



DOF OPINION NO. 004.2024

ATTY. FARIDA NIMFA GUYALA-DIMAILIG

Country Tax Manager

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Taguig City

Subject: Appeal on the Denial of the Motion for Reconsideration for Refund of Excise Taxes of Shell Pilipinas Corporation

Dear **Atty. Dimailig**:

This pertains to the Appeal on the Denial of the Motion for Reconsideration (MR) filed by Shell Pilipinas Corporation (SPC)¹ before this Department requesting that the Decision of the Commissioner of Internal Revenue (CIR) on SPC's application for refund of excise taxes be reviewed, and to issue a Tax Credit Certificate corresponding to the excise taxes paid in the amount of P35,875,544.53.

We note that the Bureau of Internal Revenue's (BIR) decision was received by SPC on 06 August 2023, and the Letter of Appeal pursuant to Section 4 of the Tax Code was filed with this Department on 06 September 2023.

We resolve to **DISMISS** the Appeal on the ground of lack of jurisdiction over the subject matter.

The Tax Code provides:

"SEC. 4. Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases. - The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

¹ Previously known as Pilipinas Shell Petroleum Corporation (PSPC).

The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.”

The 1st paragraph of Sec. 4 is clear that the Secretary of Finance has the authority to review the CIR’s interpretation of the NIRC and other tax laws, while the 2nd paragraph clearly provides that refund of internal revenue taxes, fees or other charges, among others, are subject to the exclusive appellate jurisdiction of the Court of Tax Appeals (CTA).

Moreover, Section 7 of Republic Act (R.A) No. 9282² provides in part that the CTA shall exercise exclusive appellate jurisdiction to review by appeal decisions of the CIR in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the BIR.³

Well-settled is the rule that when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action. It is important that a court or tribunal should first determine whether or not it has jurisdiction over the subject matter presented before it, considering that any act that it performs without jurisdiction shall be null and void, and without any binding legal effects.⁴

Consequently, for this Department to take cognizance of the appeal, it must be the proper forum and must have the authority to act upon the matter presented before it. Since the instant Appeal involves a final decision of the CIR on an application for refund or tax credit of excise taxes paid, this Department lacks jurisdiction on the subject matter and thus, cannot rule on the merits as the same falls under the exclusive appellate jurisdiction of the CTA pursuant to the NIRC and R.A. No. 9282.

² AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OR REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

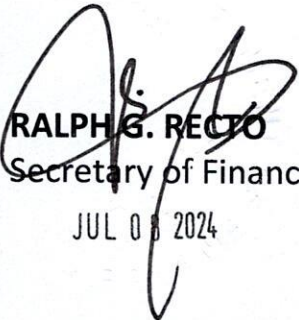
³ Section 7(a)(1) of R.A. 9282.

⁴ Mitsubishi Motors Philippines Corporation vs. Bureau of Customs, G.R. No. 209830, June 17, 2015.

Therefore, this Department lacks jurisdiction over the subject matter and must **DISMISS** your appeal.

Thank you.

Very truly yours,


RALPH G. RECTO
Secretary of Finance
JUL 08 2024



DEPARTMENT OF FINANCE
Republic of the Philippines



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Copy furnished:

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DEPARTMENT OF FINANCE
Republic of the Philippines



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