REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

<u>EN BANC</u>

DOLE PHILIPPINES, INC., Petitioner,	**CTA EB NO. 2879** (CTA Case No. 10212)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	

x- x

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2960** (CTA Case No. 10212) Present: **RINGPIS-LIBAN,** *PJ,* **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES** *<u>JJ</u>.*
- versus -	
DOLE PHILIPPINES, INC., Respondent.	Promulgated: FEB 03 2026 1:18 p.m.

x- x

DECISION

FERRER-FLORES, <u>J</u>.:

At bar are consolidated **Petitions for Review** filed by the following:

1. **Dole Philippines, Inc. (Dole)** filed on March 15, 2024 docketed as CTA EB No. 2879,[1] with *Comment/Opposition (to Petitioner's Petition for Review dated March 8, 2024)* filed on April 23, 2024;[2] and,

2. the **Commissioner of Internal Revenue (CIR)** filed on August 19, 2024 docketed as CTA EB No. 2960,[3] with *Comment and Opposition (to the Petition for Review dated August 12 2024)* filed on November 28, 2024.[4]

In its *Petition for Review,* Dole assails the *Amended Decision* (assailed Decision), rendered by the Court's Special Second Division (Court in Division) on February 7, 2024, partially granting its *Motion for Partial Reconsideration;* whereas the CIR's *Petition for Review* challenges the said assailed Decision and the Resolution promulgated on July 11, 2024 (assailed Resolution) denying his *Motion for Partial Reconsideration.* The dispositive portions of the assailed Decision and Resolution read as follows:

Assailed Decision:

> **WHEREFORE**, premises considered, respondent's Motion for Partial Reconsideration *(Re: Decision promulgated on May 19, 2023)* is **DENIED** for lack of merit. Meanwhile, petitioner's Motion for Partial Reconsideration is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Decision dated June 13, 2023, is hereby amended to read as follows:
>
>> "**WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**.
>>
>> Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the additional amount of One Hundred Thirty-Nine Million Four Hundred Forty-Seven Thousand Two Hundred Ninety-Seven Pesos and Forty Centavos **(P139,447,297.40)**, representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the 1st to 4th quarters of FY ending March 2018.
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>> **SO ORDERED.**"
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> **SO ORDERED.**

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1 *Rollo,* pp. 6-28.
2 *Id.* at 138-156.
3 *Id.* at 7-23.
4 *Id.* at 164-173.

Assailed Resolution:

> **WHEREFORE**, respondent's Motion for Partial Reconsideration (Re: Amended Decision promulgated on February 7, 2024) is **DENIED** for lack of merit.
>
> **SO ORDERED.**

THE PARTIES

Dole is a domestic corporation duly organized and existing under and by virtue of the laws of the Philippines with principal address at Cannery Site, Cannery, Polomolok, South Cotabato.[5]

The **CIR**, on the other hand, is duly appointed to exercise the powers and perform the duties of his office including, inter alia, the power to decide refunds.[6]

FACTUAL ANTECEDENTS

The factual antecedents as narrated in the Division Decision are as follows:[7]

> On June 28, 2019, petitioner filed an Application for Tax Credits/Refunds (BIR Form No. 1914), with a Sworn Statement executed by Ms. Rhodora U. Cagampan, under Section 112 of the National Internal Revenue Code ("NIRC") of 1997, as amended, for the refund of VAT, in the amount of P1,218,800,809.92 for the period from April 1, 2017 to March 31, 2018 with the BIR's VAT Credit Audit Division **("VCAD")**.
>
> On October 16, 2019, petitioner received the *VAT Refund Notice* dated August 29, 2019, and *Tax Verification Notice* No. TVN2018000083093 dated June 28, 2019, issued by respondent, partially granting petitioner's administrative claim in the amount of P893,529,266.59.
>
> Petitioner filed a *Petition of Review* on November 13, 2019.
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> On January 31, 2020, within the extended time granted by the Court, respondent filed his *Answer*.
>
> The Pre-Trial Conference was initially set on February 27, 2020. However, on February 13, 2020, petitioner filed a *Motion to Reset Pre-Trial Conference*, which the Court granted. Petitioner's *Pre-Trial Brief* was filed

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5 Paragraph (Par.) 1, III. Parties, *Petition for Review* for CTA EB No. 2879, *Rollo* p. 7.
6 Parties, *Petition for Review* for CTA EB No. 2960, *Rollo* p. 9.
7 *Rollo* for EB No. 2879, pp. 35-101.

on June 23, 2020, *Respondent's Pre-Trial Brief* was submitted on June 26, 2020. The Pre-Trial Conference was eventually held on June 29, 2020.

On July 20, 2020, petitioner filed a *Manifestation*, stating that the parties have disagreed on certain stipulations of issues; thus, they will no longer file a *Joint Stipulation of Facts and Issues*. In the *Resolution* dated July 29, 2020, the Court noted the *Manifestation*.

On September 8, 2020, respondent transmitted the *BIR Records* of this case, consisting of one (1) folder, consecutively numbered as pages 1 to 58.

The trial ensued, wherein the parties presented their respective documentary and testimonial evidence.

Petitioner offered the testimonies of the following individuals, namely: (1) Mr. Rhodora U. Cagampan, Tax Manager of Dole Asia Company Ltd.; and (2) Ms. Sonia D. Segovia, the Court-commissioned independent certified public accountant (**"ICPA"**).

The *Report* of the ICPA was submitted on January 12, 2021, consisting of eight (8) binders.

Petitioner filed its *Formal Offer of Evidence* on February 26, 2020. On March 5, 2021, respondent posted a *Motion to Admit Attached Comment on Petitioner's Formal Offer of Evidence*. In its Resolution dated March 22, 2021, the Court granted the *Motion* and admitted the attached *Comment/Opposition (to Petitioner's Formal Offer of Evidence) with Manifestation*.

In the *Resolution* dated July 12, 2021, the Court admitted petitioner's offered exhibits, *except* for the following:

1. Exhibits "P-1", "P-2", "P-2-A", "P-3", "P-3-A" to "P-3-Z", "P-11", "P-11-A" to "P-11-C", "P-12", "P-13-A", "P-13-B", "P-54" to "P-65", "P-68", "P-69", "P-71" to "P-73", and "P-74", for failure to submit the duly marked exhibits with the indication that the same are accordingly the original computer print-out, certified true copies or faithful reproduction of the originals; and

2. Exhibits "P-88-ae", "P-105-abl", "P-105-aew", "P-248-aw", "P-251-ak", "P-315-a", "P-334-b", "P-334-d", "P-441-wo", "P-441-agb", "P-442-em", "P-442-ig", "P-442-pe", "P-442-aag", "P-442-acq", and "P-442-aml", as the foregoing documents could not be found in the USB containing the softcopies of the exhibits identified in the ICPA *Report*.

Consequently, on August 3, 2021, petitioner filed a *Motion for Partial Reconsideration to the Resolution dated July 12, 2021*, praying that this Court admit the denied exhibits. Respondent filed his *Manifestation* on November 24, 2021.

In the *Resolution* dated February 14, 2022, the Court granted petitioner's *Motion for Partial Reconsideration* and admitted Exhibits "P-1", "P-2", "P-2-A", "P-3", "P-3-A" to "P-3-Z", "P-11", "P-11-A" to "P-11-C", "P-12", "P-13-A", "P-13-B", "P-54" to "P-65", "P-68", "P-69", "P-71" to "P-73", "P-74", "P-88-ae", "P-105-abl", "P-105-aew", "P-248-aw", "P-

251-ak", "P-315-a", "P-334-b", "P-334-d", "P-441-wo", "P-441-agb", "P-442-em", "P-442-ig", "P-442-pe", "P-442-aag", "P-442-acq", and "P-442-aml".

In the meantime, respondent, for his part, offered the testimony of Revenue Officer **("RO")** Daniel Carlo C. Perez.

Respondent's Formal Offer of Evidence was filed on December 1, 2021. Petitioner filed its *Comment/Opposition (To the Respondent's Formal Offer of Evidence)*. In the *Resolution* dated February 14, 2022, the Court admitted all respondent's offered exhibits.

On March 8, 2022, respondent filed his *Memorandum,* while petitioner filed its *Memorandum* on March 9, 2022.

The Court in Division rendered the Decision on June 13, 2023, partially granting Dole's claim for refund, to wit:

> **WHEREFORE**, in light of the foregoing, the instant *Petition for Review* is **PARTIALLY GRANTED**.
>
> Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the additional amount of One Hundred Twenty-Three Million Three Hundred Fifty-One Thousand Eight Hundred Twenty-Nine Pesos and Eighty-Three Centavos (P123,351,829.83), representing petitioner's excess and unutilized input VAT attributable to its zero-rated sales for the 1st to 4th quarters of FY ending March 2018.
>
> **SO ORDERED.**

Aggrieved, both parties filed their respective *Motion for Partial Reconsideration.* The Court in Division then arrived at the assailed Decision partially granting Dole's motion, while denying the CIR's motion.

Undeterred, Dole appealed the assailed Decision before the Court *En Banc*. On the other hand, the CIR filed a *Motion for Partial Reconsideration (Re: Amended Decision promulgated on February 7, 2024)* before the Court Special Second Division, which the Court in Division denied in the assailed Resolution.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Dole filed a *Motion for Extension of Time to File Petition for Review*[8] on February 27, 2024 before the Court *En Banc*, which was granted, thereby

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[8] *Rollo,* pp. 1-3.

giving Dole 15 days, or until March 16, 2024, within which to file the petition for review.[9]

On March 15, 2024, Dole filed the present *Petition for Review*. The CIR filed his *Comment/Opposition (to Petitioner's Petition for Review dated March 8, 2024)* on April 23, 2024. The Court *En Banc* then submitted the case for decision on May 15, 2024.

In the meantime, the CIR filed a *Motion for Extension to File Petition for Review*[10] on July 31, 2024 seeking an additional period of 15 days from August 1, 2024, or until August 16, 2024, to file a petition for review. The Court granted the CIR's *Motion* in the Minute Resolution dated August 2, 2024.[11] On August 13, 2024, within the extended period allowed, the CIR filed the instant *Petition for Review* with the Court *En Banc* docketed as CTA EB No. 2960.

It appearing that both cases are appeals from the assailed Decision, the Court *En Banc* consolidated CTA EB No. 2960 with CTA EB No. 2879 in the Minute Resolution dated August 27, 2024.[12]

Dole then filed its *Comment and Opposition (to the Petition for Review dated August 12 2024)* on November 28, 2024.

On January 3, 2025, the Court *En Banc* submitted the two *Petitions for Review* for decision.[13]

ISSUES

In its *Petition for Review*, Dole raises in issue whether the Court in Division erred in ruling that it is not entitled to the full amount of the denied portion of the administrative claim in the aggregate amount of ₱325,271,543.33, representing its excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales for the first to fourth quarters of fiscal year (FY) ending March 2018.

On the other hand, the CIR imputes that the Court in Division erred in partially granting Dole's claim for refund or issuance of tax credit certificate.

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9 *Minute Resolution* dated February 28, 2024, Rollo, p. 5.
10 *Rollo*, pp. 1-4.
11 *Id.* at 6.
12 *Id.* at 129.
13 *Id.* at 164.

PARTIES' ARGUMENTS

Dole's *Petition for Review*
(CTA EB No. 2879)

Dole argues that the Court in Division committed reversible error when it held in the assailed Decision that it is only entitled to the refund of the additional amount of ₱139,447,297.40, which is the difference of ₱1,032,976,563.99 minus ₱893,529,266.59, attributable to its zero-rated or effectively zero-rated sales on its domestic purchases for the first to fourth quarters of FY 2018.

In the assailed Decision, the Court in Division disallowed direct export sales amounting to ₱1,736,880,966 resulting in the adjustment of the Total Zero Rated Sales per VAT Return from ₱33,665,195,868.50 to ₱31,881,654.60. Consequently, the excess input VAT attributable to zero rated sales was reduced to ₱1,032,976,653.99 from ₱1,090,781,912.18.

Dole submits that, contrary to the Court's findings, the disallowed export sales were duly substantiated. For Dole, its excess input VAT attributable to valid zero-rated sales totals ₱1,077,126,936.83. Therefore, it should be entitled to the refund of ₱183,597,670.24, which is the difference of ₱1,077,126,936.83 less ₱893,529,266.59.

In his *Comment*, the CIR points out that Dole failed to follow precedents requiring the filing of motion for reconsideration of the amended decision. Assuming arguendo that the filing of a petition for review is proper, the same must still be dismissed for Dole's failure to substantiate its claim at the administrative level.

Anchoring on the Supreme Court ruling in *Pilipinas Total Gas, Inc vs. Commissioner of Internal Revenue (Total Gas* case*)*,[14] the CIR submits that since he rendered a decision at the administrative level, the Court's jurisdiction is strictly appellate in nature. The Court is confined to a more limited issue of whether the denial was proper given the evidence submitted at the administrative level.

The CIR avers that, for the Court to determine whether an administrative claim should have been granted in the first place, this entails a review of the very same documents, which were submitted to the BIR in support of the said administrative claim. There was no indication, however,

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14 G.R. No. 207112, December 8, 2015.

that Dole presented before the Court in Division the very same documents it submitted to the BIR in support of its administrative claim. At any rate, Dole is not entitled to its claim for refund for failure to substantiate its claim.

CIR's *Petition for Review*
(CTA EB No. 2960)

In his *Petition for Review*, the CIR insists that Dole's claim for refund must be dismissed for its failure to substantiate its claim. Moreover, the CIR claims that Dole failed to comply with the mandatory requirements for claiming refund or tax credit.

Dole, on the other hand, posits that the claim for refund was correctly granted by the Court in Division. In proving its claim for refund, it may present new and additional evidence to the court as the CTA is a court of record that is required to conduct a formal trial.

Likewise, Dole maintains that, in the absence of contrary evidence, it should be presumed that it submitted the supporting documents when it filed the claim. Notably, the CIR did not present any evidence to prove that Dole did not submit supporting documents in the administrative level. It must, thus, be presumed that it submitted supporting documents at the administrative level.

RULING OF THE COURT *EN BANC*

After an assiduous review of the records and the parties' arguments, the Court *En Banc* finds that the *Petition for Review* filed by Dole must be dismissed for lack of jurisdiction; while, the *Petition for Review* filed by the CIR must be denied for lack of merit.

We discuss.

Dole's *Petition for Review*
(CTA EB No. 2879)

As previously stated, Dole's *Petition for Review* before this Court was not preceded by a filing of a motion for reconsideration to challenge the assailed Decision. Such lapse is fatal to its claim.

Jurisprudence has settled that an Amended Decision is a different decision making it a proper subject of a motion for reconsideration. In the recent case of *Commissioner of Internal Revenue vs. Script2010, Inc.*,[15] citing *Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue*,[16] the Supreme Court elucidated as follows:

> The ruling in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*, is on all fours:
>
>> Thus, in order for the CTA *En Banc* to take cognizance of an appeal *via* a petition for review, **a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word "must" indicates that the filing of a prior motion is mandatory, and not merely directory.**
>>
>> **The same is true in the case of an amended decision.** Section 3, Rule 14 of the same rules defines an amended decision as "[a]ny action modifying or reversing a decision of the Court *en banc* or in Division." As explained in *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration.
>>
>> **In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA *En Banc*. Thus, the CTA *En Banc* did not err in denying the CIR's appeal on procedural grounds.**
>>
>> **Due to this procedural lapse, the Amended Decision has attained finality insofar as the CIR is concerned. The CIR, therefore, may no longer question the merits of the case before this Court.** *(Emphasis in the original)*

Applying the Supreme Court pronouncement, Dole's failure to move for the reconsideration of the assailed Decision is a ground for dismissal of the its *Petition*. Remarkably, it made no mention of any reason as to why it elevated the case before the Court *En Banc* without first seeking reconsideration of the assailed Decision. Accordingly, insofar as Dole is concerned, the assailed Decision of the Court in Division has already attained finality and may no longer be appealed.

Procedural rules are not to be trifled with or be excused simply because their non-compliance may have resulted in prejudicing a party's substantive rights. Rules are meant to be followed. They may be relaxed only for very

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[15] G.R. No. 266641, February 17, 2025.
[16] G.R. No. 201530, 201680-81, April 19, 2017.

exigent and persuasive reasons to relieve a litigant of an injustice not commensurate to its careless non-observance of the prescribed rules.[17]

There is, thus, no reason to delve on the merits of Dole's petition.

CIR's *Petition for Review*
(CTA EB No. 2960)

Timeliness of the Petition for Review

Before delving into the merits of the CIR's *Petition*, the Court shall first determine its jurisdiction.

Section 3(b) of Rule 8 of the Revised Rules of the CTA (RRCTA) provides:

> Sec. 3. *Who may appeal; period to file petition.* –
>
> (b) **A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution.** Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of he reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Emphasis supplied)

The CIR received the assailed Resolution denying its *Motion for Reconsideration* on July 17, 2024. Counting 15 days therefrom, he had until August 1, 2024 within which to appeal before this Court.

On July 31, 2024, the CIR filed a *Motion for Extension of Time To File Petition for Review.* In the Minute Resolution dated August 2, 2024, he was granted 15 days, or until August 16, 2024, within which to file a petition for review.

The CIR, thus, timely filed the instant *Petition for Review* on August 13, 2024.

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[17] *Commissioner of Customs vs. Marina Sales, Inc.,* G.R. No. 183868, November 22, 2010.

There is no cogent reason to reverse or modify the assailed Decision and Resolution.

As can be gleaned from the records, the CIR merely reiterated in this instant *Petition* arguments that were already painstakingly passed upon by the Court in Division. We quote with affirmance the disquisition of the Court in Division in the assailed Decision, to wit:

> Nonetheless, to reiterate the Court's appellate jurisdiction, it should be noted that in every appeal or petition for review of an unsuccessful administrative claim, the petitioner must convince the Court that the respondent had no reason to deny its claim. In this regard, a petitioner must show this Court that (1) it was entitled under substantive law to the grant of its claims and (2) it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.
>
> The first requisite is in line with the principle that cases filed in this Court are litigated *de novo*, while the second requisite is concerned with the exercise of this Court's appellate jurisdiction over the decisions of respondent as conferred by law.
>
> As cases filed before this Court are litigated *de novo*, party-litigants shall prove every minute aspect of their cases. The power of the Court of Tax Appeals to exercise its appellate jurisdiction does not preclude it from considering evidence not presented in the administrative claim in the BIR. Whether the evidence submitted by a party is sufficient to warrant the granting of its prayer lies within the sound discretion and judgment of the Court. More so, this Court, being a court of record, is not governed strictly by technical rules of evidence and, thus, is not precluded from considering evidence not presented at the administrative level, for the paramount consideration remains the ascertainment of truth.

To further underscore the above, the Supreme Court in the *Total Gas* case elucidated in this wise:

> ...First, a judicial claim for refund or tax credit in the CTA is by no means an original action but rather an *appeal* by way of petition for review of a previous, unsuccessful administrative claim. Therefore, as in every appeal or petition for review, a petitioner has to convince the appellate court that the quasi-judicial agency *a quo* did not have any reason to deny its claims. <u>In this case, it was necessary for petitioner to show the CTA not only that it was entitled under substantive law to the grant of its claims but also that it satisfied all the documentary and evidentiary requirements for an administrative claim for refund or tax credit.</u> Second, cases filed in the CTA are litigated *de novo*. Thus, a petitioner should prove every minute aspect of its case by presenting, formally offering and submitting its evidence to the CTA. Since it is crucial for a petitioner in a judicial claim for refund or tax credit to show that its administrative claim should

> have been granted in the first place, part of the evidence to be submitted to the CTA must necessarily include whatever is required for the successful prosecution of an administrative claim. (Underscoring in the original)
>
> A distinction must, thus, be made between administrative cases appealed due to inaction and those dismissed at the administrative level due to the failure of the taxpayer to submit supporting documents. If an administrative claim was dismissed by the CIR due to the taxpayer's failure to submit complete documents despite notice/request, then the judicial claim before the CTA would be dismissible, not for lack of jurisdiction, but for the taxpayer's failure to substantiate the claim at the administrative level. **When a judicial claim for refund or tax credit in the CTA is an appeal of an unsuccessful administrative claim, the taxpayer has to convince the CTA that the CIR had no reason to deny its claim. It, thus, becomes imperative for the taxpayer to show the CTA that not only is he entitled under substantive law to his claim for refund or tax credit, but also that he satisfied all the documentary and evidentiary requirements for an administrative claim. It is, thus, crucial for a taxpayer in a judicial claim for refund or tax credit to show that its administrative claim should have been granted in the first place.** Consequently, a taxpayer cannot cure its failure to submit a document requested by the BIR at the administrative level by filing the said document before the CTA. (Emphasis supplied)

The CIR failed to convince this Court that the Court in Division committed a reversible error in partially granting Dole's claim for refund. Considering that the arguments raised by the CIR are mere rehash of the issues carefully passed upon by the Court in Division, this Court no longer finds it necessary to belabor further, only to affirm the assailed Decision and Resolution.

WHEREFORE, the **Petition for Review** filed by Dole Philippines, Inc. docketed as CTA EB No. 2879 is **DISMISSED** for lack of jurisdiction, and the **Petition for Review** filed by the Commissioner of Internal Revenue docketed as CTA EB No. 2960 is **DENIED** for lack of merit. Accordingly, the Amended Decision dated February 7, 2024 and the Resolution dated July 11, 2024 by the Court's Special Second Division in CTA Case No. 10212 are hereby **AFFIRMED**.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

Ma. Belen M. Ringpis-Liban

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the consolidated cases were assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice