REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

ASB DEVELOPMENT CORPORATION,
Petitioner,

C.T.A. EB NO. 124
(C.T.A. Case No. 6445)

Present:

-versus-

Acosta, P.J.
Castañeda, Jr.
Bautista,
Uy,
Casanova, and
Palanca-Enriquez, JJ.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

OCT 13 2006 Apolinario

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DECISION

BAUTISTA, J.:

This is an appeal by way of a Petition for Review from the Decision promulgated on February 9, 2005, and Resolution dated September 26, 2005, issued by the Second Division of the Court of Tax Appeals in C.T.A. Case No. 6445. The dispositive portion of the assailed Decision reads:

> "**IN VIEW OF THE FOREGOING**, the petition for review is hereby **DENIED** for insufficiency of evidence.
>
> **SO ORDERED**."

and the dispositive portion of the assailed Resolution reads:

> "**WHEREFORE**, in view of the foregoing, Petitioner's "Motion for Reconsideration" and "Alternative Motion [To Adopt Motion for Reconsideration as Motion for New Trial]" are hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

The antecedents, as borne by the records, are as follows:

Petitioner is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office at ASB Center, 114 Benavidez St., Legaspi Village, Makati City. It is engaged in real estate development which includes high rise condominium projects and leasing of properties *(page 6, TSN, August 21, 2002).* The nature of petitioner's business allows it to receive three different kinds of income payments, namely: (1) gains from sale of real property, (2) rental income, and (3) management fees.

On April 17, 2000, petitioner filed with the Bureau of Internal Revenue (BIR) its tentative income tax return for the taxable year ended December 31, 1999 *(Exhibit A, CTA Docket)* reflecting no amount of taxable income but a minimum corporate income tax (MCIT) due of P9,158,188.00 which was deducted from the prior year's excess credits of P28,933,325.00, leaving an overpayment of P19,775,137.00 as shown below:

Gross Income		P 475,911,547.00
Less: Deductions		475,911,547.00
Taxable Income		P -
Minimum Corporate Income Tax (MCIT)		P 9,158,188.00
Less: Tax Credits		
Prior Year's Excess Credits	P28,933,325.00	
Creditable Tax Withheld		
First Three Quarters	-	
Fourth Quarter		28,933,325.00
Tax Overpayment		P 19,775,137.00
		=============

In the said return, petitioner indicated its option to be issued a tax credit certificate for the income tax overpayment of P19,775,137.00.

Subsequently, petitioner amended its 1999 income tax return and filed the same with the BIR on September 8, 2000 *(Exhibit B, CTA Docket)* also reporting no amount of taxable income but increasing its MCIT liability to P9,688,451.00 and excess tax credits to P29,963,736.00, computed as follows:

Gross Income		P 529,904,344.00
Less: Deductions		529,904,344.00
Taxable Income		P -
Minimum Corporate Income Tax (MCIT)		P 9,688,451.00
Less: Tax Credits		
Prior Year's Excess Credits	P 28,933,325.00	
Creditable Tax Withheld		
First Three Quarters	9,921,828.00	
Fourth Quarter	797,034.00	39,652,187.00
Tax Overpayment		P 29,963,736.00
		============

According to petitioner, since the prior year's excess credits in the amount of P28,933,325.00 was already the subject of a separate claim for refund, the MCIT due of P9,688,451.00 was offset against the creditable taxes withheld in 1999 amounting to P10,718,862.00. Thus, the income tax overpayment of P29,963,736.00 as of December 31, 1999 consisted of the prior year's (1998) excess credits of P28,933,325.00 and excess creditable taxes withheld in 1999 of P1,030,411.00. Again, petitioner signified its intention to be issued a tax credit certificate for its excess tax credits of P29,963,736.00 as of December 31, 1999 *(Exhibit B-1, CTA Docket).*

On April 18, 2001, petitioner filed its tentative income tax return for the taxable year ended December 31, 2000 *(Exhibit C, CTA Docket)* wherein it declared a net loss of P32,754,363.00 and MCIT due of P2,934,981.00. Likewise, petitioner reported the amount of P29,963,736.00 as prior year's excess credits and the amount of P16,407,841.00 as creditable taxes withheld during the first three quarters of 2000.

April 12, 2002, filed with the Large Taxpayers Service of the Bureau of Internal Revenue (BIR), a formal letter in order to reiterate its request for the issuance of a tax credit certificate corresponding to the excess tax credits of P1,030,411.00 for taxable year 1999 and of P3,570,473.00 for taxable year 2000 *(Exhibit G, CTA Docket).*

As the two-year prescriptive period for filing of a judicial claim was about to lapse, petitioner filed its judicial claim before this Court, sitting as a Division, on the same day.

Respondent, in his Answer to the Petition for Review, raised the following Special and Affirmative Defenses:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation by the BIR;
>
> 5. Petitioner miserably failed to demonstrate that the taxes subject of the case at bar were erroneously or illegally collected;
>
> 6. The amount of P4,600,884.00 representing alleged unutilized withholding tax credits for the calendar years ended December 31, 1999 and December 31, 2000 was not properly documented;
>
> 7. Taxes paid and collected are presumed to have been paid in accordance with law and regulations, hence, not refundable;
>
> 8. In an action for refund the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;
>
> 9. It is incumbent upon petitioner to show that it has complied with the provisions of Sections 204(C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;
>
> 10. Well-settled is the rule that claims for tax refund/credit are construed in *strictissimi juris* against the taxpayer as they partake the nature of exemption from tax and it is incumbent upon the petitioner to show that it is entitled thereto under the law."

After trial on the merits, the Second Division of this Court rendered the aforementioned assailed Decision and Resolution, denying petitioner's claim for refund.

Hence, this instant appeal via petition for review, with petitioner raising the following assignment of errors:

"I

THE HONORABLE COURT'S SECOND DIVISION ERRED IN NOT FINDING THAT PETITIONER HAS PRESENTED SUFFICIENT EVIDENCE TO PROVE THAT THE INCOME ON ITS SALE AND LEASE OF REAL PROPERTIES AND FROM MANAGEMENT FEES, UPON WHICH THE TAXES WERE WITHHELD, WERE DECLARED AS PART OF THE GROSS INCOME OF PETITIONER.

II

THE HONORABLE COURT'S SECOND DIVISION ERRED IN HOLDING THAT THIS HONORABLE COURT CANNOT CONSIDER THE RECORDS IN A PREVIOUS CASE FOR THE REASON THAT IT IS NOT MANDATED TO TAKE JUDICIAL NOTICE OF A PREVIOUS CASE.

III

THE HONORABLE COURT'S SECOND DIVISION ERRED IN HOLDING THAT THE SUBMISSION OF THE ADDITIONAL DOCUMENTS TO FULFILL THE REQUIREMENTS IN PETITIONER'S ALTERNATIVE MOTION FOR NEW TRIAL IS CONTRADICTORY TO PETITIONER'S ARGUMENT THAT IT HAS ALREADY SUBMITTED SUFFICIENT EVIDENCE TO SUPPORT ITS CLAIM IN ITS MOTION FOR RECONSIDERATION."

The Petition has no merit.

It is well established by law and existing jurisprudence that to be entitled to the refund/issuance of a tax credit certificate, the claimant must show compliance with the following requirements:

1. That the claim for refund was filed within the two-year prescriptive period provided under Section 204(C) in relation to Section 229 of the NIRC of 1997;

2. That the fact of withholding is established by a copy of a statement duly issued by the payor (withholding agent) to the payee, showing the amount paid and the amount of tax withheld therefrom; and

3. That the income upon which the taxes were withheld were included in the return of the recipient.[1]

We agree with the finding of the Court's Second Division that petitioner complied with the first requirement, to wit:

> "The two-year prescriptive period for the filing of a claim for refund commences from the date of filing of the final adjustment return ***(ACCRA Investments Corporation vs. Court of Appeals, supra)***. The claimed excess creditable withholding taxes pertain to taxable year 2000 to which petitioner filed its tentative annual income tax return on April 18, 2001 *(Exhibit C)*. Counting from this date, petitioner had until April 18, 2003 within which to file its claim both in the administrative and judicial levels. Clearly, petitioner's administrative claim filed with the BIR on April 12, 2002 *(Exhibit G)* and the Petition for Review filed before this Court on the same date, fall within the two-year prescriptive period."

As for the second requirement, the Second Division has correctly held that the Certificates of Creditable Tax Withheld at Source and Withholding Tax Remittance Returns proved that petitioner had creditable withholding taxes for taxable year 2000 amounting to P6,406,842.89, which includes the creditable withholding taxes of P4,596,741.65 arising from its sales of real properties and creditable withholding taxes of P1,801,101.24 pertaining to its lease of real properties and professional fees. It was likewise correctly noted that the total amount of creditable withholding tax of P6,406,842.89 was lesser by P332,547.11 when compared with the creditable withholding tax reflected in petitioner's amended 2000 income tax return amounting to P6,739,390.00.

However, for failure to comply with the third requirement, petitioner's claim for refund was denied by the Second Division. Hence, petitioner sought for an affirmative relief before the Court *En Banc,* through the instant Petition for Review.

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[1] Revenue Regulations No. 2-98, as amended; Citibank, N.A. vs. Court of Appeals and CIR, 280 SCRA 459; ACCRA Investments Corporation vs. Court of Appeals, 204 SCRA 957).

Anent the first assignment of error raised before the Court *En Banc*, petitioner avers that it has sufficiently established that the income on which taxes were withheld was reported as part of the gross income of petitioner and has reconciled the same based on sound documentary and testimonial evidence. It claims that the alleged discrepancy is due to the fact that the income payments received by the petitioner were recorded during the years when the sales were made, while the corresponding taxes were withheld in another year.

To prove that taxes were withheld during taxable years 1999 and 2000, petitioner presented the undisputed testimony of Atty. Domingo and submitted Summaries of the Withholding Tax Certificates and Remittance Returns wherein the income payments are detailed, i.e., the year the income was received (the year the same was made, or rental and management fees were received). the year the gain on sale and income from lease or management services were reported, the amount of income payment received, the amount of tax withheld, and the date when such tax was withheld.

The Second Division correctly held that the Summaries of Creditable Tax Withheld at Source for Taxable Year 2000 submitted by petitioner were insufficient to corroborate the testimony of its lone witness, Atty. Rolando Domingo, the Senior Vice President of the petitioner's Accounting Department. and aptly explained as follows:

> "As indicated in the withholding tax certificates and in the Summary of Creditable Tax Withheld at Source for Taxable Year 2000 (Exhibits K to K-59), the creditable taxes of P1,810,101.24 were withheld from rental fees and professional fees in the respective amounts of P34,163,596.80 and P2,038,428.00 or in the sum of P36,202,024.80. This Court cannot verify with certainty whether these income figures formed part of the gross income from lease of real properties in the amount of P48,082,511.0 and miscellaneous income of P8,673,544.00 reported by petitioner in its amended 2000 income tax return. Petitioner should have presented additional supporting documents such as general ledger, invoices/receipts, sales summary or any other document wherein

the income related to the creditable withholding taxes of P1,810,101.24 can be traced as forming part of the income reported in its amended 2000 income tax return.

The same holds true with regard to petitioner's gain on sale from real properties related to the creditable withholding taxes of P4,596.741.65. The Summary of Creditable Tax Withheld at Source for Taxable Year 2000 *(Exhibit J),* merely indicated the amount of the gain on sale corresponding to the creditable withholding taxes of P4,596,741.65 and the date when such gain was reported by petitioner. Petitioner should have presented its income tax returns for prior years when the subject gain on sale was reported, sales lists or schedules of realized gain from the sale of real properties for the subject years indicated in the summary (detailing the customer's name, selling price and cost of property sold and gain on sale), lists of installment payments received or any other document wherein We can verify that the amount of petitioner's gain from sales of real properties pertaining to the creditable withholding taxes of P4,596,741.65 was properly reported in its amended 2000 income tax return and in its prior years income tax returns."

Petitioner further claims that the requirement of the Court. sitting as a Division, for the petitioner to present additional supporting documents such as general ledger, invoices/receipts, sales summary or any other document wherein the income related to the creditable withholding taxes can be traced is "superfluous, unjust and inequitable considering that in previous refund cases decided and granted by the same Honorable Court, no such documents were required to be submitted in evidence." It insists that "for the Court to provide an additional requirement would affect the certainty and stability of court decisions, and unduly enlarge clear and unambiguous requirements for claiming refunds."

Moreover, petitioner posits that to require additional documentation when other parties in the same or in a similar situation were not, violates the equal protection clause of the Constitution protecting justice and fair play.

Petitioner's arguments are devoid of merit.

This issue was addressed in the Court's assailed Resolution dated September 26, 2005. The Court *En Banc* quotes with approval the ruling of the Court *a quo* expressed in its Resolution denying petitioner's claim:

> "Petitioner recognizes that it has the duty to prove that it declared in its income tax return the income corresponding to the claimed excess creditable withholding taxes. Thus, We find it absurd for petitioner to state that it could not have anticipated for or much less present in evidence the documents required by this Court.
>
> Contrary to what petitioner is trying to imply, this Court did not impose a new requirement. As can be recalled, a large portion of petitioner's reported creditable taxes withheld during the year 2000 in the amount of P4,596,741.65 *(Exhibit J)* arose from its sale of real estate and condominium units while the remaining amount of P1,810,101.24 arose from its lease of real properties and management services rendered. With reference to the creditable taxes withheld in the amount of P4,596,741.65, petitioner indicated in the "Summary of Creditable Tax Withheld at Source" *(Exhibit J)* that the corresponding gain on sale was reported in the year 2000 and in prior years, i.e., 1991, 1994, 1995, 1996, 1997, 1998 and 1999. Considering that petitioner did not submit its *income tax returns* for said prior years except for the years 1999 and 2000, this Court cannot ascertain whether or not the amount of gain on sale indicated in the summary was indeed reported in the said years. The income tax returns are basic documents in proving compliance with the third requisite and the non-presentation thereof is fatal to petitioner's claim.
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> While petitioner submitted in evidence the income tax returns for 1999 and 2000, however, its "Summary of Creditable Tax Withheld at Source" *(Exhibit J)* failed to reconcile the total amounts of gain on sale reflected in the returns vis-à-vis the alleged amounts of gain on sale attributable to the claimed creditable withholding taxes. To clarify this point, below are the first entries shown in the summary:

Client	DateGain Reported	Gain on Sale	Income Payment	Tax Withheld	Date Paid	Exhibit
RJ Credit (Bacolod) Services Corporation	8/5/99	1,473,360.50	90,021.64	4.501.08	02/10/00	J-1
			90,021.64	4.501.08	03/10/00	J-2
			90,021.64	4.501.08	04/10/00	J-3
			90,021.64	4.501.08	05/10/00	J-4
			270,064.92	13,503.25	08/10/00	J-5

> As can be seen from the above, the gain on sale amounting to P1,473,360.50 pertaining to the creditable taxes withheld by RJ Credit (Bacolod) Services Corporation was allegedly reported in 1999. However, without supporting documents detailing the breakdown of the total gain on sale of P324,486,195.00 declared by petitioner in its amended 1999

> income tax return *(Exhibit B 2)*, this Court cannot verify with certainty whether the gain on sale of P1,473,360.50 corresponding to the creditable taxes withheld by RJ Credit (Bacolod) Services Corporation was actually included in the total figure of P324,486,195.00.
>
> The same holds true with the remaining reported creditable withholding taxes in the amount pf P1,810,101.24 arising from rental fees and professional fees received by petitioner in the respective amounts of P34,163,596.80 and P2,038,428.00. In its amended 2000 income tax return, petitioner's declared gross income from lease of real properties amounted to P48,082,511 10 which does not tally with the gross income of P34,163,596.80 reflected in the certificates. Likewise, in the said return, it cannot be determined whether the professional fees of P2,038,428.00 were declared by petitioner These professional fees fall under sale of services but no amount of sale of services was indicated in the return. Although petitioner reported a miscellaneous income of P8,673,544.00, it cannot be verified whether the same included the professional fees of P2,038,428.00. Thus, the necessity of submitting other documents such as general ledger, invoice/receipts, sales summary or any other document wherein the rental fees of P34,163,596.80 and professional fees of P2,038 428.00 in the sum of P36,202,025.00 related to the creditable withholding taxes of P1.810.101.24 can be traced as forming part of the gross income reported in petitioner's amended 2000 income tax return. We cannot rely upon petitioner's "Summary of Creditable Tax Withheld at Source" *(Exhibit K)* as it merely enumerated the creditable withholding taxes of P1,810,101.24 with the corresponding income payments of P36,202.052.00."

In support of the afore-quoted findings of the Second Division, We adhere to the ruling of this Court in its Resolution dated January 15, 1999[2], wherein We declared that "**the question of whether or not the evidence submitted by a party is sufficient to warrant the granting of a refund lies within the sound discretion and judgment of the Court. Petitioner is reminded that this is a case of refund. It has to show clear and convincing proof of its entitlement thereto. Mere testimonial evidence, even if unrebutted by any evidence of Respondent, is not enough to grant whatever amount the Petitioner seeks to be refunded.**"

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[2]China Banking Corporation v. Commissioner of Internal Revenue, C.T.A. Case No. 5405.

Moreover, this Court is not precluded from requiring other evidence which will once and for all erase doubts to the claim for refund. It is well-settled that claims for refund, partaking of the nature of tax exemptions, are construed in *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority.[3] Thus, the burden of proof rests upon the taxpayer to establish by sufficient and competent evidence, its entitlement to a claim for refund.[4] What is sufficient and competent evidence for one case may not be sufficient and competent evidence for another case. Petitioner must respect the Court's discretion and sound judgment on determining the sufficiency of the evidence submitted. It cannot invoke the Equal Protection Clause of the Constitution to avoid compliance with a requirement imposed by the Court.

Based on the foregoing, the Second Division was correct in requiring petitioner to present additional supporting documents such as general ledger, invoices/receipts, sales summary or any other document wherein the income related to the creditable withholding taxes can be traced, and income tax returns for the years prior to 1999 and 2000.

With regard to its second assignment of error, the petitioner advances the view that assuming *arguendo* that there was a need for petitioner to submit the abovementioned documents, the Court could have taken judicial notice of CTA Case Nos. 5802 and 5513. According to the petitioner, in CTA Case No. 5802 which is also

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[3]Calamba Steel Center, Inc. v. Commissioner of Internal Revenue, G.R. No. 151857, April 28, 2005 citing Commissioner of Internal Revenue v. Solidbank Corp., 416 SCRA 436, 461, November 25, 2003, per Panganiban, J.; BPI Leasing Corp. v. CA, 416 SCRA 4, 14, November 18, 2003; Paseo Realty & Development Corp. v. CA, G.R. No. 119286, October 13, 2004, p. 14; Commissioner vs. Tokyo Shipping Co., Ltd., et al., G.R. No. 68252, May 26, 1995; Davao Gulf Lumber Corporation vs. Commissioner of Internal Revenue, et al., G.R. No. 122161, February 1, 1999; Philex Mining Corporation vs. Commissioner of Internal Revenue, et al., G.R. No. 120324, April 21, 1999; Commissioner of Internal Revenue vs. S.C. Johnson and Sons, Inc., et al., G.R. No. 127105, June 25, 1999.

[4] Phil. Geothermal, Inc. v. Commissioner of Internal Revenue, G.R. No. 154028, July 29, 2005.

the same petitioner's claim for refund for taxable year 1996, it presented annual income tax returns and sales summaries pertaining to taxable years 1990 to 1996 which the Court verified and found to have duly shown that the income from which creditable taxes were withheld were included in petitioner's gross income. Said income tax returns and sales summaries were offered as evidence in said case. The Court partially granted petitioner's claim. On the other hand, in CTA Case No. 5513, which is also petitioner's claim for refund for taxable year 1994, petitioner offered as evidence its 1994 and 1995 income tax returns. Thus, the petitioner claims that the Court had sufficient means to ascertain whether the income from taxes were withheld were reported or included in the petitioner's gross income during prior years.

We are not persuaded.

As a rule, "courts are not authorized to take judicial notice of the contents of the records of other cases, even when such cases have been tried or are pending in the same court, and notwithstanding the fact that both cases may have been heard or are actually pending before the same judge."[5] We agree with the disposition of this issue by the Court's Second Division in its assailed Resolution, to wit:

> "Well-settled is the rule that courts will only consider as evidence that which has been formally offered ***(Candido vs. Court of Appeals, 253 SCRA 78)***. In the absence of any formal offer, this Court cannot consider the records (i.e., the income tax returns and sales summaries for 1990 to 1996) in CTA Case No. 5802 as part of the records of herein case.
>
> Xxx xxx xxx
>
> Further, the matters sought by petitioner to be taken judicial notice of by this Court are not among those which the law mandatorily requires to be taken judicial notice of under Section 1, Rule 129 of the New Rules on Evidence. Neither can We consider them records of public knowledge, capable of unquestionable demonstration, or ought to be known to judges

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[5] Tabuena v. CA, 196 SCRA 650, May 6, 1991.

> because of their judicial functions (Sec. 2, id.). Parenthetically, the taking of judicial notice of any matter requires a hearing where the parties are given the chance to be heard (Section 3, id.).
>
> Petitioner's failure in not presenting the required documents cannot be cured by compelling this Court to consider the records of another case in order to save its own case. Such legal maneuver is bereft of honesty and fair play."

As regards the third assignment of error, petitioner avers that its former counsel's reliance on previous, consistent, valid and binding jurisprudence amounts to excusable negligence, which warrants the grant of a new trial. It further claims that though it admits that it has argued in its Motion for Reconsideration that the evidence sufficiently establishes the claim for refund, its alternative Motion for New Trial should be granted as alternative motions are allowed under the law and rules of procedure.

We are not convinced. For, and as correctly pointed out by the Court's Second Division in its Resolution of September 26, 2005:

> "Petitioner's arguments are without merit, If indeed petitioner's former counsel relied on previous CTA cases including CTA Case No. 5802 which granted petitioner's 1996 claimed excess withholding taxes, then it committed gross mistake or negligence in not presenting the income tax returns and other supporting documents required by this Court in the assailed decision. If petitioner was able to present the income tax returns of all the years in which the income related to the claimed creditable withholding was reported and the detailed sales summaries reconciling the gross income figures reflected in the returns and in the certificates in the previous CTA Case No. 5802, then there is no reason or excuse for petitioner why it could not have done the same in the case at bar. Such gross inadvertence on the part of petitioner's counsel to present said evidence does not warrant the grant of a new trial."

Apropos hereto, the Supreme Court has time and again emphasized that there will be no end to a suit if a new lawyer could be employed who could allege negligence or incompetence of a former counsel.[6] In the same vein, the Court of Appeals ruled in one case[7]:

> "Now petitioner wants us to order a trial *de novo* on the justification that his counsel was grossly inept. Such a reason is hardly plausible as the petitioner's new counsel should know. Otherwise, all a defeated party would have to do to salvage his case is claim neglect or mistake on the part of his counsel as a ground for reversing the adverse judgment. There would be no end to litigation if these were allowed as every shortcoming of counsel could be the subject of challenge by his client through another counsel who, if he is also found wanting, would likewise be disowned by the same client through another counsel, and so on *ad infinitum*. This would render court proceedings indefinite, tentative and subject to reopening at any time by the mere subterfuge of replacing counsel."

Based on the foregoing, We rule that there is no basis for granting Petitioner's prayer for an Order to reopen the case for new trial.

WHEREFORE, finding no reversible error committed by the Second Division of the Court in rendering the assailed Decision dated February 9, 2005 and Resolution dated September 26, 2005, the instant petition for review is hereby **DISMISSED** for lack of merit and the assailed Decision and Resolution of the Second Division of this Court are **AFFIRMED** *in toto*.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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[6] Citytrust Realty Corporation v. Commissioner of Internal Revenue, CA-G.R. SP No. 36487, May 31, 2000, citing Aguila vs. CFI of Batangas, 160 SCRA 352 and Tupas vs. Court of Appeals, 193 SCRA 597.

[7] AMI Philippines v. Commissioner of Internal Revenue, CA-G.R. No. 47667, February 23, 1999.

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
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 this Court.

ERNESTO D. ACOSTA
Presiding Justice