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SECOND DIVISION

[G.R. Nos. 198609-10; April 26, 2023]

DEPARTMENT OF FINANCE and DEPARTMENT OF ENERGY, *Petitioners*, *v.* **PHILIPPINE AIRLINES, INC.,** *Respondent*.

[G.R. No. 229812; April 26, 2023]

THE DEPARTMENT OF FINANCE and THE DEPARTMENT OF ENERGY, *Petitioners, v.* **PHILIPPINE AIRLINES, INC.,** *Respondent.*

D E C I S I O N

LEONEN, *J.*:

A ruling of the Bureau of Internal Revenue cannot be indirectly attacked to escape tax liability by questioning one of its factual bases before the Regional Trial Court. Regular courts generally do not have jurisdiction to pass upon issues involving matters arising from the administration of tax laws.

This involves consolidated cases docketed as G.R. Nos. 198609-10 and G.R. No. 229812 that originate from a common factual background. G.R. Nos. 198609-10 is a Petition for Review seeking to reverse and set aside the Court of Appeals Consolidated Decision,[1] which dismissed Petitions for *Certiorari* questioning interlocutory orders of the Regional Trial Court of Pasay City in Civil Case No. R-PSY-10-03889-CV.

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[1] *Rollo* (G.R. Nos. 198609-10), pp. 15–36. The Consolidated Decision dated September 21, 2011 in CA-G.R. SP Nos. 117468 and 118372 was penned by Associate Justice Franchito M. Diamante, and concurred in by Associate Justices Josefina Guevara-Salonga and Ramon R. Garcia of the Special Third Division, Court of Appeals, Manila.

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On the other hand, G.R. No. 229812 is a Petition for Review seeking to reverse and set aside the Court of Appeals Decision[2] which affirmed the Regional Trial Court's Decision in the same case. The factual backgrounds of these two Petitions are interrelated as they both arose from the same case in the trial court.

On October 30, 2002, then Finance Secretary Jose Isidro N. Camacho wrote then Energy Secretary Vincent S. Perez, Jr., inquiring about the availability of aviation fuel. The letter reads, in part:

> The Department of Finance is currently reviewing the exemption from excise tax granted to certain domestic airlines on their importation of aviation fuel for use in domestic operations.
>
> In this connection, may we request for a certification from the Department of Energy on whether or not aviation fuel for use in domestic operation by our domestic aviation industry is locally available in reasonable quantity, quality or price.
>
> Thank you.[3]

Energy Secretary Perez replied:

> This is in response to your letter of 30 October 2002, which we received last 11 November 2022, requesting for a Certification from the DOE on whether or not aviation fuel for use in domestic operations by our domestic aviation industry is locally available in reasonable quantity, quality or price.
>
> Based on available data and records, we confirm and certify that aviation gas, fuel and oil for use in domestic operation of domestic airline companies are locally available in reasonable quantity, quality and price."[4]

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[2] *Rollo* (G.R. No. 229812), pp. 65–92. The Decision dated January 27, 2017 in CA-G.R. CV No. 102468 was penned by Associate Justice Maria Elisa Sempio Diy, and concurred in by Associate Justices Ramon M. Bato, Jr. and Manuel M. Barrios of the Twelfth Division, Court of Appeals, Manila.

[3] *Rollo* (G.R. Nos. 198609-10), p. 3.

[4] *Id*.

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Using this Certification as basis, the Bureau of Internal Revenue, through then Commissioner Guillermo L. Parayno, Jr., issued BIR Ruling No. 001-03 addressed to domestic airline companies, which reads, in part:

PHILIPPINE AIRLINES
Post Office Box 1955
Manila

CEBU AIR, INC.
c/o Romulo Mabanta Buenaventura Sayoc & de los Angeles
30th Floor Citibank Tower
Paseo de Roxas, Makati City

AIR PHILIPPINE CORPORATION
R-3 Hangar, PAL Gate 2
Andrews Avenue, Pasay City

PACIFIC AIRWAYS CORPORATION
Domestic Airport Road, MIA, Pasay City

Gentlemen:

This refers to the rulings of this Office that have been separately issued to you, namely:

1. *BIR Ruling No. 013-99* issued to **PAL** on January 29, 1999;
2. *BIR Ruling No. 110-99* issued to **Cebu Air, Inc.** on July 20, 1999;
3. *BIR Ruling No. 048-2000* issued to **Air Philippines Corporation** on October 23, 2000, and;
4. *VAT Ruling No. 076-2001* issued to **Pacific Airways Corporation** on October 17, 2001,

that we have now revisited on the basis of the instruction of the Secretary of Finance to review the exemption from taxes granted to airline companies on their importation of aviation gas, fuel, and oil for use in their domestic operations.

Importations of petroleum products for domestic operations are tax-exempt in the absence of two conditions: (1) the purchases by sale or delivery of aviation gas, fuel, and oil, whether refined or in crude form shall be for the exclusive use in the franchisee's transport and nontransport operations and other activities incidental thereto, and; (2) in case of importations, that they are not locally available in reasonable quantity, quality or price. (Section 13, PD 1590, as amended by Letter of Instruction No. 1483; PAL's Charter; Section 11, Republic Act No. 7151;

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Cebu Air's Charter; Section 14, Republic Act No. 7909; Pacific Airways' Charter, and: Section 15, Republic Act No. 8337; Air Philippines' Charter). Thus, importations of such products may not be tax-exempt unless the two conditions are present.

In the light of the Certification of the Department of Energy dated December 20, 2002 that aviation gas, fuel and oil for use in domestic operation of domestic airline companies are locally available in reasonable quantity, quality and price, it is the considered opinion of this Office that there is now an absence of the second condition required for the airlines to continue to enjoy tax exemption on their importations of petroleum products for domestic operations as stated in Section 13 of PAL's Charter (PD 1590, as amended by LOI 1483) and which condition applies *ipso facto* to the other airlines. Accordingly, your importations may not be given the same tax treatment as before for as long as there is such available domestic supply of petroleum products.

This Ruling, therefore, supersedes the above-stated rulings and all such other rulings that may be contrary to the intent of this Ruling, and constitutes the final decision of this Office on the matter.

This Ruling takes effect immediately.[5]

In May 2005, Republic Act No. 9337, also known as the Expanded Value-Added Tax Law, was enacted, which amended provisions of the National Internal Revenue Code of 1997. It subjected petroleum products and other indigenous fuels to value-added tax. Excise tax was likewise imposed on aviation turbo jet fuel.

Thus, under the Expanded Value-Added Tax Law and BIR Ruling No. 001-03, Philippine Airlines, Inc. (Philippine Airlines) and other domestic airline companies were imposed excise taxes on their importations of aviation fuel. Philippine Airlines paid the excise tax imposed on its imported fuels under protest.[6]

Philippine Airlines moved to reconsider the Department of Energy's Certification, but the Department of Energy denied its Motion.[7]

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[5] *Id*. at 342–343.

[6] *Id*. at 5.

[7] *Id*. at 6.

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Insisting that the Certification was erroneous, Philippine Airlines requested certification from the Air Transportation Office every time it imported fuel. The Air Transportation Office would certify that it did not pose objections to the importation of aviation fuel because "the same is not locally available in reasonable quantity, quality and price but is necessary/incidental for the operation of [Philippine Airlines]."[8] Even after the Air Transportation Office was replaced by the Civil Aviation Authority of the Philippines, the certifications remained the same.[9]

Philippine Airlines and other domestic airline companies filed for tax refund before the Court of Tax Appeals. While the tax refund cases were pending, Philippine Airlines filed before the Regional Trial Court of Pasay City a Complaint/Petition for Declaration of Nullity and Injunction with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction against the Department of Energy's Certification.[10] A Temporary Restraining Order was issued by the trial court.[11]

The Regional Trial Court issued the Writ of Preliminary Injunction, directing the following:

> **NOW, THEREFORE,** you are hereby enjoined, together with your attached offices, agencies, officers and/or representatives from further relying on, invoking, implementing or otherwise giving effect to the assailed DOE Certification, the various 1st indorsements of the DOF ruling that PAL is liable for excise tax for importation of aviation fuel, other such similar indorsements, directives and/or rulings on the availability of aviation fuel in reasonable quantity, quality or price and ordered to adopt measures or means to inform and instruct your attached offices, agencies, officers and/or representatives to desist from relying on the assailed certification, and/or to review and revoke any action being done by your attached offices, agencies, officers and/or representatives in violation of the Orders of this Court.[12]

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[8] *Id*.

[9] *Id*.

[10] *Id*.

[11] *Rollo* (G.R. No. 229812), p. 71.

[12] *Rollo* (G.R. Nos. 198609-10). p. 7.

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The Department of Finance and the Department of Energy moved for reconsideration and for the trial judge's voluntary inhibition. Also included in the Motion was the Urgent Motion to Set Affirmative Defenses for Hearing.[13] The Regional Trial Court denied the Department of Finance and the Department of Energy's Motions.[14] Thus, the departments filed a Petition for *Certiorari* before the Court of Appeals assailing the grant of the Writ of Preliminary Injunction. They alleged that questions concerning exemption for excise tax on importation of aviation fuel are within the exclusive jurisdiction of the Court of Tax Appeals.[15] In another Petition for *Certiorari*, the Department of Finance and the Department of Energy also questioned the refusal of the trial judge to voluntarily inhibit themself and the denial of their right to be heard on their special and affirmative defenses.[16] These two Petitions for *Certiorari* were consolidated in one case.

In a Consolidated Decision, the Court of Appeals dismissed the Petitions for *Certiorari*, stating that the Department of Energy's Certification, which was the subject of the injunction, was not meant to generate revenue for the government, but merely to provide information on the local availability of aviation fuel. Thus, it held that the Regional Trial Court and not the Court of Tax Appeals had jurisdiction over the issue.[17]

Citing Philippine Airline's financial condition and its tax-exempt status as being "essential to its survival,"[18] the Court of Appeals found that it was "more prudent to maintain the status quo while the issue as to the validity of the [Department of Energy] certification is yet to be determined."[19] As to the question of jurisdiction, the Court of Appeals ruled that the assailed Order did not in any way rule on the validity of the Department of

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[13] *Id*. at 7.

[14] *Id*.

[15] *Id*. at 8.

[16] *Id*. at 8–9.

[17] *Id*. at 11.

[18] *Id*. at 15.

[19] *Id*. at 16.

Energy's Certification nor the department's authority to issue such Certification; it only issued the preliminary injunction to preserve the status quo until the merits of the case are heard and resolved.[20] Thus, it found no grave abuse of discretion on the part of the Regional Trial Court.

The dispositive portion of the Consolidated Decision of the Court of Appeals reads:

> **WHEREFORE,** the instant Petitions are hereby **DENIED**. The assailed Orders dated August 24, 2010, October 29, 2010 and December 20, 2010 of herein public respondent, in Civil Case No. R-PSY-10-03889-CV, are hereby **AFFIRMED**.
>
> With this Decision, the resolution on Petitioners' Motion for Reconsideration dated March 28, 2001 and the Urgent Motion dated September 7, 2011, is considered MOOT and ACADEMIC.
>
> **SO ORDERED.**[21]

Petitioners Department of Finance and Department of Energy appealed the Consolidated Decision before this Court through a Petition for Review. The Petition was docketed as G.R. Nos. 198609-10.

After the filing of respondent Philippine Airlines' Comment and petitioners' Reply, the parties were ordered to submit their respective memoranda.

In petitioners' Memorandum, they argue that the Department of Energy's Certification is materially and directly related to respondent's excise tax liability, and that this liability is being indirectly attacked by the Regional Trial Court's issuance of an injunction restraining the imposition and collection of excise taxes.[22] They argue that respondent wanted to make it appear—and the Court of Appeals erroneously agreed—that the Certification

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[20] *Id*.

[21] *Id*. at 21.

[22] *Id*. at 1823.

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was not related to the issue of excise taxes, and that its validity is a stand-alone issue.[23]

According to petitioners, jurisdiction is determined by the material allegations of the petition or complaint and the character of the relief prayed for; in this case, they point out that respondent was clearly seeking exemption from the payment of excise taxes but wanted to avoid the jurisdiction of the Court of Tax Appeals.[24] Petitioners say that an "[a]ttack on the basis of the BIR Ruling, i.e.[,] the [Department of Energy] Certification, is in itself an attack on the ruling itself, hence, within the jurisdiction of the [Court of Tax Appeals]. Respondent is evading the truth that the [Bureau of Internal Revenue] has already ruled and issued BIR Ruling No. 001-03 dated January 29, 2003 imposing excise tax on aviation fuel importations based on the [Department of Energy] Certification, which ruling was not reversed, amended or superseded by the [Commissioner of Internal Revenue] nor appealed to the [Court of Tax Appeals]."[25]

Petitioners also note that respondent submitted the very same issue on the validity of the Department of Energy's Certification in the cases for tax refund it had filed before the Court of Tax Appeals.[26] It had, therefore, admitted that the Certification is materially and directly related to a tax issue.[27] Moreover, petitioners stress that when the trial court issued the injunction purportedly to prevent the enforcement of said Certification, the injunction also restrained the imposition and collection of excise taxes, supposedly in violation of Section 218 of the National Internal Revenue Code which prohibits courts from granting injunctions to restrain the collection of any national internal revenue tax.[28] Petitioners contend that the injunction "effectively reversed and nullified the BIR Ruling No. 001-03."[29]

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[23] *Id*. at 1824.

[24] *Id*. at 1824–1828.

[25] *Id*. at 1829.

[26] *Id*. at 1835.

[27] *Id*. at 1836.

[28] *Id*. at 1838.

[29] *Id*. at 1839.

Further, petitioners argue that the injunction issued by the Regional Trial Court did more than just preserve the status quo until the merits of the case was resolved. According to them, it effectively altered the situation of the parties because it undermined BIR Ruling No. 001-03 and its implementation, which was the last actual uncontested status between the parties.[30] To recall, BIR Ruling No. 001-03 was not questioned before the Regional Trial Court.

Petitioners likewise argue that the Regional Trial Court and the Court of Appeals had preempted the resolution of the main case when it considered, "as if it was taking judicial notice, that '[Philippine Airlines] is currently in a financial bind,"' and that reliance on the Certification to collect excise taxes could affect respondent's cash flow. To petitioners, this should not have been considered in the grant of the injunction as well as in the Petition for *Certiorari* they filed before the Court of Appeals.[31]

As to the procedural issues, petitioners question the Regional Trial Court's denial of their Urgent Motion, where they were denied the opportunity to raise their affirmative defenses—specifically, the trial court's alleged lack of jurisdiction and respondent's supposed violation of the rule against forum shopping and *litis pendentia*.[32] Petitioners argue that their subsequent Motion for Voluntary Inhibition against the trial court judge was not due to a difference of opinion, but because of the substantive and procedural violations supposedly committed by the judge in the proceedings before the trial court.[33]

Petitioners also fault the Court of Appeals when it sustained the Regional Trial Court's issuance of the Temporary Restraining Order and Writ of Preliminary Injunction despite the lack of evidence showing urgency and irreparable injury to be sustained.[34]

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[30] *Id*. at 1841.

[31] *Id*. at 1841–1843.

[32] *Id*. at 1845–1846.

[33] *Id*. at 1848–1854.

[34] *Id*. at 1854–1855.

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Petitioners stress that the trial court issued the injunctive orders only on the basis of respondent's claim that it was exempt from excise taxes despite the existence of BIR Ruling No. 001-03.[35] They stress that respondent's rights under Presidential Decree No. 1590, or respondent's franchise, were yet to be determined by the Court of Tax Appeals; therefore, the requirement of a clear right to be protected by the restraining order was not established.[36]

Finally, petitioners maintain that respondent's franchise is a mere privilege and is subject to the State's power of taxation.[37]

In its Memorandum, respondent alleges that the Petition for Review raises questions of fact not reviewable under Rule 45, particularly the issue of whether it was able to establish the requisites to avail injunctive relief.[38]

On the substantive issue, respondent insists that the Court of Appeals did not err in affirming the Regional Trial Court's grant of injunctive relief, primarily because the injunction sought was not against the collection of excise taxes.[39] It maintains that the injunction did not enjoin the collection of any tax, but merely the reliance on the Department of Energy's Certification.[40] It points out that the Bureau of Internal Revenue was not prevented from imposing and collecting excise tax from respondent, "as long as no reliance on the assailed 2002 [Department of Energy] Certification is made."[41]

Respondent also upholds the Regional Trial Court's jurisdiction to take cognizance of the case it filed and to issue the injunction. It argues that the issue before the trial court involves an issuance by the Department of Energy, over which the Court of Tax Appeals

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35 *Id*. at 1855.

36 *Id*.

37 *Id*. at 1862–1864.

38 *Id*. at 1893, 1896.

39 *Id*. at 1897.

40 *Id*. at 1898.

41 *Id*. at 1903.

had no jurisdiction.[42] It points out that it is the regular courts that have jurisdiction "to annul the acts of administrative agencies done without legal authority or jurisdiction."[43]

Further, respondent rejects petitioners' claim that it was merely looking for a friendlier court, since it had also submitted the same issue before the Court of Tax Appeals.[44] It claims that it could not be found guilty of forum shopping or *litis pendentia*, since there is no identity of parties, causes of action, and issues despite the commonality of factual backgrounds.[45]

Respondent also maintains that the issuance of the injunction did not dispose of the main case, since the Order granting the injunction did not rule on the validity of the Department of Energy's Certification.[46] Respondent likewise defends the issuance of the injunction, saying that the relief sought was necessary to prevent grave and irreparable injury because it needed the injunctive relief prayed for "now and not years later when its financial problems have worsened to the point that it is beyond any relief."[47]

Moreover, respondent argues that the trial court's denial of petitioners' Urgent Motion to Set Affirmative Defenses for Hearing was not grave abuse of discretion, since a preliminary hearing is not mandatory and rests on the sound discretion of the trial court.[48] It notes that the denial of the Motion for Voluntary Inhibition was likewise not a grave abuse of discretion, since the Motion was based merely on imputations of bias and partiality, which are not sufficient for a judge to inhibit themself.[49] Bias and partiality must be shown to be from a source outside of what the judge learned from participating in the case.[50]

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42 *Id*. at 1898–1902.

43 *Id*. at 1902.

44 *Id*. at 1904.

45 *Id*. at 1904–1905.

46 *Id*. at 1908.

47 *Id*. at 1909–1910.

48 *Id*. at 1915.

49 *Id*. at 1916–1927.

50 *Id*. at 1927–1929.

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G.R. No. 229812 is a continuation of the original case before the Regional Trial Court. After trial, the Regional Trial Court rendered a Decision finding the Department of Energy's Certification null and void.[51] It also made permanent the preliminary injunction earlier issued.[52] The Secretaries of the Department of Finance and the Department of Energy appealed this Decision.[53]

In its Decision, the Court of Appeals first discussed the issue of jurisdiction. It found that the issue before the Regional Trial Court was the validity of the Certification issued by the Department of Energy; nowhere in the law defining the Court of Tax Appeals' jurisdiction states that issuances of the Department of Energy fall under the cases cognizable by the tax court. Thus, it ruled that the regular courts have jurisdiction to pass upon the validity of rules or regulations of an administrative agency issued in the performance of its quasi-legislative function.[54]

Further, the Court of Appeals found that it is the Civil Aviation Authority of the Philippines, not the Department of Energy, which is the authorized agency to certify the availability of aviation fuel in reasonable quantity, quality, and price.[55] Citing the law creating the Civil Aviation Authority of the Philippines, the Court of Appeals concluded:

> [I]t is clearly within the competence and expertise of the CAAP to determine and certify that the quality of the aircraft fuel reasonably complies with the standards of the agency. In other words, the CAAP, which is under the Department of Transportation ("DOTr"), is the primary agency mandated to maintain the proper quality standards for everything related to civil aviation, including aircraft, equipment, supplies, as well as aviation fuel.[56]

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51 *Rollo* (G.R. No. 229812), p. 71.

52 *Id*. at 66.

53 *Id*. at 71.

54 *Id*. at 74.

55 *Id*. at 76.

56 *Id*. at 84.

To bolster this view, the Court of Appeals observed that there is nothing in Presidential Decree No. 1206, which created the Department of Energy, which "expressly empowers the latter to certify. . . the availability of aviation fuel."[57] It also noted that during trial, the testimony of the Director of the Department of Energy's Oil Industry Management Bureau showed that the Department of Energy is neither involved in the regulation of aviation fuel quality[58] nor is it involved in making projections of demand for aviation fuel.[59] The Department of Energy's Certification was merely based on past data covering the previous year, and that it "does not make certifications on the actual future availability of aviation fuel in reasonable quantity to meet the demand."[60] Moreover, the testimony also highlighted that this was the first and only time that the Department of Energy was requested to certify the availability of local aviation fuel.[61] The Court of Appeals concluded that it is the Civil Aviation Authority of the Philippines which appears to be the proper agency which certifies the availability of aviation fuel.[62]

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, the instant appeal is hereby **DENIED**. The Decision dated February 27, 2014 of Branch 114, Regional Trial Court of Pasay City in Civil Case No. R-PSY-10-03889-CV is hereby **AFFIRMED**.

SO ORDERED.[63]

This Decision was appealed to this Court through a Petition for Review, docketed as G.R. No. 229812.

In this Petition for Review, petitioners Department of Finance and Department of Energy insist that it is the Court of Tax Appeals

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[57] *Id*. at 86.

[58] *Id*. at 87–88.

[59] *Id*. at 89.

[60] *Id*. at 89–90.

[61] *Id*. at 89

[62] *Id*. at 91.

[63] *Id*. at 92.

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and not the Regional Trial Court that has jurisdiction over the case, since it is inextricably related to BIR Ruling No. 001-03 which withdrew respondent's tax exempt status.[64] They admit that nowhere in Republic Act No. 9282, which expanded the Court of Tax Appeals' jurisdiction, does it provide that the tax court can pass upon issuances of the Department of Energy. Nevertheless, they note that prior to the filing of the Complaint/Petition for Declaration of Nullity and Injunction before the Regional Trial Court, respondent had already filed several claims for tax refund before the Court of Tax Appeals, disputing the Bureau of Internal Revenue's assessments of excise tax based on BIR Ruling No. 001-03.[65] In these cases, respondent also questioned the Certification's validity.[66] Petitioners contend that the authority of the Court of Tax Appeals to determine the validity of BIR Ruling No. 001-03 necessarily included the determination of the validity of the Certification on which the ruling was based.

Moreover, petitioners claim that the issuance of the Certification by the Department of Energy was pursuant to its express mandate to monitor petroleum products, which includes aviation fuel, and not out of its quasi-legislative power to make rules and regulations.[67] Thus, respondent's invocation of the Regional Trial Court's judicial power was supposedly improper.[68] In doing so, petitioners claim that respondent was effectively attacking the BIR Ruling indirectly, as well as splitting its cause of action. After all, respondent ultimately sought relief from its tax liability.[69]

Contrary to the Court of Appeals' finding, petitioners maintain that it is the Department of Energy and not the Civil Aviation Authority of the Philippines that has the power and authority to issue certifications that aviation fuel is available locally in

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64 *Id*. at 36.

65 *Id*. at 37–38.

66 *Id*. at 38.

67 *Id*. at 40–41.

68 *Id*. at 42.

69 *Id*.

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reasonable quantity, quality, and price.[70] They claim that the power is incidental to the Department of Energy's "exclusive power and authority to monitor the movement of petroleum products, including the price, quantity and quality thereof."[71] Aviation fuel is among those petroleum products, as indicated in the Implementing Rules and Regulations of Republic Act No. 8479 or the Downstream Oil Industry Deregulation Act of 1998.[72] Further, petitioners note that among the powers of the Secretary of Energy is to monitor the prices, quality, and quantity of petroleum products, pursuant to the same rules.[73]

They further argue that the provisions which the Court of Appeals cites to justify the Civil Aviation Authority of the Philippines' functions only pertain to the cooperation, assistance, and coordination with government agencies regarding research and technical studies; they do not authorize the agency to monitor the supply of aviation fuel.[74]

In its Comment, respondent insists that the Regional Trial Court had jurisdiction over its Complaint/Petition for Nullification of the Certification. It maintains that the Court of Tax Appeals does not have jurisdiction to rule on the validity of issuances by the Department of Energy.[75] Moreover, it claims that judicial power of the trial courts does not require that the assailed act was done pursuant to an agency's quasi-legislative function; any act done with grave abuse of discretion amounting to lack or excess of jurisdiction may be judicially reviewed.[76] Since, according to respondent, the Department of Energy does not have authority to certify as to the local availability of aviation fuel, the Certification can be subject to the regular courts' judicial review.[77]

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[70] *Id*. at 43.

[71] *Id*.

[72] *Id*. at 43–44.

[73] *Id*. at 44–46.

[74] *Id*. at 46–47.

[75] *Id*. at 319–324.

[76] *Id*. at 324–325.

[77] *Id*. at 325.

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Respondent also raises the same argument in G.R. Nos. 198609-10, saying that there was no forum shopping or *litis pendentia* since there is no identity of parties, causes of action, and issues despite the commonality of factual backgrounds.[78]

Respondent also posits that it is the Civil Aviation Authority of the Philippines and not the Department of Energy that has the authority to issue certifications as to the availability of aviation fuel in reasonable quantity, quality, and price.[79] Philippine Airlines' charter, Presidential Decree No. 1590, also expressly designated the Civil Aviation Authority of the Philippines and its predecessors as the agency that regulates its operations.[80] Respondent points to the seeming lack of express authority granted to petitioners to determine the local availability of aviation fuel, which is a matter "more logically addressed to the Department of Transportation."[81]

Respondent stresses that the Secretary of Energy has declined to rule on the local availability of aviation fuel four years after the issuance of the contested certification.[82] It points to the letter of the Secretary of Energy endorsing the matter to the Civil Aeronautics Board and the Air Transportation Office, as well as to the reliance of the Department of Finance on the certifications of the Air Transportation Office for purposes of import duties exemption.[83] However, despite the Air Transportation Office certification being sufficient basis to grant exemption from duties, it was not used to grant exemption from excise taxes.[84] Even the President, under Letter of Instruction No. 684, has recognized the Civil Aeronautics Administration's authority to issue certifications for purposes of exemption from import duties.[85] Respondent argues that it should also be the case for exemption from excise

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78 *Id*. at 326.

79 *Id*. at 329.

80 *Id*. at 332.

81 *Id*. at 336–337.

82 *Id*. at 341.

83 *Id*. at 341–343.

84 *Id*. at 344.

85 *Id*. 351.

taxes. It points to its charter, Presidential Decree No. 1590, and says that the legislative intent is to give respondent the benefit of paying the least amount of tax possible.[86] It also disputes the Department of Energy's Certification, claiming that there was not enough locally available aviation fuel at reasonable prices and quantities at the time.[87]

In their Reply, petitioners again point out that the crux of the case is a tax issue, and that respondent does not even attempt to conceal this.[88] Petitioners also claim that respondent raised factual issues in its Comment, specifically on the actual availability of aviation fuel at the time of the Certification, which are outside the scope of a Rule 45 petition.[89] Nevertheless, they dispute respondent's factual assertions and maintain that it failed to prove that aviation fuel was not locally available at reasonable prices and quantities, saying respondent's allegations are hearsay or inaccurate.[90]

Considering that these two Petitions for Review originate from the same case, but only elevated from the Regional Trial Court to the Court of Appeals and then to this Court at separate stages, a single disposition of the issue is in order.

The most basic issue that must be resolved in this case is whether the Regional Trial Court had jurisdiction to take cognizance of the Petition for Nullification of the Department of Energy's Certification. Subsequent issues concerning the propriety of the issuance of the injunction, the inhibition of the trial court judge, or the validity of said Certification which was finally decided by the trial court in its Decision, are only relevant if the Regional Trial Court had jurisdiction to begin with.

On the main issue, we find that the Regional Trial Court does not have jurisdiction to rule on the validity of the Department of Energy's Certification.

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[86] *Id*. at 363, 367–372.

[87] *Id*. at 354–364.

[88] *Id*. at 411.

[89] *Id*. at 412.

[90] *Id*. at 412–415.

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Respondent sought to nullify the Department of Energy's Certification based on its alleged lack of authority to issue the same. Its allegations would have the trial court believe that it is the Air Transportation Office (now succeeded by the Civil Aviation Authority of the Philippines) that has the authority to certify the local availability of aviation fuel for domestic operations. It attempts to define the issue as being limited only to this.

However, a closer look at the circumstances of the case would reveal that the true issue in this case involves a tax matter.

The Department of Energy's Certification was issued upon the request of the Secretary of the Department of Finance. The letter request was clear as to the purpose of this request. To recall, the letter reads:

> The Department of Finance is currently reviewing the exemption from excise tax granted to certain domestic airlines on their importation of aviation fuel for use in domestic operations.
>
> In this connection, may we request for a certification from the Department of Energy on whether or not aviation fuel for use in domestic operation by our domestic aviation industry is locally available in reasonable quantity, quality or price.
>
> Thank you.[91]

From the start, it was clear that the only purpose of the Certification was to see if excise tax exemptions granted to local airline companies could be withdrawn, as the exemption was based on a factual circumstance that was beyond the Department of Finance's determination. The sole purpose of the Certification was to provide the Department of Finance with the necessary information related to its collection of excise taxes. Thus, when the Department of Energy replied, certifying the availability of local aviation fuel in reasonable quantity, quality, or price, a BIR Ruling was issued withdrawing the tax exemptions earlier granted to airline companies. The Department of Energy's Certification,

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[91] *Rollo* (G.R. Nos. 198609-10), p. 3.

therefore, is inextricably related to BIR Ruling No. 001-03 and the collection of taxes.[92]

Further, as quoted by petitioners, respondent's prayer for injunction in its Complaint/Petition before the Regional Trial Court expressly mentions, as a relief sought, the issuance of an injunction against petitioners and their attached agencies, including the Bureau of Internal Revenue, "from relying on, invoking, implementing or otherwise giving effect to the assailed [Department of Energy] certification, the various 1st Indorsements of the [Department of Finance] ruling that [Philippine Airlines] is liable for excise tax for importation of aviation fuel[.]"[93] The Complaint further prays to make the injunction permanent after trial.[94]

Even in the grant of the initial Temporary Restraining Order and the subsequent Writ of Preliminary Injunction, the trial court mentions that the injunction was issued to prevent the Bureau of Internal Revenue from relying on the Certification to impose excise taxes on respondent, and that respondent should enjoy the tax incentives granted to it by its charter to pay the least amount of tax possible.[95]

It is therefore clear that the ultimate relief sought from and granted by the Regional Trial Court, either through its injunctive orders or final disposition of the case, pertained to respondent's excise tax liability. This is beyond the jurisdiction of the Regional Trial Court. To take respondent's position and simply accept that the Complaint/Petition only wanted to nullify the Department of Energy's Certification without any relation to tax treatment implications would be turning a blind eye to the factual circumstances and the true issue of this case. In *Cañiza v. Court of Appeals*,[96] this Court held that "[i]t is axiomatic that

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92 *Id*. at 36.

93 *Id*. at 1825.

94 *Id*. at 1826.

95 *Id*. at 1825–1826.

96 335 Phil. 1107 (1997) [Per C.J. Narvasa, Third Division]

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what determines the nature of an action as well as which court has jurisdiction over it, are the allegations of the complaint and the character of the relief sought."[97]

A perusal of the quoted portions of the original Complaint/ Petition and the reliefs it prayed for would show that what respondent is seeking is its exemption from excise tax liability on its aviation fuel importations. Even the arguments in its pleadings submitted before this Court in both cases inevitably point to respondent's tax liability.

In effect, respondent wants to indirectly attack BIR Ruling No. 001-03 and avoid its effects by questioning the basis for its issuance. This cannot be done. The proper remedy is to appeal the BIR Ruling to the Secretary of Finance before questioning its legality before the proper court.[98] Under Republic Act No. 8424, or the National Internal Revenue Code, as amended:

> SECTION 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. . .

Department of Finance's Department Order No. 007-02, which implements the quoted provision, further states, in part:

> SECTION 2. *Validity of Rulings*. – A ruling by the Commissioner of Internal Revenue shall be presumed valid until overturned or modified by the Secretary of Finance.
>
> SECTION 3. *Rulings adverse to the taxpayer.* – A taxpayer who receives an adverse ruling from the Commissioner of Internal Revenue may, within thirty (30) days from the date of receipt of such ruling, seek its review by the Secretary of Finance.

Thus, seeking to nullify the factual basis of a BIR ruling to avoid its effects is improper recourse. In this case, taking into account the nature of respondent's Complaint/Petition for Declaration of Nullity questioning the Department of Energy's

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[97] *Id*. at 1113.

[98] *See* Republic Act No. 8424 (1997), sec. 4.

Certification, as well as the reliefs it prayed for, we find that the Regional Trial Court was devoid of authority to hear and rule on the case. It should have dismissed the action because ultimately, the issue involved is the imposition and collection of excise taxes on aviation fuel.

Ruling that the Regional Trial Court had no jurisdiction over the original action and declaring the proceedings before it null and void, it is unnecessary to discuss the other incidents arising from the case. Particularly, the issue on the propriety of the issuance of the injunctive writs, the non-inhibition of the trial court judge, as well as the validity of the Department of Energy's Certification, need to be passed upon.

Nevertheless, this Court notes petitioners' undisputed assertion that there were cases for refund filed before the Court of Tax Appeals essentially involving the same Certification by the Department of Energy and the corresponding BIR Ruling No. 001-03. The finding of lack of jurisdiction on the part of the Regional Trial Court has no effect on these cases.

ACCORDINGLY, the Petitions are **GRANTED**. The Court of Appeals Consolidated Decision dated September 21, 2011 in CA-G.R. SP Nos. 117468 and 118372, and the Decision dated January 27, 2017 in CA-G.R. CV No. 102468 are **REVERSED and SET ASIDE**. The Orders and Decision of the Regional Trial Court of Pasay City in Civil Case No. R-PSY-10-03889-CV are declared **NULL and VOID** for being issued without jurisdiction. This Decision is without prejudice to proceedings before the Court of Tax Appeals.

SO ORDERED.

Lazaro-Javier, M. Lopez, J. Lopez, and *Kho, Jr., JJ.,* concur

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