasonable quantity, quality or price at the time of importation, the questioned Decision looked into the quality of the evidence presented by petitioner and not just the quantity thereof.

Further, a closer look at the Table of Comparison also reveals that while there were 40 entries for alcohol, some of these pertained to the same type such that there were actually 22 types only. Of these 22 types of alcohol listed, comparative prices for the covered period of 2014 from Absolute Sales were only obtained for one – Asahi Super Dry Beer, representing a measly 4% of the products. Even if we were to give credence to the price list of Future Trade International, comparative prices of only four of the alcohol products were obtained – for Charles Heidsieck Brut Reserve, Rawson Private Release Shiraz Cabernet, Rawson Private Release Chardonnay and Remy Martin VSOP. All in all, only 22% of the products were actually compared in prices. We thus, agree, with the Court in Division that petitioner “miserably failed to exert diligent effort to study the availability of local products and the reasonableness of their prices from other local suppliers.”

With the meager evidence presented by petitioner, the Court cannot make the conclusion that, indeed, the imported products were not locally available in reasonable quantity, quality or price at the time of importation.

It is well-settled that the party who alleges the affirmative of the issue has the burden of proof, and that with the plaintiff in a civil case, the burden of proof never parts. Once the plaintiff makes out a *prima facie* case in his or her favor in the course of the trial, however, the duty or the burden of evidence shifts to the defendant to controvert the plaintiff's *prima facie* case, otherwise, a verdict must be returned in favor of the plaintiff.¹⁵

In turn, “*prima facie*” is defined as evidence good and sufficient on its face. Such evidence as, in the judgment of law, is sufficient to establish, a given fact, or the group of chain of facts constituting the party's claim or defense and which if *not* rebutted or contradicted will remain sufficient.¹⁶

Here, as explained above, the evidence presented by petitioner can hardly qualify as good and sufficient on its face such that it does not even require controverting evidence. Indeed, it is only when “the plaintiff makes out a *prima facie* case in his or her favor in the course of trial that the duty or the burden of evidence shifts to the defendant to controvert the plaintiff's *prima facie* case.”

¹⁵ Singson v. Spouses Carpio, G.R. No. 238714, August 30, 2023.

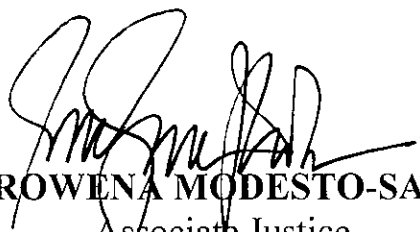
¹⁶ Uganiza y Quinday v. People, G.R. No. 236379 (Notice), October 9, 2023.

Finally, the Court must emphasize that being a derogation of the State's power of taxation, tax refunds or credits, just like tax exemptions, are strictly construed against taxpayers and liberally in favor of the State. Strict compliance with the mandatory and jurisdictional conditions prescribed by law to claim such tax refund or credit is essential and necessary for such claim to prosper.¹⁷

Perhaps with this ruling, petitioner can see fit in the future to present evidence sufficient not just in quantity but more importantly, in quality.

FOR THESE REASONS, the Petition for Review, filed on February 2, 2023, is hereby **DENIED** for lack of merit. The Assailed Decision, dated September 20, 2022, and the Assailed Resolution, dated January 12, 2023, of the Court in Division are hereby **AFFIRMED**.

SO ORDERED.


MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

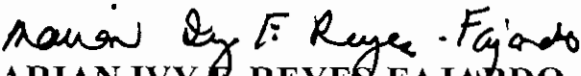

ROMAN G. DEL ROSARIO
Presiding Justice


MA. BELEN M. RINGPIS-LIBAN
Associate Justice


CATHERINE T. MANAHAN
Associate Justice


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

¹⁷ Philippine National Bank v. Commissioner of Internal Revenue, G.R. Nos. 242647 & 243814 & 242842-43 (Notice), March 15, 2022.


MARIAN IVY P. REYES-FAJARDO
Associate Justice

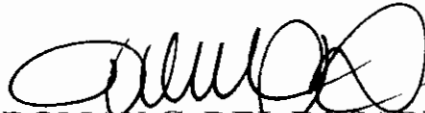

LANEE S. CUI-DAVID
Associate Justice


CORAZON G. FERRER-FLORES
Associate Justice


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 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