



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

**CITY OF MANILA, HON.
ALFREDO S. LIM, as Mayor of the
City of Manila, and ANTHONY Y.
ACEVEDO, City Treasurer,
Petitioners,**

G.R. No. 120051

- versus -

**HON. ANGEL VALERA COLET, as
Presiding Judge, Regional Trial
Court of Manila (Br. 43), and
MALAYSIAN AIRLINE SYSTEM,
Respondents.**

x ----- x
**MAERSK-FILIPINAS, INC.,
AMERICAN PRESIDENT LINES,
LTD., FLAGSHIP TANKERS
CORP., CORE INDO MARITIME
CORP., and CORE MARITIME
CORP.,
Petitioners,**

G.R. No. 121613

- versus -

**CITY OF MANILA, MAYOR
ALFREDO LIM, VICE MAYOR
LITO ATIENZA,¹ SANGGUNIANG
PANLUNGSOD and CITY
TREASURER ANTHONY
ACEVEDO,
Respondents.**

x ----- x
**EASTERN SHIPPING LINES, INC.,
Petitioner,**

G.R. No. 121675

- versus -

**CITY COUNCIL OF MANILA,
THE MAYOR OF MANILA and**

¹ His real name is Jose Atienza, Jr., but he is more popularly known as Lito Atienza.

THE CITY OF MANILA,
Respondents.

x ----- x
**WILLIAM LINES, INC., NEGROS
NAVIGATION CO., INC.,
LORENZO SHIPPING
CORPORATION, CARLOS A.
GOTHONG LINES, INC., ABOITIZ
SHIPPING CORPORATION,
ABOITIZ AIR TRANSPORT
CORPORATION, ABOITIZ
HAULERS, INC., and SOLID
SHIPPING LINES
CORPORATION,**
Petitioners,

G.R. No. 121704

- versus -

**REGIONAL TRIAL COURT OF
MANILA, BRANCH 32, CITY OF
MANILA, MAYOR ALFREDO
LIM, VICE MAYOR LITO
ATIENZA, SANGGUNIANG
PANLUNGSOD, and CITY
TREASURER ANTHONY
ACEVEDO,**
Respondents.

x ----- x
**PNOC SHIPPING AND
TRANSPORT CORPORATION,**
Petitioner,

G.R. Nos. 121720-28

- versus -

**HON. JUAN T. NABONG, JR.,
Presiding Judge, Regional Trial
Court of Manila, Branch 32; THE
CITY OF MANILA; MAYOR
ALFREDO LIM; VICE MAYOR
LITO ATIENZA; SANGGUNIANG
PANLUNGSOD, and CITY
TREASURER ANTHONY
ACEVEDO ,**
Respondents.

x ----- x

**MAERSK-FILIPINAS, INC.,
AMERICAN PRESIDENT LINES,
SEA-LAND SERVICES, INC.,
OVERSEAS FREIGHTERS
SHIPPING, INC., DONGNAMA
SHIPPING CO., LTD., FLAGSHIP
TANKERS, CORE INDO
MARITIME CORP., CORE
MARITIME CORP., and EASTERN
SHIPPING LINES, INC.,**
Petitioners,

G.R. Nos. 121847-55

- versus -

**CITY OF MANILA, HON. MAYOR
ALFREDO S. LIM, HON. VICE
MAYOR LITO ATIENZA, JR.,
SANGGUNIANG PANLUNGSOD
NG MAYNILA, and CITY
TREASURER ANTHONY Y.
ACEBEDO and their agents or
representatives, and HON. JUDGE
JUAN C. NABONG, JR., Branch 32,
Regional Trial Court of Manila,**
Respondents,

**WILLIAM LINES, INC., NEGROS
NAVIGATION CO., INC.,
LORENZO SHIPPING
CORPORATION, CARLOS A.
GOTHONG LINES, INC., ABOITIZ
SHIPPING CORPORATION,
ABOITIZ AIR TRANSPORT
CORPORATION, ABOITIZ
HAULERS, INC., SOLID
SHIPPING LINES CORPORATION
and PNOCC SHIPPING &
TRANSPORT CORPORATION,**
Intervenors.

X ----- X
**COSCO CONTAINER LINES and
HEUNG-A SHIPPING CO., LTD.,**
both represented by their Resident
Agent, Wallem Philippines Shipping,
Inc.; **DSR SENATOR LINES,
COMPANIA SUD AMERICANA**

G.R. No. 122333

DE VAPORES S.A., and ARIMURA SANGYO COMPANY, LTD., all represented by their Resident Agent, C.F. Sharp Shipping Agencies, Incorporated; PACIFIC INTERNATIONAL LINES (PTE) LTD. and PACIFIC EAGLE LINES (PTE) LTD., both represented by their Resident Agent, TMS Ship Agencies, Inc.; COMPAGNIE MARITIME D' AFFRETEMENT (CMA), represented by its Resident Agent, Inchcape Shipping Services; EVERETT ORIENT LINES, INC., represented by its Resident Agent, Everett Steamship Corporation; YANGMING MARINE TRANSPORT CORP., represented by its Resident Agent, Sky International, Inc.; NIPON YUSEN KAISHA, represented by its Resident Agent, Fil-Japan Shipping Corporation; HYUNDAI MERCHANT MARINE CO. LTD., represented by its Resident Agent, Citadel Lines; MALAYSIAN INTERNATIONAL SHIPPING CORPORATION BERHAD, represented by its Resident Agent, Royal Cargo Agencies, Inc.; BOLT ORIENT LINE, represented by its Resident Agent, FILSOV Shipping Company, Inc.; MITSUI-O.S.K. LINES, LTD., represented by its Resident Agent, Magsaysay Agencies, Inc.; PHILS., MICRONESIA & ORIENT NAVIGATION CO. (PMSO LINE), represented by its Resident Agent, Van Transport Company, Inc.; LLOYD TRIESTINO DI NAVIGAZIONE S.P.A.N. and COMPAGNIE GENERALE MARITIME, both represented by their Resident Agent, F.E. Zuellig (M), Inc.; and MADRIGAL-WAN

HAI LINES,
Petitioners,

- *versus* -

**CITY OF MANILA, MAYOR
ALFREDO LIM, VICE MAYOR
LITO ATIENZA, SANGGUNIANG
PANLUNGSOD and City Treasurer
ANTHONY Y. ACEBEDO,**
Respondents,

x ----- x
SULPICIO LINES, INC.,
Petitioner,

G.R. No. 122335

- *versus* -

**REGIONAL TRIAL COURT OF
MANILA, BRANCH 32, CITY OF
MANILA MAYOR ALFREDO LIM,
VICE MAYOR LITO ATIENZA,
SANGGUNIANG PANLUNGSOD
and CITY TREASURER
ANTHONY ACEVEDO,**
Respondents.

x ----- x
**ASSOCIATION OF
INTERNATIONAL SHIPPING
LINES, INC., in its own behalf and
in representation of its Members,**
Petitioner,

G.R. No. 122349

- *versus* -

**CITY OF MANILA, MAYOR
ALFREDO LIM, VICE MAYOR
LITO ATIENZA, SANGGUNIANG
PANLUNGSOD and CITY
TREASURER ANTHONY
ACEVEDO,**
Respondents.

x ----- x
**DONGNAMA SHIPPING CO., LTD.
and KYOWA SHIPPING LTD.
herein represented by SKY
INTERNATIONAL, INC.,**

G.R. No. 124855

Petitioners,

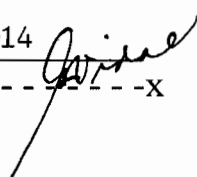
Present:

- versus -

SERENO, *CJ.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,**
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,**
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN, and
JARDELEZA,** *JJ.***COURT OF APPEALS, CITY OF
MANILA MAYOR ALFREDO LIM,
VICE MAYOR LITO ATIENZA,
CITY COUNCIL OF MANILA, and
CITY TREASURER ANTHONY
ACEVEDO,**

Promulgated:

Respondents.

December 10, 2014 

x-----x

DECISION**LEONARDO-DE CASTRO, J.:**

Before the Court are 10 consolidated Petitions, the issue at the crux of which is the constitutionality and/or validity of Section 21(B) of Ordinance No. 7794 of the City of Manila, otherwise known as the Revenue Code of the City of Manila (Manila Revenue Code), as amended by Ordinance No. 7807.²

**I
ANTECEDENT FACTS**

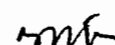
The Manila Revenue Code was enacted on June 22, 1993 by the City Council of Manila and approved on June 29, 1993 by then Manila Mayor Alfredo S. Lim (Lim). Section 21(B) of said Code originally provided:

Section 21. Tax on Businesses Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC. – On any of the following businesses and articles of commerce subject to the excise, value-added or

* On leave.

** On official leave.

² On November 26, 2013, the City Council of Manila had already enacted Ordinance No. 8331, otherwise known as the 2013 Omnibus Revenue Code of the City of Manila.



percentage taxes under the National Internal Revenue Code, hereinafter referred to as NIRC, as amended, a tax of three percent (3%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:

X X X X

B) On the gross receipts of keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water, except owners of bancas and owners of animal-drawn two-wheel vehicle.

Shortly thereafter, Ordinance No. 7807 was enacted by the City Council of Manila on September 27, 1993 and approved by Mayor Lim on September 29, 1993, already amending several provisions of the Manila Revenue Code. Section 21 of the Manila Revenue Code, as amended, imposed a lower tax rate on the businesses that fell under it, and paragraph (B) thereof read as follows:

Section 21. Tax on Business Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC – On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code hereinafter referred to as NIRC, as amended, a tax of FIFTY PERCENT (50%) OF ONE PERCENT (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:

X X X X

B) On the gross receipts of keepers of garages, cars for rent or hire driven by the lessee, transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water, except owners of bancas and owners of animal-drawn two-wheel vehicle.

The City of Manila, through its City Treasurer, began imposing and collecting the business tax under Section 21(B) of the Manila Revenue Code, as amended, beginning January 1994.

G.R. No. 120051

Malaysian Airline System (MAS) is a foreign corporation organized and existing under the laws of Malaysia. It is licensed to engage in business in the Philippines by the Securities and Exchange Commission (SEC), particularly in the airline business which involves the transportation of passengers and cargo for hire. Its principal office and place of business in the Philippines is located in the City of Manila.

As MAS was renewing its business permit for 1994, it was assessed by the City Treasurer of Manila on January 17, 1994 for the following taxes and fees:

Mayor's permit and regulatory fees	₱ 10,307.50
Municipal license tax or business tax	<u>1,100,000.00</u>
Total	₱ 1,110,307.50 ³

MAS, believing that it was exempt from the municipal license tax or business tax, tendered, via Far East Bank and Trust Company (FEBTC) Check No. 06564 dated January 19, 1994, only the amount of ₱10,307.50 for the mayor's permit and regulatory fees. The City Treasurer of Manila refused to accept FEBTC Check No. 06564.

Consequently, on January 20, 1994, MAS instituted Civil Case No. 94-69052, to consign with the trial court the amount of ₱10,307.50 for mayor's permit and regulatory fees; to challenge the assessment against it by the City Treasurer of Manila in the amount of ₱1,100,000.00 for municipal license tax or business tax; and to have Section 21(B) of the Manila Revenue Code, as amended, on which said assessment for municipal license tax or business tax was based, be declared invalid or null and void. Civil Case No. 94-69052 was assigned to the Regional Trial Court (RTC) of Manila, Branch 43.

On April 3, 1995, RTC-Branch 43 rendered a Decision⁴ in favor of MAS. The dispositive portion of said Decision reads:

WHEREFORE, the foregoing disquisitions considered, judgment is hereby rendered in favor of the plaintiff against the defendants:

1. Declaring the consignment valid and made in accordance with law;
2. Ordering defendants to issue to plaintiff the mayor's permit or permit to operate for 1994, the necessary certificates and official receipts evidencing payment of [plaintiff's] liabilities for mayor's permit fee and other regulatory fees for 1994; and,
3. Declaring Section 21(B) of Ordinance No. 7794, as amended by Ordinance No. 7807, of the City of Manila as invalid or null and void insofar as it imposes a business tax on transportation contractors, persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, or that plaintiff is exempt from the tax imposed by said section 21(B).
4. Declaring plaintiff's obligation to the defendant City of Manila for mayor's permit fee and other

³ *Rollo* (G.R. No. 120051), p. 50.

⁴ *Id.* at 48-56; penned by Judge Angel Valera Colet.

regulatory fees for 1994 as having been paid and extinguished without any liability for surcharges, interests or any additional amount whatsoever.

Not having been proven, the prayer for the payment of attorney's fees is denied.

No pronouncement as to costs.⁵

The City of Manila, Mayor Lim, and City Treasurer Anthony Y. Acevedo (Acevedo) filed with the Court a Petition for Review on *Certiorari*,⁶ assailing the Decision dated April 3, 1995 of RTC-Branch 43 in Civil Case No. 94-69052 based on pure questions of law. They assigned the following errors on the part of RTC-Branch 43:

4.1. That the trial court erred in declaring Section 21(B) of [the Manila Revenue Code, as amended,] as invalid or null and void.

4.2. That the trial court erred in declaring the consignment valid and made in accordance with law.⁷

The City of Manila, Mayor Lim, and City Treasurer Acevedo prayed in their Petition that the Court (1) reverse and set aside the assailed RTC Decision; and (2) affirm the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended. The Petition was docketed as G.R. No. 120051.

MAS filed its Comment,⁸ to which the City of Manila, Mayor Lim, and City Treasurer Acevedo filed their Reply.⁹

G.R. No. 121613

Because they were assessed and/or compelled to pay business taxes pursuant to Section 21(B) of the Manila Revenue Code, as amended, before they were issued their business permits for 1994, several corporations, with principal offices in Manila and operating as "transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water," filed their respective petitions before the Manila RTC against the City of Manila, Mayor Lim, Vice Mayor Lito Atienza (Atienza), the City Council of Manila/Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo. Said petitions were separately docketed and raffled to different RTC Branches, to wit:

⁵ Id. at 56.

⁶ Id. at 6-19.

⁷ Id. at 10-11.

⁸ Id. at 61-86.

⁹ Id. at 91-96.

Civil Case No.	Petitioner	RTC-Branch No.
94-68861	Maersk Filipinas, Inc. (Maersk)	32
94-68862	American President Lines, Ltd. (APL)	33
94-68863	Sea-Land Services, Inc. (Sea-Land)	34
94-68919	Overseas Freighters Shipping, Inc. (OFSI)	55
94-68936	Dongnama Shipping Co., Ltd. (Dongnama) and Kyowa Shipping, Ltd. (Kyowa)	47
94-68939	Flagship Tankers Corp. (Flagship Tankers)	21
94-68940	Core Indo Maritime Corp. (CIMC)	21
94-68941	Core Maritime Corp. (CMC)	21
94-69028 ¹⁰	Eastern Shipping Lines, Inc. (Eastern Shipping)	

All of the aforementioned cases were later consolidated before RTC-Branch 32.

Several more corporations with principal offices in Manila and engaged in the same line of business as the above-named petitioner corporations filed petitions/complaints-in-intervention in the pending cases, namely: William Lines, Inc. (William Lines); Negros Navigation Co., Inc. (Negros Navigation); Lorenzo Shipping Corp. (Lorenzo Shipping); Carlos A. Gothong Lines, Inc. (Gothong Lines); Aboitiz Shipping Corp., Aboitiz Air Transport Corp., and Aboitiz Haulers, Inc. (collectively referred to as the Aboitiz Group); Solid Shipping Lines Corp. (Solid Shipping); and PNOC Shipping & Transport Corp. (PSTC).

Petitioner and intervenor corporations essentially sought the (1) declaration of Section 21(B) of the Manila Revenue Code, as amended, as void/invalid for being contrary to the Constitution and the Local Government Code (LGC) of 1991; (2) refund of the business taxes that the petitioner and intervenor corporations paid under protest; and (3) the issuance of a temporary restraining order (TRO), writ of preliminary injunction, writ of prohibition, and/or writ of permanent injunction to enjoin the implementation of Section 21(B) of the Manila Revenue Code, as amended.

RTC-Branch 32 issued a TRO¹¹ on January 14, 1994 in favor of petitioners Maersk, APL, Flagship Tankers, CIMC, and CMC. The TRO was effective for 20 days and ordered respondent City of Manila and local officials to cease and desist from implementing Section 21(B) of the Manila Revenue Code, as amended, while the prayer for a writ of preliminary

¹⁰ Originally docketed as a special civil case. The pleadings did not indicate the original RTC Branch to which it was raffled. (*See rollo* [G.R. No. 121675], pp. 135-151).

¹¹ *Rollo* (G.R. No. 121613), pp. 100-101.

injunction was scheduled for presentation of evidence. On February 3, 1992, after hearing, RTC-Branch 32 issued an Order granting the prayer of petitioners Maersk, APL, Flagship Tankers, CIMC, CMC, and OFSI for the issuance of a Writ of Preliminary Injunction,¹² with the condition that each of said petitioner corporations should post an injunction bond in the amount of ₱50,000.00. The Writ of Preliminary Injunction enjoined respondent City of Manila and local officials from: (1) imposing, enforcing, assessing, and collecting the taxes under Section 21(B) of the Manila Revenue Code, as amended; and (2) denying to petitioners Maersk, APL, Flagship Tankers, CIMC, CMC, and OFSI their business permits and licenses for 1994. In another Order dated April 22, 1994, RTC-Branch 32 granted the prayer of intervenor corporations for the issuance of a similar Writ of Preliminary Injunction.

In its Decision¹³ dated August 28, 1995 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, RTC-Branch 32 upheld the power of the respondent City of Manila, as a local government unit (LGU), to levy the business tax under Section 21(B) of the Manila Revenue Code, as amended, consistent with the basic policy of local autonomy. Ultimately, RTC-Branch 32 decreed:

WHEREFORE, the petitions, the supplemental petitions, and the petitions or complaints in intervention in all these cases are DISMISSED.

All temporary restraining orders are cancelled, all writs of preliminary injunction are recalled and dissolved, and the injunction bonds cancelled.¹⁴

Maersk, APL, Flagship Tankers, CIMC, and CMC (collectively referred to herein as Maersk, *et al.*), filed a direct appeal before the Court. Initially, Maersk, *et al.*, filed a motion for extension of time to file their petition for review on *certiorari*. Upon filing of said motion, they were assessed docket and legal fees in the amount of ₱420.00, which they fully paid. The motion for extension of time was granted by the Court in a Resolution¹⁵ dated October 4, 1995. Within the extended period, Maersk, *et al.*, filed their Petition for Review on *Certiorari* with prayer for issuance of a writ of preliminary injunction and TRO,¹⁶ docketed as G.R. No. 121613, naming RTC-Branch 32, the City of Manila, Mayor Lim, Vice Mayor Atienza, the Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo, as respondents. Maersk, *et al.*, submitted for resolution by the Court a lone question of law, *viz.*:

¹² Id. at 127-128.

¹³ Id. at 35-87; penned by Presiding Judge Juan C. Nabong, Jr.

¹⁴ Id. at 87.

¹⁵ Id. at 10.

¹⁶ Id. at 12-34.

Whether or not Section 21(B) of Ordinance No. 7794, otherwise known as the Revenue Code of the City of Manila, as amended by Section 1(G) of Ordinance No. 7807, is valid and constitutional.¹⁷

Meanwhile, Maersk, *et al.*, also filed with RTC-Branch 32 a Motion to Stay or Restore Writ of Preliminary Injunction, presenting a Memorandum issued by City Treasurer Acevedo already ordering the collection of the business tax under Section 21(B) of the Manila Revenue Code, as amended. In an Order¹⁸ dated October 16, 1995, RTC-Branch 32 granted the Motion of Maersk, *et al.*, after finding the same to be meritorious and in conformity with Rule 39, Section 4 of the Rules of Court, on the condition that Maersk, *et al.*, would increase their injunction bond from ₱50,000.00 each to ₱800,000.00 each, or for a total of ₱4,000,000.00. With this latest development, Maersk, *et al.*, filed with the Court a Supplemental Petition and Motion praying for the confirmation of the RTC Order dated October 16, 1995 restoring the Writ of Preliminary Injunction and deletion of the name of RTC-Branch 32 from the caption of the Petition in G.R. No. 121613 as the trial court is not a necessary party.

On October 23, 1995 though, the Court issued a Resolution¹⁹ in G.R. No. 121613 in which it resolved as follows:

On the basis of the foregoing, the Court RESOLVED to DISMISS the petition for review on *certiorari* for non-compliance with the above-mentioned requirement no. 1, [Maersk, *et al.*] having failed to remit the amount of ₱202.00 as payment for the balance of the prescribed legal fees.

Accordingly, the supplemental petition and motion of [Maersk, *et al.*] dated October 17, 1995 praying that the lower court's order restoring the Writ of Preliminary Injunction be confirmed and that the Regional Trial Court of Manila, Branch 32, be deleted from the caption of the petition for not being a necessary party is NOTED WITHOUT ACTION.

Maersk, *et al.*, filed a Motion for Reconsideration²⁰ of the foregoing Resolution dated October 23, 1995 of the Court. Maersk, *et al.*, argued that the dismissal of their Petition by minute resolution would deprive them of their property rights on mere technical grounds. Maersk, *et al.*, had no intention of not paying the amount of ₱202.00, which consisted of sheriff's fee of ₱200.00 and clerk's commission of ₱2.00, charged in connection with their prayer for the issuance of a preliminary injunction and TRO. While Maersk, *et al.*, did include such a prayer in their Petition, the same had already become moot and academic after RTC-Branch 32 issued the Order dated October 16, 1995 restoring and reinstating the Writ of Preliminary Injunction in favor of Maersk, *et al.* In their Supplemental Petition and Motion in G.R. No. 121613, Maersk, *et al.*, was then only seeking the

¹⁷ Id. at 19.

¹⁸ Id. at 154.

¹⁹ Id. at 156-157.

²⁰ Id. at 160-179.

confirmation by the Court of the Order dated October 16, 1995 of RTC-Branch 32 and, in effect, withdrawing their prayer for the issuance of a writ of preliminary injunction and TRO by the Court. Besides, Maersk, *et al.*, submitted that the sheriff's fee of ₱200.00 and clerk's commission of ₱2.00 were not part of the "legal fees" required for perfecting an appeal from the decision of the Court of Appeals or the RTC. The sheriff's fee and clerk's commission would merely be "deposited" with the Court, which implied that said amounts would be "refunded" to Maersk, *et al.*, in case the Court decided not to issue the TRO prayed for. In fact, when Maersk, *et al.*, filed their motion for extension of time to file their petition for review on *certiorari*, they fully paid the docket and legal fees as computed by the cashier of the Court; and when they actually filed their Petition for Review on *Certiorari* with prayer for issuance of a writ of preliminary injunction and TRO, they were not assessed and required to pay additional legal fees. In any event, Maersk, *et al.*, had already deposited with the Cashier's Office of the Court the amount of ₱202.00. Maersk, *et al.*, asserted that their case is meritorious and that dismissal is discretionary for the appellate court and discretion must be exercised wisely and prudently, never capriciously, with a view to substantial justice. Consequently, Maersk, *et al.*, prayed that the Court reconsider its Resolution dated October 23, 1995 and give due course to and squarely resolve their Petition and Supplemental Petition and Motion in G.R. No. 121613.

Counsel for Maersk, *et al.*, subsequently submitted a joint Memorandum²¹ for the petitioners in G.R. Nos. 121613, 122333, and 122349.

G.R. No. 121675

Eastern Shipping was the petitioner in Civil Case No. 94-69028, which was consolidated with Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, and 94-68941, before RTC-Branch 32.

Since the Decision dated August 28, 1995 of RTC-Branch 32 in the consolidated cases was contrary to its interest, Eastern Shipping appealed the same before the Court through a Petition for Review on *Certiorari* with Prayer for Preliminary Injunction and/or Temporary Restraining Order,²² with the City Council of Manila, the Mayor of Manila, and the City of Manila, as respondents. In its Petition, docketed as G.R. No. 121675, Eastern Shipping raised pure questions of law and argued two fundamental issues:

²¹ Id. at 219-229.

²² *Rollo* (G.R. No. 121675), pp. 11-26.

- I. WHETHER OR NOT SECTION 21 OF [THE MANILA REVENUE CODE, AS AMENDED,] IS VALID AND CONSTITUTIONAL.
- II. IN THE REMOTE POSSIBILITY THAT THE QUESTIONED ORDINANCE IS DECLARED VALID AND CONSTITUTIONAL, WHETHER OR NOT [EASTERN SHIPPING] IS LIABLE TO PAY THE BUSINESS TAX BASED ON GROSS RECEIPTS DERIVED FROM INCOMING FREIGHTS ONLY OR OUTGOING FREIGHTS ONLY OR BOTH.²³

The Office of the City Legal Officer, on behalf of the City of Manila, Mayor Lim, Vice Mayor Atienza, the City Council of Manila/Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo, filed a joint Comment²⁴ on the Petitions in G.R. Nos. 121675, 121720-28, and 121847-55. Eastern Shipping later on filed its Memorandum.²⁵

G.R. No. 121704

William Lines, Negros Navigation, Lorenzo Shipping, Gothong Lines, the Aboitiz Group, and Solid Shipping (collectively referred to herein as William Lines, *et al.*) are duly organized domestic corporations principally engaged in the business of operating domestic shipping vessels for the transportation of cargoes and passengers, except Aboitiz Air Transport Corp., which is engaged in the transportation of cargoes by air, and Aboitiz Haulers, Inc. which is engaged in the business of domestic freight and hauling by land. William Lines, *et al.*, all have principal addresses in Manila.

William Lines, *et al.*, paid under protest to the City of Manila the business taxes assessed against them for the first quarter of 1994, based on Section 21(B) of the Manila Revenue Code, as amended. They were intervenors in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, before RTC-Branch 32.

William Lines, *et al.*, challenged the Decision dated August 28, 1995 rendered by RTC-Branch 32 in said civil cases through a Petition for Review on *Certiorari* with Prayer for Issuance of a Preliminary Injunction and for a Temporary Restraining Order,²⁶ docketed as G.R. No. 121704. They identified as respondents the City of Manila, Mayor Lim, Vice Mayor Atienza, City Treasurer Acevedo, the Sangguniang Panlungsod ng Maynila, and RTC-Branch 32 Presiding Judge Juan C. Nabong, Jr. (Nabong). William

²³ Id. at 15.

²⁴ Id. at 229-243.

²⁵ Id. at 301-320.

²⁶ *Rollo* (G.R. No. 121704), pp. 14-44.

Lines, *et al.*, assigned three major errors purportedly committed by RTC-Branch 32:

A. The RTC erred in failing to declare the aforecited Section 21(B) of [the Manila Revenue Code, as amended, as] ultra vires and therefore null and void because such sections violate the Provisions of the LGC x x x.

x x x x

B. The RTC erred in holding that Sec. 143(h) which is an omnibus grant of power couched in general terms is the exception referred or adverted to in Section 133(j) of the LGC.

C. The RTC erred in holding that there are only four basic requirements for a valid exercise of the power of the City of Manila to levy tax.²⁷

In their Memorandum,²⁸ William Lines, *et al.*, focused their discussion on the following issues:

- I. IS COMPLIANCE WITH THE GUIDELINES AND LIMITATIONS SET FORTH IN BOOK II TITLE I OF THE LOCAL GOVERNMENT [CODE] (LGC) NECESSARY FOR THE VALIDITY OF SEC. 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED]?
- II. DID SEC. 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED] VIOLATE SUCH GUIDELINES AND LIMITATIONS OF THE LGC?
- III. IS SEC. 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED,] INVALID, ULTRA VIRES AND UNLAWFUL?²⁹

G.R. Nos. 121720-28

PSTC is a government owned and controlled corporation engaged in the business of shipping, tinkering, lighterage, barging, towing, transport, and shipment of goods, chattels, petroleum and other products, marine, and maritime commerce in general.

Pursuant to Section 21(B) of the Manila Revenue Code, as amended, PSTC was assessed by the City of Manila for business tax in the amount of ₱2,233,994.35, representing 50% of 1% of the gross receipts earned by PSTC in the year 1993 which amounted to ₱446,798,871.87. The total amount of business tax due was payable in four equal parts every quarter of 1994. PSTC paid under protest on January 19, 1994 the business tax for the

²⁷ Id. at 19-21.

²⁸ Id. at 299-321.

²⁹ Id. at 304.

first quarter of 1994 in the amount of ₱558,498.59, and on April 20, 1994 the business tax for the second quarter of 1994 in the amount of ₱558,498.59, evidenced by Municipal License Receipt Nos. 003483 and 0057675, respectively. PSTC claimed it had no other recourse but to pay to the City of Manila the assessed local business tax, considering the latter had threatened to cancel its license to operate if said taxes were not paid. PSTC, by way of letters dated February 21, 1994 and April 27, 1994, filed protests or claims for refund with the City Treasurer of Manila, but the letters were not acted upon.

PSTC intervened in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028 before RTC-Branch 32.

Unsatisfied with the Decision dated August 28, 1995 rendered by RTC-Branch 32 in the said civil cases, PSTC filed with the Court a Petition for Review on *Certiorari* with Prayer for Temporary Restraining Order and/or Preliminary Injunction,³⁰ against Presiding Judge Nabong of RTC-Branch 32, the City of Manila, Mayor Lim, Vice Mayor Atienza, City Treasurer Acevedo, and the Sangguniang Panlungsod ng Maynila. In its Petition, docketed as G.R. No. 121720-28, PSTC maintained that RTC-Branch 32 erred thus:

I

IN FAILING TO REALIZE AND CONSIDER THAT THE RESPONDENT CITY OF MANILA, A MERE MUNICIPAL CORPORATION, HAS NO INHERENT POWER OF TAXATION.

II

EVEN ASSUMING ARGUENDO THAT SUCH POWER IS CATEGORICALLY GRANTED BY STATUTE, THE SAME IS SUBJECT TO SUCH GUIDELINES AND LIMITATIONS PROVIDED BY CONGRESS UNDER SECTION 133 OF THE LOCAL GOVERNMENT CODE OF 1991 AND, AS TO WHICH, NONE WAS GIVEN TO RESPONDENT CITY OF MANILA.

III

IN FAILING TO REALIZE AND CONSIDER THAT AN ORDINANCE WHICH AMENDS, ENLARGES OR LIMITS THE PROVISIONS OF A STATUTE CONSTITUTES AN UNCONSTITUTIONAL AND ILLEGAL DEROGATION OF LEGISLATIVE POWER, HENCE, THE ORDINANCE IS INVALID AND VOID AB-INITIO.

³⁰ Rollo (G.R. Nos. 121720-28), pp. 13-49.

IV

IN FAILING TO REALIZE AND CONSIDER THAT THE RESPONDENT CITY OF MANILA'S [REVENUE CODE, AS AMENDED, PARTICULARLY SECTION 21(B) THEREOF] WHICH IMPOSES 50% OF 1% OF THE GROSS SALES OR RECEIPT OF THE NEXT PRECEDING YEAR, ON TOP OF THE NATIONAL INTERNAL REVENUE TAXES ALREADY IMPOSED UNDER THE NATIONAL INTERNAL REVENUE CODE, IS UNREASONABLE, UNJUST, UNFAIR OR OPPRESSIVE, CONFISCATORY, AND CONTRAVENES THE CONSTITUTION OR STATUTE, HENCE, THE ORDINANCE IS INVALID AND NULL AND VOID AB-INITIO.

V

IN FAILING TO REALIZE AND CONSIDER THAT THE TAX IMPOSED UNDER SECTION 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED,] PARTAKES THE NATURE OF A SALES TAX OR A PERCENTAGE TAX BEYOND THE TAXING POWER OF THE RESPONDENT CITY OF MANILA TO IMPOSE, HENCE, UNENFORCEABLE BY RESPONDENT CITY OFFICIALS.

VI

IN FAILING TO REALIZE AND CONSIDER THAT [PSTC] IS SPECIFICALLY EXEMPTED FROM LOCAL GOVERNMENT TAXES IMPOSED UNDER THE LOCAL GOVERNMENT CODE OF 1991, PURSUANT TO SECTION 115 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED BY REPUBLIC ACT 7761.³¹

As mentioned previously, the Office of the City Legal Officer, on behalf of the City of Manila, Mayor Lim, Vice Mayor Atienza, the City Council of Manila/Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo, filed a joint Comment on the Petitions in G.R. Nos. 121675, 121720-28, and 121847-55.

PSTC filed its Memorandum,³² summing up its issues and arguments, to wit:

ISSUES SUBMITTED FOR RESOLUTION

1. WHETHER OR NOT SECTION 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED,] IS VALID AND CONSTITUTIONAL.
2. IN THE NEGATIVE[,] WHETHER OR NOT RESPONDENTS CAN BE COMPELLED TO REFUND THE TAXES WRONGFULLY AND ERRONEOUSLY COLLECTED UNDER THE ASSAILED ORDINANCE.

³¹ Id. at 21-22.

³² Id. at 283-299.

ARGUMENTS IN SUPPORT OF THE MEMORANDUM

I. THE ASSAILED ORDINANCE IS A CLEAR USURPATION OF LEGISLATIVE POWER, HENCE, UNCONSTITUTIONAL AND VOID AB-INITIO.

II. THE ASSAILED ORDINANCE IN ITSELF IS UNJUST, UNFAIR, OR EXCESSIVE, CONFISCATORY AND IN RESTRAINT OF TRADE AND IN EFFECT CONSTITUTES AN UNLAWFUL TAKING OF PROPERTY WITHOUT DUE PROCESS OF LAW.³³

G.R. Nos. 121847-55

OFSI is a domestic corporation engaged in business as a transportation contractor. It also represents, as a general agent in the Philippines, ZIM Israel Navigation Co., Ltd. and Gold Star Line, Hong Kong, which are engaged in the transport by common carrier of export/import goods to and from the Philippines. Its offices are located in Intramuros, Manila.

OFSI questioned the legality of Section 21(B) of the Manila Revenue Code, as amended, in a Petition for Declaratory Relief with Prayer for Preliminary Injunction and/or Temporary Restraining Order, which was docketed as Civil Case No. 94-68919 and originally raffled to RTC-Branch 55. Civil Case No. 94-68919 was eventually consolidated with Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028 before RTC-Branch 32. During the pendency of said civil cases, OFSI paid under protest on January 20, 1994 the business tax for the first quarter of 1994 amounting to ₱181,928.97. Pursuant to Section 196 of the Local Government Code (LGC), OFSI wrote the City Treasurer of Manila a letter dated March 1, 1994 claiming refund of the business tax it had paid. The letter was received by the City Treasurer's Office of Manila on March 3, 1994. The City Treasurer's Office of Manila had seven days from receipt of the letter to refund the amount paid, but more than two months had passed and OFSI received no response from the City Treasurer. To avoid multiplicity of suits, OFSI filed a Supplemental Petition in Civil Case No. 94-68919 to incorporate its claim for refund of the business tax it had paid for the first quarter of 1994.

Aggrieved by the Decision dated August 28, 1995 of RTC-Branch 32 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, OFSI sought recourse from the Court by filing a Petition for Review by *Certiorari* with Prayer for the Issuance of a Preliminary Injunction and/or Temporary Restraining Order,³⁴ naming as respondents the City of Manila, Mayor Lim, Vice Mayor Atienza,

³³ Id. at 287.

³⁴ *Rollo* (G.R. Nos. 121847-55), pp. 10-26.

the City Council of Manila, City Treasurer Acevedo, and Presiding Judge Nabong of RTC-Branch 32. The Petition of OFSI, docketed as G.R. Nos. 121847-55, presented for consideration and resolution of the Court the following:

Assignment of Errors

THE RESPONDENT HONORABLE JUDGE ERRED IN HIS FINDING THAT SECTION 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED,] IS VALID AND CONSTITUTIONAL.

Legal Issues Involved In This Petition

WHETHER OR NOT SECTION 21(B) OF [THE MANILA REVENUE CODE, AS AMENDED,] IS VALID AND CONSTITUTIONAL.

WHETHER OR NOT A WRIT OF PRELIMINARY INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER MAY BE ISSUED BY THE HONORABLE COURT.³⁵

In a subsequent Manifestation,³⁶ OFSI informed the Court that RTC-Branch 32 issued an Order dated October 26, 1995 granting its Motion to Restore Injunction Pending Appeal; reinstating and restoring the Writ of Preliminary Injunction lifted on August 28, 1995; and requiring OFSI to post a bond in the increased amount of ₱300,000.00.

A joint Comment on the Petitions in G.R. Nos. 121675, 121720-28, and 121847-55 was filed by the Office of the City Legal Officer, on behalf of the City of Manila, Mayor Lim, Vice Mayor Atienza, the City Council of Manila/Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo.

The Reply³⁷ of OFSI was the last pleading filed in G.R. Nos. 121847-55.

G.R. No. 122333

After RTC-Branch 32 rendered its Decision in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028 on August 28, 1995, upholding the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended, and lifting the Writs of Preliminary Injunction issued in said cases, the City of Manila and its officials resumed the enforcement of the local business tax in question. City Treasurer Acevedo issued a Memorandum dated September 7, 1995, instructing Oscar S. Dizon, Acting Chief, License Division, City

³⁵ Id. at 16.

³⁶ Id. at 282-284.

³⁷ Id. at 295-304.

Treasurer's Office of Manila, to prepare the complete staff work "for the collection of the unpaid taxes, plus interests" imposed by Section 21(B) of the Manila Revenue Code, as amended, against shipping companies and other common carriers.

A Petition for Prohibition with Temporary Restraining Order and/or Preliminary Injunction³⁸ was jointly filed before the Court by several foreign and domestic corporations doing business in Manila as shipping companies and/or common carriers, namely: Cosco Container Lines (Cosco) and Heung-A Shipping Co., LTD., both represented by their resident agent, Wallem Philippines Shipping, Inc.; DSR Senator Lines, Compania Sud Americana de Vapores S.A., and Arimura Sangyo Company, Ltd., all represented by their resident agent, C.F. Sharp Shipping Agencies, Inc.; Pacific International Lines (PTE) Ltd. and Pacific Eagle Lines (PTE) Ltd., both represented by their resident agent, TMS Ship Agencies, Inc.; Compagnie Maritime D' Affretement (CMA), represented by its resident Agent, Inchcape Shipping Services; Everett Orient Lines, Inc., represented by its resident agent, Everett Steamship Corporation; Yangming Marine Transport Corp., represented by its resident agent, Sky International, Inc.; Nipon Yusen Kaisha, represented by its resident agent, Fil-Japan Shipping Corporation; Hyundai Merchant Marine Co., Ltd., represented by its resident agent, Citadel Lines; Malaysian International Shipping Corporation Berhad, represented by its resident agent, Royal Cargo Agencies, Inc.; Bolt Orient Line, represented by its resident agent, FILSOV Shipping Company, Inc.; Mitsui-O.S.K. Lines, Ltd., represented by its resident agent, Magsaysay Agencies, Inc.; Phils., Micronesia & Orient Navigation Co. (PMSO Line), represented by its resident agent, Van Transport Company, Inc.; Lloyd Triestino di Navigazione S.P.A.N. and Compagnie Generale Maritime, both represented by their resident agent, F.E. Zuellig (M), Inc.; and Madrigal-Wan Hai Lines (collectively referred to herein as Cosco, *et al.*).

The Petition of Cosco, *et al.*, was docketed as G.R. No. 122333. In their Petition, Cosco, *et al.*, presented for resolution of the Court the principal issue of whether or not Section 21(B) of the Manila Revenue Code, as amended, is constitutional. Cosco, *et al.*, posited that Section 21(B) of the Manila Revenue Code, as amended, is unconstitutional and void *ab initio* because it was enacted by the Sangguniang Panlungsod ng Maynila, which was presided over by Vice Mayor Atienza, approved by Mayor Lim, and implemented and enforced by City Treasurer Acevedo, *ultra vires* and in violation of constitutional and statutory limitations on the taxing power of LGUs. Hence, Cosco, *et al.*, prayed for the issuance of a writ of prohibition to restrain, enjoin, and prohibit respondents City of Manila, Mayor Lim, Vice Mayor Atienza, Sangguniang Panlungsod, and City Treasurer Acevedo, from enforcing Section 21(B) of the Manila Revenue Code, as amended.

³⁸ Rollo (G.R. No. 122333), pp. 3-24.

A joint Memorandum was filed on behalf of the petitioners in G.R. Nos. 121613, 122333, and 122349.

G.R. No. 122335

Sulpicio Lines, Inc. (Sulpicio Lines) is a domestic corporation, holding office in North Harbor, Manila, whose principal business is the operation of domestic shipping vessels for the transportation of cargoes and passengers.

Sulpicio Lines and Gothong Lines jointly filed a complaint for declaratory relief with prayer for the issuance of a writ of preliminary injunction, which was docketed as Civil Case No. 94-69141 and raffled to RTC-Branch 44. Sulpicio Lines and Gothong Lines asked the trial court to determine the validity of Section 21(B) of the Manila Revenue Code, as amended, as well as the rights and duties of said shipping companies thereunder. However, after being informed that Maersk already filed a similar case, *i.e.*, Civil Case No. 94-68861 before RTC-Branch 32, Gothong Lines decided to withdraw as complainant in Civil Case No. 94-69141 and simply intervene in Civil Case No. 94-68861. As a result, Sulpicio Lines became the sole complainant in Civil Case No. 94-69141. Sulpicio Lines then filed a Motion to Consolidate Civil Case No. 94-69141 with Civil Case No. 94-68861 which was granted.

On August 28, 1995, RTC-Branch 32 rendered a Decision in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028. Civil Case No. 94-69141 was not included in the caption of the Decision, although the complaint of Sulpicio Lines was mentioned in the body of the same Decision.

Sulpicio Lines did not formally receive a copy of the aforementioned Decision dated August 28, 1995 of RTC-Branch 32 and was merely informed of the same by the petitioners/intervenors in the other civil cases. This prompted Sulpicio Lines to file with RTC-Branch 32 a Motion for Clarificatory Order seeking to verify if said Decision included and was binding on Sulpicio Lines. Acting on the Motion of Sulpicio Lines, RTC-Branch 32 issued an Order³⁹ on October 16, 1995, which reads:

Although Civil Case No. 94-64191 is not included in the caption of the above Decision, the Decision against all the petitioners, intervenors, most specifically against intervenor Carlos A. Gothong Lines, Inc. is binding and enforceable against Sulpicio Lines, Inc. because Civil Case No. 94-64191 had been consolidated with Civil Case No. 94-68861.

³⁹ Rollo (G.R. No. 122335), pp. 255-256.

WHEREFORE, the Decision and the dispositive portion of the Decision rendered on August 28, 1995, shall apply to and binds Sulpicio Lines, Inc. x x x.

After Sulpicio Lines confirmed that the Decision dated August 28, 1995 of RTC-Branch 32 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, was also applicable to and binding upon it, it filed with the Court a Petition for Review on *Certiorari* with Prayer for Issuance of a Preliminary Injunction and for a Temporary Restraining Order,⁴⁰ against the City of Manila, Mayor Lim, Vice Mayor Atienza, City Treasurer Acevedo, the Sangguniang Panlungsod ng Maynila, and Presiding Judge Nabong of RTC-Branch 32. The appeal of Sulpicio Lines was docketed as G.R. No. 122335.

The assignment of errors in the Petition of Sulpicio Lines was the same as that in the Petition of William Lines, *et al.*, in G.R. No. 121704, *viz.*:

A. The RTC erred in failing to declare that the aforesaid Section 21(B) of [the Manila Revenue Code, as amended, as] *ultra vires* and therefore null and void because such sections of the Ordinances of the City of Manila violate the Provisions of the LGC x x x

x x x x

B. The RTC erred in holding that Sec. 143(h) which is an omnibus grant of power couched in general terms is the exception referred or adverted to in Section 133(j) of the LGC.

C. The RTC erred in holding that there are only four basic requirements for a valid exercise of the power of the City of Manila to levy tax.⁴¹

On January 31, 1996, the Court issued a Resolution⁴² referring the Petition of Sulpicio Lines in G.R. No. 122335 to the Court of Appeals for proper determination and disposition pursuant to Section 9, paragraph 3 of Batas Pambansa Blg. 129, which granted the Court of Appeals “exclusive appellate jurisdiction over all final judgments, decisions, resolutions, orders or awards of Regional Trial Courts and quasi-judicial agencies, instrumentalities, boards or commission.”

At the Court of Appeals, the Petition of Sulpicio Lines was docketed as CA-G.R. SP No. 39973. In a Resolution⁴³ dated April 12, 1996, the appellate court directed the respondents City of Manila, Mayor Lim, Vice Mayor Atienza, City Treasurer Acevedo, the Sangguniang Panlungsod ng

⁴⁰ Id. at 11-51.

⁴¹ Id. at 16-18.

⁴² Id. at 266.

⁴³ Id. at 269.

Maynila, and Presiding Judge Nabong of RTC-Branch 32, to file their Comments.

In the meantime, Sulpicio Lines filed with the Court in G.R. No. 122335 a Motion for Reconsideration of the Resolution dated January 31, 1996 and for Consolidation.⁴⁴ Sulpicio Lines prayed that the Resolution dated January 31, 1996 of the Court in G.R. No. 122335 be withdrawn; that the *rollo* of G.R. No. 122335 be transmitted back to the Court; and that G.R. No. 122335 be consolidated with the other cases pending before the Court *en banc* questioning the Decision dated August 28, 1995 of RTC-Branch 32 which upheld the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended.

After several copies of its Resolutions were returned unserved on the respondents in G.R. Nos. 122335, 122349, and 124855, the Court issued a Resolution⁴⁵ on December 2, 1997 dispensing with the filing of a Comment by the respondents in the three cases.

G.R. No. 122349

The Association of International Shipping Lines, Inc. (AISL) is a non-stock domestic corporation the members of which are mostly foreign corporations duly licensed to do business in the Philippines, specifically: American Transport Lines, Inc., represented by its resident agent, Anchor International Shipping Agency, Inc.; Australian National Line, Fleet Trans International, and United Arab Shipping Co., all represented by their resident agent, Jardine Davies Transport; Dongnama Shipping Co., Ltd., represented by its resident agent, Uni-Ship Incorporated; Hanjin Shipping Company, Ltd., represented by its resident agent, MOF Company, Inc.; Hapag-Lloyd A/G, represented by its resident agent, Hapag-Lloyd Phils., Inc.; Kawasaki Kisen Kaisha, represented by its resident agent, Transmar Agencies, Inc.; Knutsen Line, represented by its resident agent, AWB Trade International; Kyowa Line, represented by its resident agent, Sky International, Inc.; Neptune Orient Line, represented by its resident agent, Overseas Agency Services, Inc.; Orient Overseas Container Line, represented by its resident agent, OOCL (Philippines), Inc.; P&O Containers, Ltd., P&O Swire Containers and WILH Wilhelmsen Line A/S, all represented by their resident agent, Soriamont Steamship Agencies; Regional Container Lines (Pte) Ltd., represented by its resident agent, South China Lines Phils., Inc.; Senator Line Bremen Germany, represented by its resident agent, C.F. Sharp & Company; Tokyo Senpaku Kaisha, Ltd., represented by its resident agent, Fil-Japan Shipping Corporation; Uniglorry Line, represented by its resident agent, Don Tim Shipping Corporation; Wan Hai Lines, Ltd., represented by its resident agent, Eastern Shipping

⁴⁴ Id. at 270-274.

⁴⁵ *Rollo* (G.R. No. 120051), pp. 100-102.

Agencies, Inc.; Westwind Line, represented by its resident agent, Westwind Shipping Corporation; Zim Israel Navigation Co., Ltd., represented by its resident agent, Overseas Freighters Shipping, Inc.; Eastern Shipping Lines, Inc.; Nedlloyd Lines, Inc.; Philippine President Lines, Ltd.; and Sea-Land Service, Inc.

After RTC-Branch 32 rendered its Decision dated August 28, 1995 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, upholding the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended; and City Treasurer Acevedo issued the Memorandum dated September 7, 1995 ordering the collection of the business tax under the questioned provision of the local tax ordinance, AISL, for itself and on behalf and for the benefit of its above-named members, filed before the Court a Petition for Prohibition with Temporary Restraining Order and/or Preliminary Injunction⁴⁶ against the City of Manila, Mayor Lim, Vice Mayor Atienza, City Treasurer Acevedo, and the Sangguniang Panlungsod ng Maynila. The Petition of AISL, docketed as G.R. No. 122349, was substantially similar to the Petition of Cosco, *et al.*, in G.R. No. 122333.

In its Resolution dated December 2, 1997, the Court dispensed with the filing of a Comment by the respondents in G.R. Nos. 122335, 122349, and 124855.

The only other pleading in G.R. No. 122349 is a joint Memorandum filed on behalf of the petitioners in G.R. Nos. 121613, 122333, and 122349.

G.R. No. 124855

Dongnama and Kyowa are foreign corporations, organized and existing under the laws of the Republic of Korea and Japan, respectively. Both shipping companies are doing business in the Philippines through their resident agent, Sky International, Inc. (Sky International), with office in Binondo, Manila.

Dongnama and Kyowa, through Sky International, lodged a petition to declare unconstitutional Section 21(B) of the Manila Revenue Code, as amended, with prayer for a writ of preliminary injunction and TRO, docketed as Civil Case No. 94-68936 and initially raffled to RTC-Branch 47, but later consolidated with Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68939, 94-68940, 94-68941, and 94-69028 before RTC-Branch 32. On August 28, 1995, RTC-Branch 32 rendered its Decision in the consolidated civil cases upholding the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended.

⁴⁶ *Rollo* (G.R. No. 122349), pp. 3-22.

Dongnama and Kyowa then filed with the Court a Petition for *Certiorari* with Urgent Prayer for Restraining Order, seeking the annulment or modification of the foregoing Decision of RTC-Branch 32. The Petition was docketed as G.R. No. 122120. Instead of consolidating G.R. No. 122120 with the other pending cases that challenge the constitutionality and validity of Section 21(B) of the Manila Revenue Code, as amended, the Court issued a Resolution dated October 23, 1995 referring the Petition in G.R. No. 122120 to the Court of Appeals for the following reason:

Considering that under Section 19 (sic), paragraph (1) of Batas Pambansa Blg. 129, the Court of Appeals now exercises original jurisdiction to issue writs of mandamus, prohibitions, certiorari, habeas corpus, and quo warranto, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction, the Court resolved to REFER this case to the Court of Appeals, for disposition.⁴⁷

The Petition for *Certiorari* of Dongnama and Kyowa was docketed as CA-G.R. SP No. 39188 before the Court of Appeals. The Court of Appeals rendered its Decision⁴⁸ in CA-G.R. SP No. 39188 on March 29, 1996, finding no merit in the Petition of Dongnama and Kyowa as RTC-Branch 32 did not act with grave abuse of discretion when it ruled in its Decision dated August 28, 1995 that Section 21(B) of the Manila Revenue Code, as amended, is valid and in clear conformity with the law and the Constitution. In the end, the appellate court adjudged:

WHEREFORE, IN VIEW OF THE FOREGOING, the instant petition is hereby DENIED for lack of merit.⁴⁹

Dongnama and Kyowa went back before the Court “by way of Petition for Review on *Certiorari* under Rule 65 of the Rules of Court,” docketed as G.R. No. 124355, based on a lone assignment of error:

RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN ASSUMING JURISDICTION OVER SUPREME COURT G.R. NO. 122120 ENTITLED “DONGNAMA SHIPPING CO. LTD., AND KYOWA SHIPPING LTD. HEREIN REPRESENTED BY SKY INTERNATIONAL INC. VS. HON. JUDGE JUAN C. NABONG JR., CITY OF MANILA, MAYOR ALFREDO LIM, VICE MAYOR LITO ATIENZA, CITY COUNCIL OF MANILA, AND CITY TREASURER ANTHONY ACEVEDO” WHEN IN FACT AS PER SUPREME COURT’S RESOLUTION DATED 23 OCTOBER 1995 IN RELATION [TO] SECTION 9, PARAGRAPH (1) BATAS PAMBANSA BLG. 129, THE ORIGINAL JURISDICTION PERTAINING TO THE COURT OF APPEALS REFERS TO THE ISSUANCE OF WRIT OF *CERTIORARI*, AMONG OTHERS AND NOT TO PETITION FOR *CERTIORARI* ON THE GROUND OF GRAVE ABUSE OF

⁴⁷ *Rollo* (G.R. No. 124855), pp. 5-6, 106.

⁴⁸ *Id.* at 17-30, penned by Associate Justice Fermin A. Martin, Jr. with Associate Justices Fidel P. Purisima and Conchita Carpio Morales, concurring.

⁴⁹ *Id.* at 29.

DISCRETION WHICH THE HON. SUPREME COURT HAS EXCLUSIVE JURISDICTION.⁵⁰

Dongnama and Kyowa specifically prayed:

1. That this petition be given due course;
2. That the Decision dated 29 March 1996 be annulled and set aside pending the resolution of the same to be decided together with other related cases by this Court;
3. That respondent's Court of Appeals jurisdiction over the instant case be limited to the issue on the propriety of the prayer for preliminary injunction and restraining order in relation to the assailed Decision dated 28 August 1995 by RTC-Manila, Branch 32.⁵¹

The Court, in a Resolution dated December 2, 1997, dispensed with the filing of a Comment by the respondents in G.R. Nos. 122335, 122349, and 124855.

Dongnama and Kyowa eventually filed a Memorandum.⁵²

Consolidation of the 10 Petitions

The foregoing 10 cases were consolidated at different times and stages.⁵³

On December 2, 1997, the Court issued a Resolution⁵⁴ giving due course to the Petitions and requiring the parties to simultaneously file their Memoranda within 20 days from notice.

Among the parties to the 10 Petitions, Maersk, *et al.*; Eastern Shipping; William Lines, *et al.*; PSTC; Cosco, *et al.*; AISL; and Dongnama and Kyowa (petitioners in G.R. Nos. 121613, 121675, 121704, 121720-28, 122333, 122349, and 124855, respectively) complied with the Resolution dated December 2, 1997 and submitted their Memoranda.

In a Resolution⁵⁵ dated April 23, 2002, the Court resolved to consider the cases submitted for deliberation.

⁵⁰ Id. at 7-8.

⁵¹ Id. at 13.

⁵² Id. at 104-113.

⁵³ Resolutions dated October 23, 1995 (*rollo* [G.R. No. 121613], pp. 180-181); November 15, 1995 (*rollo* [G.R. No. 120051], p. 97); July 1, 1996 (*rollo* [G.R. No. 124855], p. 88); and January 21, 1997 (*rollo* [G.R. No. 120051], pp. 106-108).

⁵⁴ *Rollo* (G.R. No. 120051), pp. 100-102; *see also* Resolution dated July 11, 2000 (Id. at 137-138).

⁵⁵ Id. at 142-143.

The Court issued a Resolution⁵⁶ on July 5, 2011 requiring the parties to the 10 cases to move in the premises.

A copy of the Resolution dated July 5, 2011 was served upon and received by Atty. Renato G. Dela Cruz (Dela Cruz), City Legal Officer of Manila, on behalf of the City of Manila, Mayor Lim, Vice Mayor Atienza, the City Council of Manila/Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo, the petitioners in G.R. No. 120051 and respondents in the other nine cases.

Atty. Dela Cruz filed a Manifestation⁵⁷ informing the Court that despite exerting effort, he could no longer locate the records for the 10 cases. The former lawyers who handled the cases had long ceased to be connected with the City of Manila and both were already deceased. Thus, Atty. Dela Cruz prayed that he be furnished copies of the petitions and pleadings in the cases and be given a fresh period of 10 days from receipt thereof to submit his compliance with the Resolution dated July 5, 2011. The Court granted Atty. Cruz's prayer in a Resolution⁵⁸ dated April 24, 2012. Atty. Dela Cruz once more moved for an extension of time to comply with the Resolution dated July 5, 2011, which the Court granted in a Resolution⁵⁹ dated November 20, 2012.

In a Resolution⁶⁰ dated July 16, 2013, the Court took notice that Atty. Dela Cruz failed to comply with the Resolution dated July 5, 2011 within the extended period which expired on November 8, 2012. Resultantly, the Court resolved to require Atty. Dela Cruz to (a) show cause why he should not be disciplinarily dealt with or held in contempt for such failure; and (b) comply with the Resolution dated July 5, 2011, both within 10 days from notice.

Atty. Sitro G. Tajonera (Tajonera) of the Office of the City Legal Officer of Manila filed a Manifestation and Motion for Leave to Withdraw Petition in G.R. No. 120051⁶¹ dated August 12, 2013. Atty. Tajonera moved for the withdrawal of the Petition in G.R. No. 120051 on the ground that the issues therein had been rendered moot and academic by the Decisions of the Court in *Coca-Cola Bottlers Philippines, Inc. v. City of Manila*⁶² and *City of Manila v. Coca-Cola Bottlers Philippines, Inc.*⁶³ (*Coca-Cola cases*), which declared with finality the unconstitutionality of Section 21 of the Manila Revenue Code, as amended.

⁵⁶ Id. at 144-145.

⁵⁷ Id. at 287-290.

⁵⁸ Id. at 291-292.

⁵⁹ Id. at 429-430.

⁶⁰ Id. at 524.

⁶¹ Id. at 538-543.

⁶² 526 Phil. 249 (2006).

⁶³ 612 Phil. 609 (2009).

Atty. Dela Cruz likewise filed a Compliance with the Court's Show Cause Resolution dated July 16, 2013. According to Atty. Dela Cruz, he already resigned as City Legal Officer of Manila effective May 31, 2013. Still, Atty. Dela Cruz explained:

c. Due to the multifarious duties that undersigned attended to and the many legal problems that confronted the Mayor whom he had to assist in resolving them, he inadvertently overlooked the deadline set for submission of his compliance of the Court's directive which in fact lapsed without him having been reminded by Atty. Karen Peralta of the unfulfilled obligation to this Honorable Court.

d. For this, he acknowledges that he was remiss in his duty to the Court and in delegating it to another.

[e.] Undersigned begs the Court's clemency on his inability to submit the pleading required of him and his fault in relying on his subordinate-lawyer to assist him in complying with the Court's directive.

[f.] Undersigned assures the Court that henceforth, he shall not commit the same mistake or any neglect of duty or lack of respect to the Court.⁶⁴

II ARGUMENTS OF THE PARTIES

There is only one vital issue in all the 10 cases: Whether or not Section 21(B) of the Manila Revenue Code, as amended, was in conformity with the Constitution and the laws and, therefore, valid.

There are two fundamental and opposing positions on the issue. Presented below are summaries of the arguments in support of each.

Section 21(B) of the Manila Revenue Code, as amended, was constitutional and valid.

The City of Manila, Mayor Lim, Vice Mayor Atienza, the Sangguniang Panlungsod ng Maynila, and City Treasurer Acevedo argued that Section 21(B) was constitutional and valid. RTC-Branch 32, in its Decision dated August 28, 1995 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, and the Court of Appeals, in its Decision dated March 29, 1996 in CA-G.R. SP No. 39188, adopted the same position.

The 1987 Constitution granted LGUs the power to create their own sources of revenue and to levy taxes, fees, and charges subject to the

⁶⁴ Rollo (G.R. No. 120051), pp. 556-557.

guidelines and limitations provided by Congress, consistent with the policy of local autonomy. This grant was reiterated in Section 129 of the LGC and the scope of tax powers of a city such as Manila is described in Section 151 also of the LGC. Hence, the Constitution and Congress, through the LGC, expressly granted LGUs the general power to tax.

The enactment of Section 21(B) of the Manila Revenue Code, as amended, is statutorily ingrained. It is based on the exempting clause at the beginning of Section 133, in conjunction with Section 143(h), of the LGC. The relevant provisions of the Code are reproduced below:

SEC. 133. *Common Limitations on the Taxing Powers of Local Government Units.* – **Unless otherwise provided herein**, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

x x x x

(j) Taxes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code;

SEC. 143. *Tax on Business.* – The municipality may impose taxes on the following businesses:

x x x x

(h) **On any business, not otherwise specified in the preceding paragraphs**, which the sanggunian concerned may deem proper to tax: *Provided*, That **on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended**, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year.

The sanggunian concerned may prescribe a schedule of graduated tax rates but in no case to exceed the rates prescribed herein. (Emphases supplied.)

Inasmuch as “transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water,” are engaged in business subject to excise, value added, or percentage tax under the National Internal Revenue Code (NIRC), as amended, then the City of Manila could lawfully levy local business tax under Section 21(B) of the Manila Revenue Code, as amended. It is irrelevant which of Sections 133(j) and 143(h) of the LGC is the special or general provision since there is an exempting clause in Section 133, that is, “Unless otherwise provided herein,” which means that even if the businesses enumerated therein are exempted from the levy of local tax, if there is a provision to the contrary, such as Section 143(h), the Sanggunian concerned could still impose the local tax. As an alternative argument, Section 133(j) of the LGC is the general

provision on the limitations on the taxing power of the LGUs, while Section 143(h) of the LGC is the specific provision on the businesses which the LGUs could tax; and per the rules of statutory construction, the latter prevails over the former. To rule otherwise and adopt the construction put forward by the opposing parties would render Section 143(h) of the LGC a hollow decorative provision with no subject to tax.

Moreover, the business tax imposed by Section 21(B) of the Manila Revenue Code, as amended, complied with the limitations and conditions in the LGC for a valid local tax: (1) The rate of tax did not exceed 2% of gross sales or receipts of the preceding calendar year; (2) The tax is consistent with the basic policy of local autonomy; (3) The tax is not unjust, excessive, oppressive, confiscatory, or contrary to declared national policy; and (4) That a prior public hearing was conducted for the purpose of enacting the Manila Revenue Code, as amended.

Section 21(B) of the Manila Revenue Code, as amended, also enjoyed the presumption of constitutionality and validity. This presumption can only be overridden by overwhelming evidence to the contrary. In *Drilon v. Lim*,⁶⁵ the Court already declared the Manila Revenue Code as valid given that the procedural requirements for the enactment of the same had been observed.

Lastly, taxes are the lifeblood of the nation. Tax exemptions are construed strictly against the taxpayer, and the burden is upon the person claiming exemption from the tax to show a clear grant of exemption by organic law or statute.

Section 21(B) of the Manila Revenue Code, as amended, was null and void for being contrary to the Constitution and the LGC.

On the other end of the spectrum, MAS; Maersk, *et al.*; Eastern Shipping; William Lines, *et al.*; PSTC; OFSI; Cosco, *et al.*; Sulpicio Lines; AISL; and Dongnama and Kyowa, asserted that Section 21(B) of the Manila Revenue Code, as amended, was null and void because it violated the Constitution and the LGC. It was the position affirmed by RTC-Branch 43 in its Decision dated April 3, 1995 in Civil Case No. 94-69052.

Under the Philippine system of government, the power of taxation, while inherent in the State in view of its sovereign prerogatives, is not inherent in municipal corporations or LGUs. LGUs may exercise the power only if and to the extent that it is delegated to them. One of the common limitations on the power to tax of LGUs is Section 133(j) of the LGC, carried over from the Local Tax Code of 1973.

⁶⁵ G.R. No. 112497, August 4, 1994, 235 SCRA 135, 144.

Section 133(j) expressly states that the taxing powers of the LGUs shall not extend to the transportation business. Section 133(j) of the LGC is a special provision, which prevails over Section 143(h) of the same Code, a general provision. This interpretation would give effect to both Sections 133(j) and 143(h) of the LGC, and contrary to the assertion of the City of Manila and its public officials, would not render Section 143(h) useless, meaningless, and nugatory. There are other businesses which the LGUs may tax under Section 143(h). Besides, in case of any doubt, any tax ordinance or revenue measure shall be construed strictly against the LGU enacting it and liberally in favor of the taxpayer, for taxes, being burdens, are not to be presumed beyond what the applicable statute expressly and clearly declares.

In addition, although Section 21(B) of the Manila Revenue Code, as amended, imposed what was denominated as a “business tax,” in reality it was a percentage or sales tax. Business tax is imposed on the privilege of doing business, though it may be computed as a percentage of gross sales. For business tax, there is no set ratio between volume of sales and the amount of tax. Cities and municipalities are given the power to impose business tax under Section 143(h) of the LGC. In contrast, percentage or sales tax is based on gross sales or receipts. The percentage bears a direct relationship to the sales or receipts generated by a business, without regard for the extent of operation or size of the business. Cities and municipalities may validly impose a tax on business, but consonant with the limitations on local taxation, they may not impose percentage or sales tax on top of what is already imposed in the NIRC. Section 21(B) of the Manila Revenue Code, as amended, imposing on “transportation contractors, persons who transport passenger or freight for hire, and common carriers by land, air or water,” a tax of 50% of 1% of the gross sales or receipts from the preceding year on top of the national taxes already imposed by the NIRC was unjust, unfair, excessive, confiscatory, and in restraint of economic trade.

And finally, Section 21(B) of the Manila Revenue Code, as amended, violated the rule on uniformity in taxation. Uniformity in taxation should not be construed in a pure geographical sense, *i.e.*, that the questioned tax was imposed with the same force and effect on all businesses located in Manila. Shipping companies should be differentiated from other businesses. Aside from the risks and responsibilities the shipping companies shoulder, their services are not confined within the territorial limits of Manila alone but extend to other parts of the world. It is not uniformity for the shipping companies to be classed and taxed under the same category with other common carriers domiciled and plying Manila territory 24 hours a day.

III RULING OF THE COURT

Resolution of pending incidents in several cases.

Before delving into the merits of the 10 cases, there are pending incidents in three cases that first need to be addressed:

(1) **G.R. No. 120051:** The City Legal Officer of Manila, as counsel for the City of Manila, Mayor Lim, and City Treasurer Acevedo, petitioners in G.R. No. 120051, filed a Manifestation and Motion for Leave to Withdraw Petition in G.R. No. 120051, on the ground that the issues therein had been rendered moot and academic by the Decisions of the Court in the *Coca-Cola cases*, which declared with finality the unconstitutionality of Section 21 of the Manila Revenue Code, as amended.

The Court resolves to deny the motion to withdraw.

There already had been an exchange of pleadings between the parties in G.R. No. 120051, *i.e.*, Petition, Comment, and Reply. In a Resolution dated December 2, 1997, the Court also already considered G.R. No. 120051 and all the other nine consolidated cases submitted for deliberation. At this stage, the decision to grant or not to grant the motion to withdraw is fully within the discretion of the Court.⁶⁶

The Court denies the motion to withdraw because the assertion by the City Legal Officer of Manila that the *Coca-Cola cases* already rendered the issues in G.R. No. 120051 moot and academic is erroneous. The Court did not declare in the *Coca-Cola cases* that Section 21 of the Manila Revenue Code, as amended, was unconstitutional. What the Court held in the two *Coca-Cola cases* was that Ordinance Nos. 7988 and 8011 (approved by then Mayor Atienza on February 25, 2000 and February 22, 2001, respectively), amending Section 21 of the Manila Revenue Code, were null and void for (a) failure to comply with the publication requirement for tax ordinances under Section 188 of the LGC; and (b) deletion of an exempting proviso found in Section 143(h) of the LGC and the prior Section 21 of the Manila Revenue Code, which opened the door to the double taxation of Coca-Cola. Section 21 of the Manila Revenue Code, as it was amended by Ordinance No. 7807, and more specifically, paragraph (B) thereof, was not the subject of a constitutional review by the Court in the *Coca-Cola cases*.

As for Atty. Dela Cruz's Compliance with the Court's Show Cause Resolution, the Court finds the same satisfactory, although he is reminded to

⁶⁶ See *Bildner v. Justice Roxas*, 577 Phil. 118, 123 (2008).

be more conscientious of his duties as legal counsel in the future, despite the heavy volume of his work load.

(2) **G.R. No. 121613:** In a Resolution dated October 23, 1995, the Court dismissed the Petition of Maersk, *et al.*, for the latter's failure to deposit sheriff's fee and clerk's commission in the total amount of ₱202.00; and in light of said dismissal, noted without action the Supplemental Petition and Motion of Maersk, *et al.*, praying for the confirmation of the Writ of Preliminary Injunction restored by RTC-Branch 32 and deletion of RTC-Branch 32 from the caption of G.R. No. 121613 for not being a necessary party. In their pending Motion for Reconsideration of the Resolution dated October 23, 1995, Maersk, *et al.*, prayed that the Court give due course to and squarely resolve their Petition and Supplemental Petition and Motion.

The Court resolves to grant the Motion for Reconsideration of Maersk, *et al.* It sets aside the Resolution dated October 23, 1995; reinstates the Petition of Maersk, *et al.*, in G.R. No. 121613; and gives due course to the Petition and Supplemental Petition and Motion of Maersk, *et al.*, in the said case.

Of particular relevance to the plight of Maersk, *et al.*, herein is the following discussion of the Court in *Ayala Land, Inc. v. Carpo*⁶⁷:

To be sure, the remedy of appeal is a purely statutory right and one who seeks to avail thereof must comply with the statute or rule. For this reason, payment of the full amount of the appellate court docket and other lawful fees within the reglementary period is mandatory and jurisdictional. However, as we have ruled in *Aranas v. Endona*, the strict application of the jurisdictional nature of the above rule on payment of appellate docket fees may be mitigated under exceptional circumstances to better serve the interest of justice. As early as 1946, in the case of *Segovia v. Barrios*, we ruled that where an appellant in good faith paid less than the correct amount for the docket fee because that was the amount he was required to pay by the clerk of court, and he promptly paid the balance, it is error to dismiss his appeal because –

every citizen has the right to assume and trust that a public officer charged by law with certain duties knows his duties and performs them in accordance with law. *To penalize such citizen for relying upon said officer in all good faith is repugnant to justice.*

The ruling in *Segovia* was applied by this Court in subsequent cases where an appellant's right to appeal was threatened by the mistake of public officers in computing the correct amount of docket fee. Respondents draw attention to Rule 41, §4 of the 1997 Rules of Civil Procedure which provides that the appellate court docket and other lawful fees must be paid in full to the clerk of the court which rendered the

⁶⁷ 399 Phil. 327, 333-335 (2000).

judgment or final order appealed from within the period for taking the appeal. They argue that this Rule has overruled the decision in *Segovia*.

This contention is untenable. Rule 41, §4 must be read in relation to Rule 50, §1(c) which provides that:

An appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee, on the following grounds:

x x x x

(c) Failure of the appellant to pay the docket and other lawful fees as provided in Section 4 of Rule 41.

x x x x

With the exception of §1(b), which refers to the failure to file notice of appeal or the record on appeal within the period prescribed by these Rules, the grounds enumerated in Rule 50, §1 are merely directory and not mandatory. This is plain from the use of the permissive “may” in the text of the statute. Despite the jurisdictional nature of the rule on payment of docket fee, therefore, the appellate court still has the discretion to relax the rule in meritorious cases. The ruling in *Segovia* is still good law which the appellate court, in the exercise of its discretion, must apply in circumstances such as that in the present case where an appellant was, from the start, ready and willing to pay the correct amount of docket fee, but was unable to do so due to the error of an officer of the court in computing the correct amount. To hold otherwise would be unjust and unwarranted. (Citations omitted.)

The Court notes that Revised Circular No. 1-88, effective July 1, 1991, which was cited in the Resolution dated October 23, 1995 as basis for the dismissal of the Petition of Maersk, *et al.*, also used the word “may” in the first paragraph thereof:

(1) *Payment of docketing and other fees.* – Section 1 of Rule 45 requires that petitions for review be filed and the required fees paid within the prescribed period. Unless exempted by law or rule, such fees must be fully paid in accordance with this Circular; otherwise, the Court **may** deny the petition outright. The same rule shall govern petitions under Rule 65. (Emphasis supplied.)

Hence, denial of the petition for review outright for failure to pay docketing and other fees within the prescribed period was also directory and not mandatory upon the Court under Revised Circular No. 1-88.

In the exercise of its discretion, the Court determines that there was meritorious reason why Maersk, *et al.*, paid docket and other legal fees within the prescribed period, but short of the ₱202.00 for sheriff’s fee and clerk’s commission. Maersk, *et al.*, were already assessed and required to pay the docket and legal fees when they filed their Motion for Extension of

Time to File Petition for Review on *Certiorari*. The Motion did not yet indicate that the intended Petition would include a prayer for a TRO, so the receiving clerk did not assess Maersk, *et al.*, for sheriff's fee and clerk's commission. When Maersk, *et al.*, actually filed their Petition with prayer for the issuance of a writ of preliminary injunction and TRO, they were no longer assessed additional fees by the receiving clerk. Maersk, *et al.*, found out about the deficiency in their legal fees upon their receipt of the Resolution dated October 23, 1995 already dismissing their Petition and noting without action their Supplemental Petition and Motion. Maersk, *et al.*, immediately filed a Motion for Reconsideration of said Resolution, and also deposited their balance of ₱202.00 with the Court.

Given the circumstances, Maersk, *et al.*, cannot be faulted for their failure to pay the required legal fees for such failure was clearly not a dilatory tactic nor intended to circumvent the Rules of Court. On the contrary, the subsequent payment by Maersk, *et al.*, of the ₱202.00 deficiency even before the Court had passed upon their Motion for Reconsideration was indicative of their good faith and willingness to comply with the Rules.⁶⁸

Acting on the Supplemental Petition and Motion of Maersk, *et al.*, the Court further resolves to **NOTE WITHOUT ACTION** the prayer to confirm the Writ of Preliminary Injunction restored by RTC-Branch 32 in light of the present judgment, and to **GRANT** the prayer to delete RTC-Branch 32 from the caption of the case as it was not a necessary party.

(3) **G.R. No. 122335**: In a Resolution dated January 31, 1996, the Court referred the Petition of Sulpicio Lines to the Court of Appeals. There is a pending Motion for Reconsideration of the Resolution dated January 31, 1996 filed by Sulpicio Lines seeking the withdrawal of the Resolution dated January 31, 1996 and transmittal of the *rollo* of G.R. No. 122335 from the Court of Appeals back to the Court.

The Court resolves to grant the Motion for Reconsideration of Sulpicio Lines. It sets aside the Resolution dated January 31, 1996 and gives due course to the Petition of Sulpicio Lines in G.R. No. 122335.

The Petition for Review on *Certiorari* of Sulpicio Lines, filed under Rule 42 of the old Rules of Court, should not have been referred to the Court of Appeals. It is true that under Section 9, paragraph (3) of Batas Pambansa Blg. 129, the Court of Appeals has "(e)xclusive appellate jurisdiction over all final judgments, resolutions, orders or awards of Regional Trial Courts x x x." However, Rule 42 of the old Rules of Court, then in effect, allowed an appeal straight from the RTC (formerly called Court of First

⁶⁸ *Yambao v. Court of Appeals*, 399 Phil. 712, 720 (2000).

Instance) to the Supreme Court when the appeal raised pure questions of law:

RULE 42
APPEAL FROM COURTS OF FIRST INSTANCE
TO SUPREME COURT

Section 1. *Procedure.* – The procedure of appeal to the Supreme Court from Courts of First Instance shall be governed by the same rules governing appeals to the Court of Appeals, except as hereinafter provided.

Section 2. *Appeals on pure question of law.* – Where the appellant states in his notice of appeal or record on appeal that he will raise only questions of law, no other question shall be allowed, and the evidence need not be elevated.

A cursory reading of the Petition for Review on *Certiorari* of Sulpicio Lines would readily reveal that it appealed the Decision dated August 28, 1995 of RTC-Branch 32 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028 based only on questions of law. The Petition did not raise any question of fact and did not require the presentation or elevation of evidence.

In G.R. No. 124855, Dongnama and Kyowa questioned the Resolution dated October 23, 1995, which similarly referred their original Petition for *Certiorari*, docketed as G.R. No. 122120, to the Court of Appeals, where it was docketed as CA-G.R. SP No. 39188. The Resolution dated October 23, 1995 cited as basis for the referral Section 9, paragraph (1) of Batas Pambansa Blg. 129 which gave the Court of Appeals “[o]riginal jurisdiction to issue writs of *mandamus*, prohibition, *certiorari*, *habeas corpus*, and *quo warranto*, and auxiliary writs or processes, whether or not in aid of its appellate jurisdiction.” The Court, however, will no longer address the propriety of the referral of the original Petition of Dongnama and Kyowa to the Court of Appeals since said issue has become moot and academic after the appellate court rendered its Decision in CA-G.R. SP No. 39188 on March 29, 1996. The Court will simply treat the Petition in G.R. No. 124855 as an appeal of the Decision dated March 29, 1996 of the Court of Appeals in CA-G.R. SP No. 39188.

***Ruling on the merits of the 10
Petitions.***

The Court rules in favor of MAS; Maersk, *et al.*; Eastern Shipping; William Lines, *et al.*; PSTC; OFSI; Cosco, *et al.*; Sulpicio Lines; AISL; and Dongnama and Kyowa. Section 21(B) of the Manila Revenue Code, as amended, was null and void for being beyond the power of the City of Manila and its public officials to enact, approve, and implement under the LGC.

It is already well-settled that although the power to tax is inherent in the State, the same is not true for the LGUs to whom the power must be delegated by Congress and must be exercised within the guidelines and limitations that Congress may provide. The Court expounded in *Pelizloy Realty Corporation v. The Province of Benguet*⁶⁹ that:

The power to tax “is an attribute of sovereignty,” and as such, inheres in the State. Such, however, is not true for provinces, cities, municipalities and *barangays* as they are not the sovereign; rather, they are mere “territorial and political subdivisions of the Republic of the Philippines”.

The rule governing the taxing power of provinces, cities, municipalities and *barangays* is summarized in *Icard v. City Council of Baguio*:

It is settled that a municipal corporation unlike a sovereign state is clothed with no inherent power of taxation. The charter or statute must plainly show an intent to confer that power or the municipality, cannot assume it. And the power when granted is to be construed in *strictissimi juris*. Any doubt or ambiguity arising out of the term used in granting that power must be resolved against the municipality. Inferences, implications, deductions – all these – have no place in the interpretation of the taxing power of a municipal corporation.

Therefore, the power of a province to tax is limited to the extent that such power is delegated to it either by the Constitution or by statute. Section 5, Article X of the 1987 Constitution is clear on this point:

Section 5. Each local government unit shall have the power to create its own sources of revenues and to levy taxes, fees and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.

Per Section 5, Article X of the 1987 Constitution, “the power to tax is no longer vested exclusively on Congress; local legislative bodies are now given direct authority to levy taxes, fees and other charges.” Nevertheless, such authority is “subject to such guidelines and limitations as the Congress may provide”.

In conformity with Section 3, Article X of the 1987 Constitution, Congress enacted Republic Act No. 7160, otherwise known as the Local Government Code of 1991. Book II of the LGC governs local taxation and fiscal matters.

⁶⁹ G.R. No. 183137, April 10, 2013, 695 SCRA 491, 500-502.

Relevant provisions of Book II of the LGC establish the parameters of the taxing powers of LGUs found below.

First, Section 130 provides for the following fundamental principles governing the taxing powers of LGUs:

1. Taxation shall be uniform in each LGU.
2. Taxes, fees, charges and other impositions shall:
 - a. be equitable and based as far as practicable on the taxpayer's ability to pay;
 - b. be levied and collected only for public purposes;
 - c. not be unjust, excessive, oppressive, or confiscatory;
 - d. not be contrary to law, public policy, national economic policy, or in the restraint of trade.
3. The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person.
4. The revenue collected pursuant to the provisions of the LGC shall inure solely to the benefit of, and be subject to the disposition by, the LGU levying the tax, fee, charge or other imposition unless otherwise specifically provided by the LGC.
5. Each LGU shall, as far as practicable, evolve a progressive system of taxation.

Second, Section 133 provides for the common limitations on the taxing powers of LGUs. x x x. (Underscoring and citations omitted.)

Among the common limitations on the taxing power of LGUs is Section 133(j) of the LGC, which states that “[u]nless otherwise provided herein,” the taxing power of LGUs shall not extend to “[t]axes on the gross receipts of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carriers by air, land or water, except as provided in this Code[.]”

Section 133(j) of the LGC clearly and unambiguously proscribes LGUs from imposing any tax on the gross receipts of transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water. Yet, confusion arose from the phrase “unless otherwise provided herein,” found at the beginning of the said provision. The City of Manila and its public officials insisted that said clause recognized the power of the municipality or city, under Section 143(h) of the LGC, to impose tax “on any business subject to the excise,

value-added or percentage tax under the National Internal Revenue Code, as amended.” And it was pursuant to Section 143(h) of the LGC that the City of Manila and its public officials enacted, approved, and implemented Section 21(B) of the Manila Revenue Code, as amended.

The Court is not convinced. Section 133(j) of the LGC prevails over Section 143(h) of the same Code, and Section 21(B) of the Manila Revenue Code, as amended, was manifestly in contravention of the former.

First, Section 133(j) of the LGC is a specific provision that explicitly withholds from any LGU, *i.e.*, whether the province, city, municipality, or *barangay*, the power to tax the gross receipts of transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water.

In contrast, Section 143 of the LGC defines the general power of the municipality (as well as the city, if read in relation to Section 151⁷⁰ of the same Code) to tax businesses within its jurisdiction. While paragraphs (a) to (g) thereof identify the particular businesses and fix the imposable tax rates for each, paragraph (h) is apparently the “catch-all provision” allowing the municipality to impose tax “on any business, not otherwise specified in the preceding paragraphs, which the sanggunian concerned may deem proper to tax[.]”

The succeeding proviso of Section 143(h) of the LGC, *viz.*, “*Provided*, That on any business subject to the excise, value-added or percentage tax under the National Internal Revenue Code, as amended, the rate of tax shall not exceed two percent (2%) of gross sales or receipts of the preceding calendar year[.]” is not a specific grant of power to the municipality or city to impose business tax on the gross sales or receipts of such a business. Rather, the proviso only fixes a maximum rate of imposable business tax in case the business taxed under Section 143(h) of the LGC happens to be subject to excise, value added, or percentage tax under the NIRC.

The omnibus grant of power to municipalities and cities under Section 143(h) of the LGC cannot overcome the specific exception/exemption in Section 133(j) of the same Code. This is in accord with the rule on statutory construction that specific provisions must prevail over general ones.⁷¹ A special and specific provision prevails over a general provision irrespective of their relative positions in the statute. *Generalia specialibus non derogant*. Where there is in the same statute a particular enactment and also a general

⁷⁰ SEC. 151. *Scope of Taxing Powers*. – Except as otherwise provided in this Code, the city, may levy the taxes, fees, and charges which the province or municipality may impose: *Provided, however*, That the taxes, fees and charges levied and collected by highly urbanized and independent component cities shall accrue to them and distributed in accordance with the provisions of this Code.

⁷¹ *Testate Estate of Amos G. Bellis v. Bellis*, 126 Phil. 726, 732 (1967).

one which in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its general language as are not within the provisions of the particular enactment.⁷²

In the case at bar, the *sanggunian* of the municipality or city cannot enact an ordinance imposing business tax on the gross receipts of transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water, when said *sanggunian* was already specifically prohibited from doing so. Any exception to the express prohibition under Section 133(j) of the LGC should be just as specific and unambiguous.

Second, the construction adopted by the Court gives effect to both Sections 133(j) and 143(h) of the LGC. In construing a law, care should be taken that every part thereof be given effect and a construction that could render a provision inoperative should be avoided, and inconsistent provisions should be reconciled whenever possible as parts of a harmonious whole.⁷³

As pointed out by William Lines, *et al.*, in their Petition, despite the prohibition against LGUs imposing tax on the gross receipts of transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water, under Section 133(j) of the LGC, there are still other multiple businesses subject to excise, value added, or percentage tax under the NIRC, which the municipalities and cities can still tax pursuant to Section 143(h) of the LGC, such as:

- 1) Hotels and motels under Sec. 113 of the NIRC;
- 2) Caterers, taxed under Sec. 114 of the NIRC;
- 3) Dealers in securities, taxed under Sec. 116 of the NIRC;
- 4) Franchise holders, taxed under Sec. 117 of the NIRC;
- 5) Senders of overseas dispatch, message or communication originating in the Philippines, taxed under Sec. 118 of the NIRC;
- 6) Banks and non-bank financial intermediaries, taxed under Sec. 119 of the NIRC;
- 7) Finance companies, taxed under Sec. 120 of the NIRC;
- 8) Agents of foreign insurance companies, taxed under Sec. 122 of the NIRC;

⁷² *Commissioner of Customs v. Court of Tax Appeals*, 232 Phil. 641, 645-646 (1987).

⁷³ *Sajonas v. Court of Appeals*, 327 Phil. 689, 708 (1996).

- 9) Amusement places, taxed under Sec. 123 of the NIRC;
- 10) Winners in horse races, taxed under Sec. 124 of the NIRC; and
- 11) Those who sell, barter, or exchange shares of stocks, taxed under Sec. 124-A of the NIRC.⁷⁴

Thus, Section 143(h) of the LGC would not be “a hollow decorative provision with no subject to tax.” On the contrary, it would be Section 133(j) of the LGC which would become inoperative should the Court accept the construction proffered by the City of Manila and its public officials, because then, there would be no instance at all when the gross receipts of the transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water, would not be subject to tax by the LGUs.

Third, Section 5(b) of the LGC itself, on Rules of Interpretation, provides:

SEC. 5. *Rules of Interpretation.* – In the interpretation of the provisions of this Code, the following rules shall apply:

X X X X

(b) In case of doubt, any tax ordinance or revenue measure shall be construed strictly against the local government unit enacting it, and liberally in favor of the taxpayer. Any tax exemption, incentive or relief granted by any local government unit pursuant to the provisions of this Code shall be construed strictly against the person claiming it[.]

The Court strictly construes Section 21(B) of the Manila Revenue Code, as amended, against the City of Manila and its public officials and liberally in favor of the transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water. Strictly assessed against the guidelines and limitations set forth in the LGC, Section 21(B) of the Manila Revenue Code, as amended, was enacted *ultra vires*.

And fourth, the construction adopted by the Court is in accordance with the consistent intention of the laws to withhold from the LGUs the power to tax transportation contractors, persons engaged in the transportation of passengers or freight by hire, and common carriers by air, land, or water.

Even prior to Section 133(j) of the LGC, Section 5(e) of Presidential Decree No. 231, otherwise known as The Local Tax Code, as amended, already limited the taxing powers of LGUs as follows:

⁷⁴ *Rollo* (G.R. No. 121704), p. 25. Note that the cited provisions were from the NIRC of 1977, as amended.

SEC. 5. *Common limitations on the taxing powers of local government.* – The exercise of the taxing powers of provinces, cities, municipalities and barrios shall not extend to the imposition of the following:

x x x x

(e) Taxes on the business of transportation contractors and persons engaged in the transportation of passengers or freight by hire and common carries by air, land or water except as otherwise provided in this Code, and taxes or fees for the registration of motor vehicles and for the issuance of all kinds of licenses or permits for the driving thereof;

The Court, in *First Philippine Industrial Corp. v. Court of Appeals*,⁷⁵ expounded on the lawmakers' reason for exempting the gross receipts of common carriers from the taxing powers of the LGUs:

From the foregoing disquisition, there is no doubt that petitioner is a "common carrier" and, therefore, exempt from the business tax as provided for in Section 133 (j), of the Local Government Code x x x

x x x x

The deliberations conducted in the House of Representatives on the Local Government Code of 1991 are illuminating:

"MR. AQUINO (A). Thank you, Mr. Speaker.

Mr. Speaker, we would like to proceed to page 95, line 1. It states: "SEC. 121 (now Sec. 131). Common Limitations on the Taxing Powers of Local Government Units." . . .

MR. AQUINO (A.). Thank you Mr. Speaker.

Still on page 95, subparagraph 5, on taxes on the business of transportation. This appears to be one of those being deemed to be exempted from the taxing powers of the local government units. *May we know the reason why the transportation business is being excluded from the taxing powers of the local government units?*

MR. JAVIER (E.). Mr. Speaker, there is an exception contained in Section 121 (now Sec. 131), line 16, paragraph 5. It states that local government units may not impose taxes on the business of transportation, except as otherwise provided in this code.

Now, Mr. Speaker, if the Gentleman would care to go to page 98 of Book II, one can see there that provinces have the power to impose a tax on business enjoying a franchise at the rate of not more than one-half of 1 percent

⁷⁵ 360 Phil. 852, 863-864 (1998).

of the gross annual receipts. So, transportation contractors who are enjoying a franchise would be subject to tax by the province. That is the exception, Mr. Speaker.

What we want to guard against here, Mr. Speaker is the imposition of taxes by local government units on the carrier business. Local government units may impose taxes on top of what is already being imposed by the National Internal Revenue Code which is the so-called "common carriers tax." We do not want a duplication of this tax, so we just provided for an exception under Section 125 (now Section 137) that a province may impose this tax at a specific rate.

MR. AQUINO (A.). Thank you for that clarification, Mr. Speaker. . . .

It is clear that the legislative intent in excluding from the taxing power of the local government unit the imposition of business tax against common carriers is to prevent a duplication of the so-called "common carrier's tax."

Petitioner is already paying three (3%) percent common carrier's tax on its gross sales/earnings under the National Internal Revenue Code. To tax petitioner again on its gross receipts in its transportation of petroleum business would defeat the purpose of the Local Government Code. (Citations omitted.)

Consistent with the foregoing legislative intent, Republic Act No. 7716, more popularly known as the Expanded Value-Added Tax (E-VAT) Law, which took effect after the LGC on May 28, 1994, expressly amended the NIRC of 1977 and added to Section 115 of the latter on "Percentage tax on carriers and keepers of garages," the following proscription: "The gross receipts of common carriers derived from their incoming and outgoing freight shall not be subjected to the local taxes imposed under Republic Act No. 7160, otherwise known as the Local Government Code of 1991."

IV DISPOSITIVE PORTION

WHEREFORE, in view of the foregoing, the Court hereby **RESOLVES**:

1. In G.R. No. 120051: (a) to **DENY** the Motion to Withdraw the Petition filed by the Office of the City Legal Officer on behalf of the City of Manila, Mayor Atienza, and City Treasurer Acevedo; and (b) to **DECLARE** as **SATISFACTORY** the Compliance submitted by Atty. Dela Cruz;

2. In G.R. No. 121613: (a) to **GRANT** the Motion for Reconsideration of Maersk, *et al.*; (b) to **SET ASIDE** the Resolution dated

October 23, 1995; (c) to **REINSTATE** the Petition of Maersk, *et al.*; (d) to **GIVE DUE COURSE** to the Petition and the Supplemental Petition and Motion of Maersk, *et al.*; (e) as regards the Supplemental Petition and Motion of Maersk, *et al.*, to **NOTE WITHOUT ACTION** the prayer to confirm the Writ of Preliminary Injunction restored by RTC-Branch 32 in light of the present judgment, and to **GRANT** the prayer to delete RTC-Branch 32 from the caption of the case for not being a necessary party; and

3. In G.R. No. 122335: (a) to **GRANT** the Motion for Reconsideration of Sulpicio Lines; (b) to **SET ASIDE** the Resolution dated January 31, 1996; and (c) to **GIVE DUE COURSE** to the Petition of Sulpicio Lines.


Furthermore, the Court hereby **DECIDES**:

1. To **DECLARE** Section 21(B) of the Manila Revenue Code, as amended, null and void for being in violation of the guidelines and limitations on the taxing powers of the LGUs under the LGC;

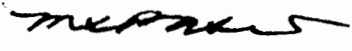
2. In G.R. No. 120051: (a) to **DENY** the Petition of the City of Manila, Mayor Lim, and City Treasurer Acevedo; and (b) to **AFFIRM** the Decision dated April 3, 1995 of RTC-Branch 43 in Civil Case No. 94-69052; and

3. In G.R. Nos. 121613, 121675, 121704, 121720-28, 121847-55, 122333, 122335, 122349, and 124855: (a) to **GRANT** the Petitions of Maersk, *et al.*; Eastern Shipping; William Lines, *et al.*; PSTC; OFSI; Cosco, *et al.*; Sulpicio Lines; AISL; and Dongnama and Kyowa, respectively; (b) to **REVERSE and SET ASIDE** the Decision dated August 28, 1995 of RTC-Branch 32 in Civil Case Nos. 94-68861, 94-68862, 94-68863, 94-68919, 94-68936, 94-68939, 94-68940, 94-68941, and 94-69028, and the Decision dated March 29, 1996 of the Court of Appeals in CA-G.R. SP No. 39188; (c) to **ORDER** the City of Manila to refund to Maersk, *et al.*; Eastern Shipping; William Lines, *et al.*; PSTC; OFSI; Cosco, *et al.*; Sulpicio Lines; AISL; and Dongnama and Kyowa the business taxes assessed and collected against said corporations under Section 21(B) of the Manila Revenue Code, as amended; and (d) to **MAKE PERMANENT** the Writs of Preliminary Injunction restored by RTC-Branch 32 during the pendency of the Petitions at bar.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

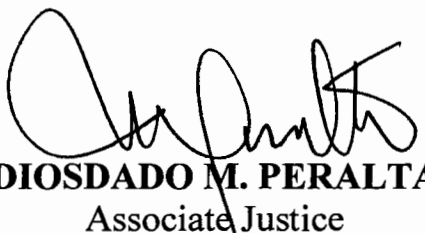


ANTONIO T. CARPIO
Associate Justice




PRESBITERO J. VELASCO, JR.
Associate Justice

On leave
ARTURO D. BRION
Associate Justice




DIOSDADO M. PERALTA
Associate Justice

On official leave
LUCAS P. BERSAMIN
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

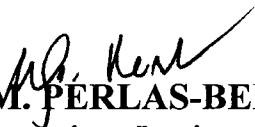



MARTIN S. VILLARAMA, JR.
Associate Justice

On official leave
JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

On official leave
FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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.


MARIA LOURDES P. A. SERENO
Chief Justice