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Republic of the Philippines  
**Supreme Court**  
Baguio City

**SECOND DIVISION**

**COMMISSIONER OF INTERNAL REVENUE,**      **G.R. No. 231581**

Petitioner,      **Present:**

CARPIO, J., Chairperson,  
PERLAS-BERNABE,\*  
CAGUIOA,  
REYES, J. JR., and  
LAZARO-JAVIER, JJ.

- versus -

**UNIVATION MOTOR PHILIPPINES, INC. (formerly NISSAN MOTOR PHILIPPINES, INC.),**

Respondent.

**Promulgated:**

10 APR 2019

*[Handwritten Signature]*

x ----- x

**DECISION**

**REYES, J. JR., J.:**

This resolves the Petition for Review on *Certiorari*<sup>1</sup> seeking to nullify the December 22, 2016 Decision<sup>2</sup> and the April 27, 2017 Resolution<sup>3</sup> of the Court of Tax Appeals (CTA) *En Banc*, which respectively dismissed petitioner Commissioner for Internal Revenue's (petitioner CIR's) Petition for Review thereby partially granting respondent's judicial claim for refund and/or issuance of Tax Credit Certificate for its excess creditable income tax, and denied petitioner CIR's Motion for Reconsideration, in CTA EB No. 1333.

\* On leave.  
<sup>1</sup> *Rollo*, pp. 30-62.  
<sup>2</sup> Penned by Associate Justice Caesar A. Casanova, with Associate Justices Roman G. Del Rosario (Presiding Justice), Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla, Ma. Belen M. Ringpis-Liban (on leave), and Catherine T. Manahan (on leave), concurring; *id.* at 10-20.  
<sup>3</sup> *Id.* at 22-24.

*[Handwritten mark]*

On July 8, 2011, Univation Motor Philippines, Inc. (respondent) filed its amended Annual Income Tax Return (ITR) for 2010<sup>4</sup> showing a total gross income of ₱117,084,174.00 and an overpayment of income taxes amounting to ₱26,103,898.52. Respondent opted to claim its overpayment of income tax through the issuance of a tax credit certificate. On March 12, 2012, respondent filed its administrative claim<sup>5</sup> with the Bureau of Internal Revenue (BIR) explaining that the overpayment of ₱26,103,898.52 consists of prior year's excess credits in the amount of ₱15,576,837.00 less Minimum Corporate Income Tax amounting to ₱2,341,683.48 and creditable withholding taxes accumulated during the four quarters of 2010 in the amount of ₱12,868,745.00. Respondent filed its Application for Tax Credit<sup>6</sup> in the amount of ₱12,868,745.00. Since the BIR has not yet acted upon respondent's administrative claim, petitioner filed a Petition for Review with the CTA on April 12, 2013.<sup>7</sup>

In its Answer, petitioner CIR raised the following special and affirmative defenses: (a) respondent's claim for refund is tainted with procedural infirmity due to petitioner's failure to submit complete documents in support of its administrative claim for refund; (b) petitioner miserably failed to exhaust administrative remedies before elevating the case to this Court; and (c) claims for refund are construed strictly against the taxpayer and in favor of the government.

During trial, respondent presented and formally offered its testimonial and documentary evidence which were all admitted in the Resolutions dated May 22, 2014 and August 11, 2014. Petitioner CIR's counsel manifested during hearing that he will no longer present any evidence.

On March 10, 2015, the CTA First Division rendered a Decision<sup>8</sup> which partially granted respondent's Petition for Review and ordered petitioner CIR to issue a tax credit certificate in the amount of ₱12,729,617.90 representing respondent's unutilized or excess creditable withholding taxes for taxable year ending December 21, 2010. Petitioner CIR filed a Motion for Reconsideration but the CTA First Division denied the said Motion in a Resolution<sup>9</sup> dated June 30, 2015.

Petitioner CIR elevated the case to the CTA *En Banc*. Finding respondent's documentary evidence as sufficient, the CTA *En Banc* issued the now appealed Decision dated December 22, 2016 affirming the Decision of the CTA First Division. Petitioner CIR moved to reconsider but just the same, its motion was denied in a Resolution dated April 27, 2017.

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<sup>4</sup> *Rollo*, pp. 184-189.

<sup>5</sup> *Id.* at 191-192.

<sup>6</sup> *Id.* at 193.

<sup>7</sup> *Id.* at 12.

<sup>8</sup> *Id.* at 284-297.

<sup>9</sup> *Id.* at 298-300.

Dissatisfied with the Decision of the CTA *En Banc*, petitioner CIR filed the instant petition with this Court raising the following issues, to wit:

I.

WHETHER THE CTA HAS PREMATURELY ASSUMED JURISDICTION ON RESPONDENT'S JUDICIAL CLAIM FOR TAX REFUND OR CREDIT WITHOUT WAITING FOR THE DECISION OF PETITIONER.

II.

WHETHER THE CTA *EN BANC* ERRED IN GRANTING RESPONDENT'S CLAIM FOR REFUND DESPITE ITS FAILURE TO SUBSTANTIATE ITS CLAIM BY SUFFICIENT DOCUMENTARY PROOF.

Petitioner CIR argued that respondent prematurely filed its judicial claim with the CTA depriving it with the opportunity to act on the administrative claim for refund/tax credit in violation of the doctrine of exhaustion of administrative remedies. Petitioner CIR also argued that respondent's administrative claim should be considered pro-forma for failure to submit the complete supporting documents as required by Revenue Memorandum Order (RMO) No. 53-98 and Revenue Regulations No. 2-2006.

Respondent, however, explained that if it waited for the CIR's decision on its claim for refund, it would have suffered irreparable damage as it would have been barred from seeking judicial recourse.

The issue is not novel.

Sections 204 and 229 of the National Internal Revenue Code (NIRC) provide for the refund of **erroneously** or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund.<sup>10</sup> Thus:

**SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.** — The Commissioner may —

x x x x

(c) Credit or refund taxes **erroneously** or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in**

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<sup>10</sup> *CBK Power Company Limited v. Commissioner of Internal Revenue*, 750 Phil. 748 (2015).

**writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty:** Provided, however, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.<sup>11</sup>

Section 229 of the 1997 NIRC provides:

**Sec. 229. Recovery of Tax Erroneously or Illegally Collected. —** No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

**In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment.** *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. (Emphasis supplied)

Indeed, the two-year period in filing a claim for tax refund is crucial. While the law provides that the two-year period is counted from the date of payment of the tax, jurisprudence, however, clarified that the two-year prescriptive period to claim a refund actually commences to run, at the earliest, on the date of the filing of the adjusted final tax return<sup>12</sup> because this is where the figures of the gross receipts and deductions have been audited and adjusted, reflective of the results of the operations of a business enterprise.<sup>13</sup> “Thus, it is only when the Adjustment Return covering the whole year is filed that the taxpayer would know whether a tax is still due or a refund can be claimed based on the adjusted and audited figures.”<sup>14</sup>

In the instant case, the two-year period to file a claim for refund is reckoned from April 15, 2011, the date respondent filed its Final Adjustment Return. Since respondent filed its administrative claim on March 12, 2012 and its judicial claim on April 12, 2013, therefore, both of respondent’s administrative and judicial claim for refund were filed on time or within the two-year prescriptive period provided by law. Under the circumstances, if respondent awaited for the commissioner to act on its administrative claim (before resort to the Court), chances are, the two-year prescriptive period will lapse effectively resulting to the loss of respondent’s right to seek judicial recourse and worse, its

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<sup>11</sup> Id. at 763.

<sup>12</sup> *ACCRA Investments Corp. v. Court of Appeals*, 281 Phil. 1060, 1068-1069 (1991).

<sup>13</sup> *Commissioner of Internal Revenue v. TMX Sales, Inc.*, 282 Phil. 199, 207 (1992).

<sup>14</sup> Id.

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right to recover the taxes it erroneously paid to the government. Hence, respondent's immediate resort to the Court is justified.

Contrary to petitioner CIR's assertion, there was no violation of the doctrine of exhaustion of administrative remedies. The Court ruled:

x x x the Court agrees with the ratiocination of the CTA *En Banc* in debunking the alleged failure to exhaust administrative remedies. Had CBK Power awaited the action of the Commissioner on its claim for refund prior to taking court action knowing fully well that the prescriptive period was about to end, it would have lost not only its right to seek judicial recourse but its right to recover the final withholding taxes it erroneously paid to the government thereby suffering irreparable damage.<sup>15</sup> (Citation omitted)

The law only requires that an administrative claim be priorly filed.<sup>16</sup> That is, to give the BIR at the administrative level an opportunity to act on said claim.<sup>17</sup> In other words, for as long as the administrative claim and the judicial claim were filed within the two-year prescriptive period, then there was exhaustion of the administrative remedies.

At any rate, Section 7 of Republic Act No. 9282, amending Republic Act No. 1125, provides that the CTA has exclusive appellate jurisdiction over tax refund claims in case the Commissioner fails to act on them:

*Sec. 7. Jurisdiction.* — The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) Decisions of the Commissioner of Internal Revenue 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 or other laws administered by the Bureau of Internal Revenue;

(2) **Inaction by the Commissioner of Internal Revenue 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 Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period of action, in which case the inaction shall be deemed a denial;

(3) Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction. (Emphasis supplied)

<sup>15</sup> *CBK Power Company Limited v. Commissioner of Internal Revenue*, supra note 10, at 764.

<sup>16</sup> *Id.* at 765.

<sup>17</sup> *Id.* at 764.

This means that while the Commissioner has the right to hear a refund claim first, if he or she fails to act on it, it will be treated as a denial of the refund, and the CTA is the only entity that may review this ruling.<sup>18</sup> Respondent need not wait for the Commissioner to act on its administrative claim for refund. Thus, in the old case of *P.J. Kiener Co., Ltd. v. David*,<sup>19</sup> the Court held:

x x x Nowhere and in no wise does the law imply that the Collector of Internal Revenue must act upon the claim, or that the taxpayer shall not go to court before he is notified of the Collector's action. Having filed his claim and the Collector of Internal Revenue having had ample time to study it, the claimant may, indeed should, within the statutory period of two years proceed with his suit without waiting for the Collector's decision. We understand the filing of the claim with the Collector of Internal Revenue to be intended primarily as a notice or warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow.  
x x x<sup>20</sup>

Petitioner CIR argued that failure of the respondent to submit the required complete documents as required by Revenue Memorandum Order No. 53-98 and Revenue Regulations No. 2-2006 rendered the petition with the CTA dismissible on the ground of lack of jurisdiction. It reasoned out that when a taxpayer prematurely filed a judicial claim with the CTA, the latter has no jurisdiction over the appeal.

In the instant case, respondent's failure to submit the complete documents at the administrative level did not render its petition for review with the CTA dismissible for lack of jurisdiction. At this point, it is necessary to determine the grounds relied upon by a taxpayer in filing its judicial claim with the CTA. The case of *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*<sup>21</sup> is instructive, thus:

A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been

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<sup>18</sup> *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, G.R. Nos. 206079-80 and 206309, January 17, 2018.

<sup>19</sup> 92 Phil. 945 (1953).

<sup>20</sup> *Id.* at 947.

<sup>21</sup> 774 Phil. 473 (2015).

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granted in the first place. Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA.<sup>22</sup>

In this case, it was the inaction of petitioner CIR which prompted respondent to seek judicial recourse with the CTA. Petitioner CIR did not send any written notice to respondent informing it that the documents it submitted were incomplete or at least require respondent to submit additional documents. As a matter of fact, petitioner CIR did not even render a Decision denying respondent's administrative claim on the ground that it had failed to submit all the required documents.

Considering that the administrative claim was never acted upon, there was no decision for the CTA to review on appeal *per se*. However, this does not preclude the CTA from considering evidence that was not presented in the administrative claim with the BIR.<sup>23</sup> Thus, RA No. 1125 states:

Section 8. *Court of record; seal; proceedings.* — The Court of Tax Appeals shall be a court of record and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence.

The law creating the CTA specifically provides that proceedings before it shall not be governed strictly by the technical rules of evidence.<sup>24</sup> The paramount consideration remains the ascertainment of truth.<sup>25</sup> Thus, the CTA is not limited by the evidence presented in the administrative claim in the Bureau of Internal Revenue.<sup>26</sup> The claimant may present new and additional evidence to the CTA to support its case for tax refund.<sup>27</sup>

Cases filed in the CTA are litigated *de novo* as such, respondent "should prove every minute aspect of its case by presenting, formally offering and submitting x x x to the Court of Tax Appeals all evidence x x x required for the successful prosecution of its administrative claim."<sup>28</sup> Consequently, the CTA may give credence to all evidence presented by respondent, including those that may not have been submitted to the CIR as the case is being essentially decided in the first instance.<sup>29</sup>

The issue of whether or not respondent was able to prove by preponderance of evidence its entitlement to the issuance of a Tax Credit

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<sup>22</sup> Id. at 504.

<sup>23</sup> *Commissioner of Internal Revenue v. Philippine National Bank*, 744 Phil. 299, 312 (2014).

<sup>24</sup> *Filinvest Development Corporation v. Commissioner of Internal Revenue*, 556 Phil. 439, 447-448 (2007).

<sup>25</sup> Id. at 450.

<sup>26</sup> *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, supra note 18.

<sup>27</sup> Id.

<sup>28</sup> Supra note 23.

<sup>29</sup> *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue*, supra note 21, at 505.

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certificate, the same is a factual matter. “It is doctrinal that the Court will not lightly set aside the conclusions reached by the CTA which, by the very nature of its function of being dedicated exclusively to the resolution of tax problems, has developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority.”<sup>30</sup>

Jurisprudence laid down the basic requirements in order for a taxpayer to claim tax credit or refund of creditable withholding tax, thus: (1) The claim must be filed with the CIR within the two-year period from the date of payment of the tax, as prescribed under Section 229 of the NIRC of 1997; (2) The fact of withholding is established by a copy of a statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld; and (3) It must be shown on the return of the recipient that the income received was declared as part of the gross income.<sup>31</sup> The second and third requirements are found under Section 2.58.3(B) of Revenue Regulation No. 2-98,<sup>32</sup> as amended, which reads:

Section 2.58.3. *Claim for tax credit or refund.* — (B) Claims for tax credit or refund of any creditable income tax which was deducted and withheld on income payment shall be given due course only when it is shown that the income payments has been declared as part of the gross income and the fact of withholding is established by a copy of the withholding tax statement duly issued by the payor to the payee showing the amount paid and the amount of tax withheld therefrom.

Petitioner CIR insisted on the absence of the second and third requirements. It argued that respondent failed to prove the fact of withholding, showing the amount paid and the amount of tax withheld and that the income it received was declared as part of the gross income. Specifically, petitioner CIR questioned respondent when it included the creditable withholding taxes pertaining to income payments for the years 2006, 2008 and 2009 to form part of its claim for refund for the year 2010.

In this case, respondent was able to establish through the documentary evidence it submitted compliance with the second and third requisites. As correctly evaluated by the CTA 1<sup>st</sup> division:

To prove its compliance with the second requisite, petitioner [now respondent] presented Schedule/Summary of Creditable Taxes Withheld for the year 2010 and the related Certificates of Creditable Taxes Withheld at Source (BIR form No. 2307) duly issued to it by various withholding agents for the year 2010, reflecting creditable withholding taxes in the total amount of ₱12,868,745.87.

<sup>30</sup> *Commissioner of Internal Revenue v. Bank of the Philippine Islands*, G.R. No. 224327, June 11, 2018.

<sup>31</sup> *Commissioner of Internal Revenue v. TeaM (Philippines) Operations Corp.*, 719 Phil. 513, 520-521 (2013).

<sup>32</sup> Implementing Republic Act No. 8424, “An Act Amending the National Internal Revenue Code, As Amended, And For Other Purposes.” Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding on Income Tax On Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.



Anent the third requisite, the court was able to trace the income payments related to the substantiated CWT of ₱12,868,745.87 (*save for the amount of ₱139,127.97 CWT*) to petitioner's General Ledger (GL) for CY 2010, 2009, 2008 and 2006 and noted that the same were reported in petitioner's Annual ITRs for the years 2010, 2009, 2008 and 2006.<sup>33</sup>

It must be noted that while the income payments from which the CWTs which were declared in its return covered the years 2006, 2008, 2009 and 2010, there was nothing wrong with it as what is important is that the respondent complied with the third requisite, that is, the income which the taxes were withheld was included in the returns of the respondent.

The CTA *En Banc* correctly appreciated the explanation of the independent CPA (ICPA) why the income payments from which the CWT amounting to ₱12,729,617.90 were withheld, were declared in its returns covering the years 2006, 2008, 2009 and 2010. In gist, the ICPA suggests that there were delays in collection of certain income payments to respondent. For one, certain sales made by respondent to its dealers in 2008 and 2009 were only paid in 2010. In other words, there were certain income payments which, although respondent expected to receive in 2006, 2008 and 2009, were only remitted to it in 2010. As concluded by the CTA *En Banc*, the delay in collection of certain income payments of respondent caused the timing difference between the actual reporting of the income by respondent and the actual withholding of the corresponding creditable income tax by respondent's customers.<sup>34</sup> What is important is that the creditable withholding taxes corresponding to the related income in the respondent's books for CY's 2006, 2008 and 2009 were not yet claimed as income tax credits in respondent's annual ITRs corresponding to the said years. Hence, it is just proper that these income payments should form part of respondent's tax credit for 2010.

Again, we reiterate the well-established doctrine that as a matter of practice and principle, we will not set aside the conclusion reached by an agency, like the CTA x x x. By the very nature of its function, it has dedicated itself to the study and consideration of tax problems and has necessarily developed an expertise on the subject, unless there has been an abuse or improvident exercise of authority on its part x x x.<sup>35</sup> On this score, we give highest respect to the factual findings of the CTA, which can only be disturbed on appeal if they are not supported by substantial evidence or there is a showing of gross error or abuse on the part of the CTA.<sup>36</sup> No such exception obtains in this case and thus, we presume that the CTA rendered a decision which is valid in every respect.

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<sup>33</sup> *Rollo*, p. 293.

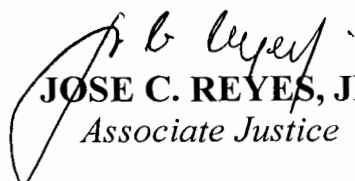
<sup>34</sup> *Id.* at 18.

<sup>35</sup> *Commissioner of Internal Revenue v. Philippine Bank of Communications*, G.R. Nos. 198522 and 199057, Second Division Resolution dated March 14, 2018, citing *CIR v. United Salvage and Towage (Phils.), Inc.*, 738 Phil. 335, 342-343 (2014).

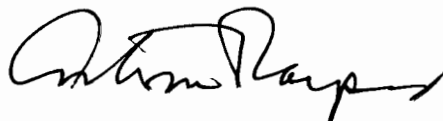
<sup>36</sup> *Philippine Airlines, Inc. v. Commissioner of Internal Revenue*, *supra* note 18 at 540.

**WHEREFORE**, the instant Petition is **DENIED**. The December 22, 2016 Decision and the April 27, 2017 Resolution of the Court of Tax Appeals *En Banc*, respectively sustaining the findings of the CTA 1<sup>st</sup> Division and denying petitioner CIR's Motion for Reconsideration, in CTA EB No. 1333, are **AFFIRMED**. Accordingly, the Commissioner of the Bureau of Internal Revenue is **DIRECTED** to issue a Tax Credit Certificate in favor of Univation Motor Philippines, Inc. in the amount of ₱12,729,617.90 representing its unutilized or excess creditable withholding tax for the taxable year 2010.

**SO ORDERED.**

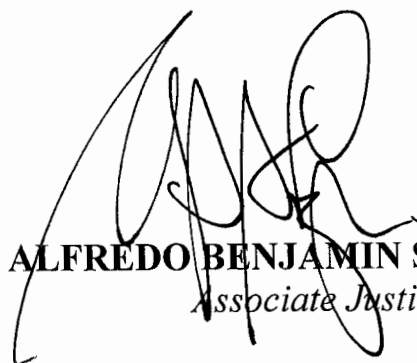
  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**



**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson*

**(On Leave)**  
**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

  
**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*

  
**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
*Senior Associate Justice*  
*Chairperson, Second Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**LUCAS P. BERSAMIN**  
*Chief Justice*