REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

AMERICAN EXPRESS INTERNATIONAL, INC., PHILIPPINE BRANCH, *Petitioner,*	**C.T.A. E.B. NO. 103 (C.T.A. CASE NO. 6294)**
	Present:
-versus-	ACOSTA, Presiding Justice, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, and PALANCA-ENRIQUEZ, JJ.
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	**Promulgated:** MAR 0 3 2006

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DECISION

PALANCA-ENRIQUEZ, J.:

THE CASE

This is a Petition For Review filed by American Express International, Inc.- Philippine Branch (hereafter "petitioner") under *Section 11 of Republic Act No. 9282 (An Act Expanding the Jurisdiction of the Court of Tax Appeals)*, in relation to *Rule 43 of the 1997 Rules of*

Civil Procedure, as amended, which seeks the reversal of the Decision dated December 28, 2004, denying the Petition For Review, rendered by the Second Division of this Court in C.T.A Case No. 6294, the dispositive portion of which reads as follows:

> "**IN VIEW OF THE FOREGOING**, the instant Petition for Review is hereby **DENIED** for lack of merit.
>
> SO ORDERED."

The Motion For Reconsideration was denied by the Second Division in the assailed Resolution dated June 15, 2005, the dispositive portion of which reads as follows:

> "**WHEREFORE**, in view of the foregoing, petitioner's 'Motion for Reconsideration' is hereby DENIED for lack of merit and the pronouncement reached in the assailed DECISION is hereby REITERATED.
>
> SO ORDERED."

THE FACTS

Petitioner is the duly registered Philippine branch of American Express International, Inc. (hereafter "petitioner"), a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, United States of America. It is a servicing unit of American

Express International, Inc. – Hong Kong Branch (hereafter "AMEX Hong Kong"), engaged primarily to facilitate collection of AMEX Hong Kong's receivables from AMEX cardholders residing or situated in the Philippines, as well as the payment by AMEX Hong Kong to American Express accredited service establishments and merchants in the Philippines.

Petitioner is registered as a VAT entity since March 1988 under *VAT Registration Certificate No. 088445*, pursuant to *Section 107 of the National Internal Revenue Code* (hereafter "NIRC") of 1977, as amended (*Exhibit "A"*).

On January 27, 1989, petitioner made a request in writing to the BIR for qualification as a zero-rated VAT enterprise effective January 1, 1988.

In response, the Bureau of Internal Revenue (hereafter "BIR") issued *VAT RULING No. 080-89*, dated April 3, 1989, addressed to petitioner, declaring that:

> *"In reply, please be informed that, as a VAT registered entity whose service is paid for in acceptable foreign currency which is remitted inwardly to the Philippines and accounted for in accordance with the rules*

> *and regulations of the Central Bank of the Philippines, your service income is automatically zero rated effective January 1, 1988. [Section 102(a)(2) of the Tax Code, as amended]. For this, there is no need to file an application for zero-rate" (Exhibit B; par. g, Stipulated Facts).*"

For the period covering January 1, 1999 to December 31, 1999, petitioner allegedly generated and recorded zero-rated revenues from its above described services in the total amount of P75,728,490.76, which were paid to petitioner in acceptable foreign currency inwardly remitted to the Philippines and accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (hereafter "BSP").

Petitioner claims that the said revenues qualify as zero-rated, pursuant to *Section 108 (B) (2) of the NIRC of 1997, as amended*, and *VAT Ruling No. 080-89.*

For the same period, petitioner paid input VAT on its domestic purchases of taxable goods and services in the amount of P4,189,301.44 which are all directly attributable to its zero-rated revenues of P75,728,490.76.

Petitioner duly filed its quarterly VAT returns for each of the four (4) quarters of the year 1999 *(Exhibits "C" to "F")*. These returns were, however, subsequently amended reflecting the foregoing input VAT payments and zero-rated revenues *(Exhibits "G" to "J").*

Petitioner was allegedly unable to utilize the input VAT payments of P4,189,301.44 and the same was not carried over to the succeeding first quarter of 2000. On April 23, 2001, petitioner filed with the BIR a claim for refund of its aforesaid 1999 input VAT payment *(Exhibits "M", "M-1" & "M-2").*

On April 25, 2001, petitioner filed a Petition For Review with this Court praying for the refund of the amount of P4,189,301.44 allegedly representing unapplied input VAT payments directly attributable to petitioner's zero-rated sales for the period covering January 1, 1999 to December 31, 1999.

In his answer filed on June 21, 2001, the Commissioner of Internal Revenue (hereafter "respondent") denied the material allegations of the petition, and interposed by way of special and affirmative defenses:

> "6. Petitioner's alleged claim for tax refund/tax credit is subject to administrative investigation/examination by the respondent's Bureau;

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7. Petitioner failed to demonstrate that the tax subject of the case at bar was erroneously or illegally collected;

8. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable;

9. It is incumbent upon petitioner to prove that it has complied with the governing rules relative to tax recovery or refund as provided for under Sections 204(c) and 229 of the Tax Code, as amended;

10. In an action for tax refund/credit, the burden of proof is on the taxpayer to establish its right to refund, and failure to adduce sufficient proof is fatal to the action for tax refund/credit;

11. Finally, there is no way to dispute the cardinal rule in taxation that tax exemptions are highly disfavored in law and he who claims tax exemption must be able to justify his claim or right. The exemption cannot be established by mere implication but it must be clearly expressed. (Wonder Mechanical Engineering Corporation vs. Court of Tax Appeals, et al., 64 SCRA 655);"

In their "Joint Stipulation of Facts", the parties stipulated as follows:

"(a) The existence, legal capacities and circumstances of the parties.

(b) Petitioner's registration as a Value Added Tax ('VAT') entity pursuant to then Section 107 of the National Internal Revenue code of 1993, as amended, since March 1988 and respondent's issuance to petitioner of the corresponding VAT Registration Certificate No. 088445 (with Registration No. 32A-3-004868).

(c) That petitioner duly filed with the BIR its VAT Returns covering the period from January 1, 1999 to December 31, 1999.

(d) That on April 23, 2001, petitioner filed a claim for refund of the VAT input taxes subject of this case with the Revenue District Office No. 47 (East-Makati) in the amount of P4,189,301.44 for the period covering January 1, 1999 to December 31, 1999, and further, that Annex L of the petition (the request for refund, together with its supporting documents) is a faithful reproduction of petitioner's April 23, 2001 claim for refund.

(e) Petitioner's aforementioned claim for refund to date, remains unresolved and is still under investigation by the Bureau of Internal Revenue.

(f) On April 13, 1989, the BIR issued VAT Ruling No. 080-89 addressed to petitioner stating, among other things, that:

> 'In reply, please be informed that, as VAT registered entity whose service is paid for in acceptable foreign currency which is remitted inwardly to the Philippines and accounted for in accordance with rules and regulations of the Central Bank of the Philippines, your service income is automatically zero rated effective January 1, 1988 [Section 102(a)(2) of the Tax

> Code, as amended]. For this, there is no need to file an application for zero-rate.'
>
> And that Annex B of the petition is a faithful reproduction of the aforementioned VAT Ruling."

After trial on the merits, the Second Division of this Court rendered the assailed Decision on December 28, 2004, in the terms earlier set forth.

Not satisfied, petitioner moved for reconsideration of the same, which the Second Division denied in the Resolution dated June 15, 2005.

ISSUE

Hence, this Petition For Review raising the following sole issue, to wit:

> WHETHER OR NOT THE SECOND DIVISION ERRED IN TREATING AMEX'S FAILURE TO PRESENT VAT OFFICIAL RECEIPTS OR INVOICES AS FATAL TO ITS CLAIM FOR REFUND OF ITS UNAPPLIED INPUT VAT FOR TAXABLE YEAR 1999 IN THE AMOUNT OF P4,189,028.44.

In support of its theory, petitioner argues that:

I.

> THE SECOND DIVISION SERIOUSLY ERRED IN REQUIRING THE PRESENTATION OF VAT OFFICIAL RECEIPTS OR INVOICES ALLEGEDLY PURSUANT TO

THE TAX CODE AND REVENUE REGULATIONS NO. 7-95 ('RR-7-95').

II.

THE SECOND DIVISION SERIOUSLY ERRED IN DISREGARDING OTHER ADMISSIBLE AND COMPETENT EVIDENCE WHICH AMEX PRESENTED TO PROVE ITS CLAIM FOR REFUND.

III.

THE SECOND DIVISION SERIOUSLY ERRED IN TREATING THE FAILURE TO PRESENT VAT OFFICIAL RECEIPTS OR INVOICES AS FATAL TO AMEX'S CLAIM FOR REFUND CONTRARY TO THE HONORABLE COURT'S PREVIOUS DECISIONS GRANTING AMEX'S CLAIM FOR UNAPPLIED INPUT VAT FOR TAXABLE YEARS 1991 TO 1998, AS WELL AS IN OTHER SIMILAR PETITIONS FILED BY OTHER TAXPAYERS BEFORE THIS SAME COURT.

On August 11, 2005, We required the respondent to file his comment on the petition, within ten (10) days from receipt thereof.

On August 31, 2005, upon motion of the respondent, We granted the respondent a final and non-extendible period of ten (10) days from August 29, 2005 or until September 8, 2005 to file his comment.

On September 6, 2005, respondent filed a "Motion for Second Extension of Time to File Comment", which the Court *En Banc* denied considering that the first extension granted to respondent was non-extendible.

On November 11, 2005, the Court directed both parties to file their respective memoranda of authorities within fifteen (15) days from notice. Thereafter, the petition shall be deemed submitted for decision.

On December 13, 2005, petitioner filed its "Memorandum of Authorities". On December 19, 2005, respondent filed his "Motion To Admit Attached Memorandum of Authorities", which the Court granted in the Resolution dated January 9, 2006, and the case was deemed submitted for decision.

THE COURT EN BANC'S RULING

We find the instant appeal bereft of merit.

The sole issue posed for resolution by the Court En Banc is whether or not the Second Division of this Court erred in concluding that the non-presentation of VAT official receipts is fatal to petitioner AMEX's claim for refund of its unapplied input VAT payments for the taxable year 1999 in the amount of P4,189,301.44.

Petitioner contends that the *NIRC of 1997, as amended*, and *Revenue Regulations No. 7-95* do not establish an evidentiary rule that only VAT official receipts are admissible and competent to establish zero-rated sales of services and neither do they expressly exclude the admissibility or competency of other documentary evidence to prove zero-rated sales. It posits the theory that other documentary evidence other than VAT official receipts or invoices can be submitted to prove zero-rated sales.

On the other hand, respondent maintains that petitioner's failure to present the official receipts it issued to AMEX Hong Kong in order to establish its zero-rated sales is fatal to its claim. Without the official receipts evidencing its zero-rated revenues, the input VAT payments of P4,189,301.44 alleged to be directly attributable thereto cannot be refunded.

We rule for the respondent.

The pertinent portion of *Section 112 of the NIRC of 1997, as amended*, provides:

"SEC. 112. *Refunds or Tax Credits of Input Tax*. -

> (A) Zero-rated or Effectively Zero-rated Sales.- Any VAT registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided*, however, That in the case of zero-rated sales under Section 106 (A)(2)(a)(1), (2) and (B) and Section 108 (B) (1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): x x x."

Pursuant to the above provision, petitioner must show compliance with the following requisites in order to be entitled to a refund or tax credit of input VAT payments directly attributable to zero-rated sales or effectively zero-rated sales:

1) there must be zero-rated or effectively zero-rated sales;

2) that input taxes were incurred or paid;

3) that such input VAT payments are directly attributable to zero-rated or effectively zero-rated sales;

4) that the input VAT payments were not applied against any output VAT liability; and

5) the claim for refund/tax credit was filed within the two year prescriptive period.

In support of its claim for refund, petitioner presented the following various documentary exhibits to prove its 1999 zero-rated revenues from sales of services:

1) Telex advices and Demand Deposit Statements (*Exhibits "X-2" to "X-105"*); and

2) Certificate of Inward Remittance issued by the Bank of the Philippine Islands Forex Corporation (*Exhibit "AA"*).

The Court *En Banc* finds the above documents insufficient. The said documents presented by the petitioner only showed that it rendered services to AMEX – Hong Kong Branch, and in consideration thereof, it received foreign currency payments that were accounted for in accordance with the rules and regulations of the BSP. Petitioner failed to present the required VAT official receipts and invoices, as provided for under *Section 113 of the NIRC of 1997, as amended*, and *Section 4.108-1 of Revenue Regulations No. 7-95.* Pursuant to *Section 108 (B) (2) of the NIRC of 1997, as amended*, such sales of services cannot qualify for zero rating without the corresponding duly registered official receipts.

<u>*Invoicing Requirements*</u>

Section 112 of the NIRC of 1997, as amended, allows tax refund or credit of the input tax of zero-rated sales, only upon compliance with certain invoicing requirements provided for under *Sections 113 and 237 of the NIRC of 1997,* to wit:

> "SEC. 113. Invoicing and Accounting Requirements for VAT-Registered Persons. –
>
> (A) Invoicing Requirements. – A VAT-registered person, shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:
>
> (1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and
>
> (2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.
>
> xxx xxx"
>
> "SEC. 237. Issuance of Receipts or Sales or Commercial Invoices. - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sales or commercial invoices,

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prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: Provided, however, That in the case of sales, receipts or transfers in the amount of One hundred pesos (P100.00) or more, or regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer or client: Provided further; That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice or receipt shall further show the Taxpayer's Identification Number (TIN) of the purchaser.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of three (3) years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

The Commissioner may, in meritorious cases, exempt any person subject to internal revenue tax from compliance with the provisions of this Section."

In relation to these requirements, *Section 4.108-1 of Revenue Regulations No. 7-95 (The Consolidated Value-Added Tax Regulations)* enumerates the information that must appear on the face of the receipts or invoices issued for sales of goods or services by all VAT registered persons, to wit:

> "SEC. 4.108-1. Invoicing Requirements - All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:
>
> 1. the name, TIN and address of seller;
> 2. date of transaction;
> 3. quantity, unit cost and description of merchandise or nature of service;
> 4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
> 5. the word 'zero-rated' imprinted on the invoice covering zero-rated sales; and
> 6. the invoice value or consideration.
>
> In the case of sale of real property subject to VAT and where the zonal or market value is higher than the actual consideration, the VAT shall be separately indicated in the invoice or receipt.
>
> Only VAT-registered persons are required to print their TIN followed by the word 'VAT' in their invoices or receipts and this shall be considered as

> 'VAT Invoice'. All purchases covered by invoices other than 'VAT Invoice' shall not give rise to any input tax.
>
> If the taxable person is also engaged in exempt operations, he should issue separate invoices or receipts for the taxable and exempt operations. A 'VAT Invoice' shall be issued only for sales of goods, properties or services subject to VAT imposed in Sections 100 and 102 of the code.
>
> The invoice or receipt shall be prepared at least in duplicate, the original to be given to the buyer and the duplicate to be retained by the seller as part of his accounting records."

The law is very clear. *Section 113* provides that "a VAT registered person shall, for every sale, issue a duly registered VAT invoice or receipt for every sale transaction". Such VAT invoice or receipt must show the taxpayer identification number, followed by the word "VAT", the BIR Authority imprint or BIR permit marker and the word "zero-rated" imprinted on the invoice or receipt covering a zero-rated sale. Considering so, the sales of services referred to under *Section 108 (B) (2) of the NIRC of 1997, as* amended, as being subject to zero percent (0%) rate are those sales covered by duly registered VAT official receipts.

The VAT registered person must substantiate the input VAT paid by purchase invoices or official receipts. An official receipt issued by the taxpayer is an essential requirement to prove the existence of sale and receipt of income and thereafter duly recorded in the accounting records.

The afore-quoted revenue regulation issued to implement the NIRC provision on VAT invoicing and accounting requirements is mandatory as the word "shall" is used. The word "shall" is imperative, commonly operating to impose an obligation or duty which may be enforced; it is a word of command that must be given a compulsory meaning (*Pioneer Texturing Corp. vs. NLRC, 280 SCRA 806*). Indeed, it is the duty of a seller-taxpayer to comply with the invoicing requirements laid down in the said NIRC provisions and Revenue Regulations.

As aptly ruled by the Second Division of this Court:

> "For taxation purposes, in determining whether or not a certain item of expense is an allowable deduction from gross income, the taxpayer is required to prove that the said expense is duly supported by an official receipt issued by the seller of the goods or service. The taxpayer who purchased the goods or service is required to keep and preserve the official receipt for a period of three (3) years, pursuant to Section 237, as proof that the particular deductible expense was really incurred and the law, in fact, imposes the same duty of safekeeping on the part of

> the seller since an official receipt likewise serves as proof of the income received by the seller of the goods or service. The importance, therefore, of the issuance of an official receipt cannot be taken lightly because it benefits both the purchaser and the seller of the goods or service. This is precisely why Section 113 of the NIRC of 1997 was enacted as a mandatory provision of law by using the word 'shall'. In the case of VAT-Registered persons or entities, the official receipts are vital in determining any excess Input VAT credits or Output VAT payable and the same is true in the case of VAT-Registered persons or entities engaged in zero-rated sales, like the petitioner in the case before us, in proving that they have zero-rated sales.
>
> As a consequence of the mandatory nature of Section 113, petitioner is obligated to comply therewith even if it claims that it renders service exclusively to AMEX — Hong Kong Branch. The law provides that 'A VAT-registered person shall, for every sale, issue an invoice or receipt'. No distinction was made by Section 113 as to whether or not a VAT-registered person renders service only to a single entity or to the general public in order for the requirement of the issuance of an official receipt should apply. Accordingly, this Court rules that an official receipt issued by the taxpayer is an essential document to prove that there was a sale and that an income was received and thereafter duly recorded in the accounting records".

Failure to Comply with the Invoicing Requirements: Effect thereof

In this case, there was failure on the part of the petitioner to present the VAT official receipts it issued to AMEX Hong Kong in order to establish the fact that petitioner's sales are all zero-rated. Without the VAT official receipts evidencing its zero-rated revenues, the input VAT payment alleged to be directly attributable thereto cannot be refunded.

Pursuant to *Revenue Memorandum Circular No. 42-2003*, failure to comply with the invoicing requirements on the documents supporting the sale of goods and services will result in the disallowance of the claim for input tax of the taxpayer claimant. Thus, if the claim for refund/issuance of tax credit certificate is based on the existence of zero-rated sales by the taxpayer, but fails to comply with the invoicing requirements in the issuance of sales invoices, the claim for tax credit/refund of VAT on its sales shall be denied. Pertinently, said Circular provides:

> "A-13. Failure by the supplier to comply with the invoicing requirements on the documents supporting the sale of goods and services will result to the disallowance of the claim for input tax by the purchaser-claimant.
>
> If the claim for refund/TCC is based on the existence of zero-rated sales by the taxpayer but it fails to comply with the invoicing requirements in the issuance of sales invoices (*e.g.,* failure to indicate the TIN), its claim for tax credit/refund of VAT on its purchases shall be denied considering that the invoice it is issuing to its customers does not depict its being a VAT-registered taxpayer whose sales

> are classified as zero-rated sales. Nonetheless, this treatment is without prejudice to the right of the taxpayer to charge the input taxes to the appropriate expense account or asset account subject to depreciation, whichever is applicable. Moreover, the case shall be referred by the processing office to the concerned BIR office for verification of other tax liabilities of the taxpayer."

In a long line of cases, this Court denied the claims for refund/issuance of tax credit certificate of input VAT attributable to zero-rated sales for failure to present the invoices and official receipts to support the alleged zero-rated sales in accordance with the invoicing requirements under *Sections 113 and 237 of the NIRC of 1997, as amended, and Section 4.108-1 of Revenue Regulations No. 7-95*. As herein petitioner failed to present VAT official receipts to support its alleged zero-rated sales of services, We are left with no recourse but to deny the claim for tax refund.

Rationale of
Strict Compliance

The law and revenue regulations are explicit in emphasizing strict compliance with the invoicing requirements because for the same transactions, the output VAT of the seller becomes the input VAT of the purchaser. Pursuant to *Sections 106(D)(1) and 108(C)*, in relation to

Section 110 of the NIRC of 1997, as amended, the output or input tax on the sale or purchase of goods is determined by the total amount indicated in the invoice, while the output or input tax on the sale or purchase of services is determined by the total amount indicated in the official receipt. In the case of zero-rated sales transactions, the regulations further require that the words "zero-rated" be imprinted on the face of the covering invoices or official receipts. The rationale for the imprinting of words "zero-rated" be imprinted on the face of the covering invoice or official receipt of the seller is for the buyer or purchaser not to claim any input VAT from such purchase and for the purpose of segregating those sales that are subject to 10% VAT from those sales that are zero-rated.

Petitioner Has
Burden of Proof

It is well settled that petitioner, as taxpayer claimant, has the burden of proof to show that it is entitled to the refund of the amount claimed as refundable because taxes are presumed to have been collected in accordance with laws and regulations on the matter. The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund (*Commissioner of Internal*

Revenue vs. Tokyo Shipping Co., Ltd., 244 SCRA 336). Petitioner failed in this regard.

<u>Taxation is the rule and exemption is the exception</u>

Basic is the rule that tax refunds are in the nature of tax exemptions and are to be construed *strictissimi juris* against the entity claiming the same (*Philippine Geothermal, Inc., vs. Commissioner of Internal Revenue, G.R. No. 154028, July 27, 2005*). Moreover, statutes in derogation of sovereignty such as those containing exemption from taxation should be strictly construed in favor of the state (*PLDT vs. City of Davao, 399 SCRA 442*). In this regard, taxation is the rule and exemption is the exception. The law does not look with favor on tax exemptions and that he who would seek to be thus privileged must justify it by words too plain to be mistaken and too categorical to be misinterpreted *(Sea-Land Service, Inc. vs. Court of Appeals, 357 SCRA 444)*.

For having failed to sustain the burden placed upon it by presenting proof that it is entitled to the refund of the amount claimed, the Court *En Banc* has no alternative, but to sustain the findings and conclusion of the Second Division of this Court denying the claim for tax refund

In the light of the laws and jurisprudence on the matter, We find no reason to reverse the assailed Decision dated December 28, 2004 and Resolution dated June 15, 2005.

WHEREFORE, premises considered, the instant petition is hereby **DENIED DUE COURSE**, and accordingly, **DISMISSED.**

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

(On Official Business)
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice