REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,* - versus - **NEW YORK BAY PHILIPPINES, INC.,** *Respondent.*	**CTA EB NO. 2915** (CTA Case No. 10417)

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NEW YORK BAY PHILIPPINES, INC., *Petitioner,* - versus - **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*	**CTA EB NO. 2916** (CTA Case No. 10417) Present: **RINGPIS-LIBAN,** *Acting P.J.,* **MANAHAN,** **BACORRO-VILLENA,** **MODESTO-SAN PEDRO,** **REYES-FAJARDO,** **CUI-DAVID,** **FERRER-FLORES,** *and* **ANGELES,** *JJ.* Promulgated: DEC 0 2 2025 3:40pm

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DECISION

REYES-FAJARDO, *J.*:

We resolve the Petitions for Review,[1] filed by the Commissioner of Internal Revenue (CIR) and New York Bay Philippines, Inc. (NYBP), assailing the Decision dated October 4, 2023[2] and Resolution dated April 19, 2024[3] rendered by Court's Special Second Division (Court in Division) in CTA Case No. 10417. The assailed Decision and Resolution partially granted NYBP's claim for refund of its excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales for the four quarters of the calendar year (CY) 2018 in the reduced amount of ₱31,303,243.81.

The facts follow.

The CIR is the duly appointed official vested under the appropriate laws with authority to carry out functions, duties, and responsibilities of his office, including, inter alia, the power to decide, approve, and grant refunds or tax credits of excess and unutilized input VAT under the pertinent provisions of the National Internal Revenue Code (NIRC), as amended and other tax laws, rules, and regulations. He holds office at the Bureau of Internal Revenue (BIR), Building, Diliman, Quezon City.

NYBP is a corporation duly organized and existing under the laws of the Philippines, with principal place of business at Units 2-7, Level 18 IBP Tower, Julia Vargas Avenue, Ortigas Center, Pasig City. It is registered with the BIR, Revenue District Office (RDO) No. 43A, as a VAT taxpayer in accordance with Section 236, NIRC, as amended, with Taxpayer Identification No. (TIN) 000-217-994-000.

On July 15, 2020, NYBP filed with the BIR VAT Credit Audit Division, an administrative claim for refund of, or issuance of a Tax Credit Certificate (TCC) covering its excess and unutilized input VAT for the four (4) quarters of CY 2018, in the total amount of ₱38,046,300.41.

On November 6, 2020, NYBP received a letter from the CIR, denying its administrative claim for refund, or issuance of TCC, in the full amount of ₱38,046,300.41, representing its alleged excess and unutilized input VAT for CY 2018.

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1 *Rollo* (CTA EB No. 2915), pp. 7 to 21; *Rollo* (CTA EB No. 2916), pp. 6 to 24.
2 *Rollo* (CTA EB No. 2915), pp. 29 to 69; *Rollo* (CTA EB No. 2916), pp. 31 to 71.
3 *Rollo* (CTA EB No. 2915), pp. 71 to 82; *Rollo* (CTA EB No. 2916), pp. 73 to 84.

On December 7, 2020, NYBP filed a Petition of Review before the Court in Division, docketed as CTA Case No. 10417.

In the assailed Decision dated October 4, 2023, the Court in Division found that NYBP's administrative and judicial claims for refund of excess and unutilized input VAT for CY 2018 were timely filed in accordance with Section 112 of the 1997 NIRC, as amended. Out of the total amount of ₱38,046,300.41 claimed as input VAT refund/credit, the Court in Division found ₱31,303,243.81 to be duly substantiated by competent evidence. On the other hand, ₱6,743,056.60 worth of input VAT were disallowed due to: (1) unreadable official receipt (OR); (2) unreadable amount breakdown in OR; (3) failure to indicate the nature of services; (4) VAT not indicated and out-of-period invoices; (5) adverse findings by the Independent Certified Public Accountant (ICPA); and (6) failure to refute the BIR's findings.

For this reason, the Court in Division allowed the remainder in the amount of ₱31,303,243.81 as NYBP's refundable excess and unutilized input VAT for CY 2018:

> **WHEREFORE,** premises considered, the instant *Petition for Review* is **PARTIALLY GRANTED.** Accordingly, [the CIR] is **ORDERED to REFUND or ISSUE A TAX CREDIT CERTIFICATE** in favor of [NYBP] the amount of **THIRTY-ONE MILLION THREE HUNDRED THREE THOUSAND TWO HUNDRED FORTY-THREE PESOS AND 81/100** (P31,303,243.81), representing its excess and unutilized input [VAT].
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> **SO ORDERED.**

NYBP filed a Motion for Partial Reconsideration (Re: Decision dated October 4, 2023).[4] Likewise, the CIR filed his own Motion for Partial Reconsideration (Re: Decision promulgated on 04 October 2023).[5] Under Resolution dated April 19, 2024,[6] the Court in Division ruled in the following fashion:

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4 Docket (CTA Case No. 10417), pp. 674-687.
5 *Id.* at pp. 871-881.
6 *Supra* note 3.

> **WHEREFORE**, premises considered, petitioner's *Motion for Partial Reconsideration (Re: Decision dated October 4, 2023)* and respondent's *Motion for Partial Reconsideration (Re: Decision promulgated on 04 October 2023)* are both **DENIED** for lack of merit.
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> **SO ORDERED.**

Hence, NYBP's and CIR's Petitions for Review.

ISSUE

Did the Court in Division err in partially granting NYBP's claim for refund of its excess and unutilized input VAT attributable to its zero-rated sales for the four quarters of the calendar year 2018 in the reduced amount of ₱31,303,243.81?

**The CIR's Petition for Review
(CTA EB No. 2915)**

The CIR faults the Court in Division for giving weight to documents that were not proffered during the administrative proceedings, citing *Pilipinas Total Gas, Inc. v. Commissioner of Internal Revenue* (*Total Gas*)[7] in support thereof.

He contends that NYBP was not able to prove that its client for the subject sales was a non-resident foreign corporation (NRFC) not doing business in the Philippines, which is fatal to its claim for zero-rated sales.

He further argues that NYBP failed to overcome the burden that the subject input tax being claimed remained unutilized or had not been applied against any output tax in the succeeding quarters.

Via Comment (Re: [the CIR]'s Petition for Review dated May 24, 2024),[8] NYBP retorts that: (1) the Court in Division is not precluded from appreciating evidence not presented in the administrative claim with the BIR; (2) it sufficiently proved that its lone service-recipient is not engaged in any trade or business in the

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7 G.R. No. 207112, December 8, 2015.
8 *Rollo* (CTA EB No. 2915), pp. 92-102.

country; and (3) the claimed input VAT remained unutilized and not been applied against any output tax.

NYBP's Petition for Review (CTA EB No. 2916)

NYBP disputes the Court in Division for disallowing its input VAT credits, and counters that: (1) the admitted physical copies of the unreadable scanned copies of official receipts (ORs) are clear and legible, and (2) the nature of its supplier's services can be ascertained from the name of NYBP's suppliers, related billing statements and invoices issued by the supplier.

The CIR failed to interpose its comment on the NYBP's Petition for Review, despite notice.[9]

RULING

We deny both Petitions.

The CIR's Petition for Review (CTA EB No. 2915)

It bears noting that the CIR belatedly filed his Motion for Partial Reconsideration beyond the reglementary period. Specifically, Section 1, Rule 15 of the Revised Rules of the Court of Tax Appeals (RRCTA) requires the filing of a motion for reconsideration within fifteen (15) days from receipt of the decision.

Relatedly, *Baldovino – Torres v. Torres et al.*,[10] clarified that the reckoning of the (15) fifteen-day period is based on the date the Office of the Solicitor General (OSG) receives the decision, as principal counsel for the government.

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9 Records Verification [Report] dated September 16, 2024, issued by the Court of Tax Appeals - Judicial Records Division (CTA-JRD). *Rollo* (CTA EB No. 2916), p. 103.

10 G.R. No. 248675, 20 July 2022.

Here, the OSG received the Assailed Decision on October 11, 2023.[11] The CIR, through the OSG had until October 26, 2023 to file the motion. However, it was belatedly filed on October 27, 2023. Hence, the decision became final as to the CIR, barring further review.

Verily, the timely filing of a motion for reconsideration or new trial before the CTA Division is a mandatory prerequisite to an appeal to the CTA *En Banc*.[12]

At any rate, even setting aside this procedural infirmity, the petition remains bereft of merit.

We discuss.

First. The CIR's restrictive interpretation of *Total Gas* is unavailing.

To clarify, *Total Gas* envisioned two (2) scenarios in an administrative claim for input VAT refund, namely: (1) dismissal thereof by the BIR due to the taxpayer's failure to submit complete documents, despite the former's notice or request; or, (2) inaction tantamount to a denial, or denial *other than* due to taxpayer's failure to submit complete documents despite notice or request.

In the *first* scenario, the refund claimant must show the Court its entitlement to a VAT refund under substantive law, and submission of complete supporting documents at administrative level requested by the BIR. In the *second* situation, the refund claimant may present all evidence to prove its entitlement to a VAT refund, and the Court will consider all evidence offered even those not presented before respondent at the administrative level.[13]

The CIR's denial of NYBP's administrative claim for input VAT refund falls under the second situation. Specifically, NYBP's

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11 *Rollo* (CTA EB No. 2916), p. 30.

12 See *Commissioner of Internal Revenue v. Script2010, Inc.*, G.R. No. 266641, February 17, 2025.

13 *Commissioner of Internal Revenue v. Carmen Copper Corporation*, CTA EB Nos. 2735 & 2743, November 26, 2024 citing *Pilipinas Total Gas Inc. v. Commissioner of Internal Revenue*, G.R. No. 207112, December 8, 2015 citing *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007.

VAT refund claim was denied because of non-compliance with invoicing requirements prescribed under 3.2 of Annex "A.1" of RMC No. 47-2019, among others.[14] Therefore, *sans* notice of deficiency in NYBP's documentation, the Court is not precluded from considering evidence proffered by NYBP, regardless of whether the same was presented before the BIR.

Second. The CIR's claim that NYBP failed to establish that its client was an NRFC not doing business in the Philippines is unpersuasive.

Commissioner of Internal Revenue v. Deutsche Knowledge Services Pte. Ltd. (Deutsche)[15] discussed the documents required to establish *prima facie* evidence to be considered as an NRFC not doing business in the Philippines, thus:

> ...To the Court's mind, the SEC Certifications of Non-Registration show that their affiliates are foreign corporations. On the other hand, the articles of association/certificates of incorporation stating that these affiliates are registered to operate in their respective home countries, outside the Philippines are ***prima facie* evidence that their clients are not engaged in trade or business in the Philippines.**[16]

Relatedly, *Commissioner of Internal Revenue v. Asalus (Asalus)*[17] defined *prima facie* evidence as "one which that will establish a fact or sustain a judgment unless contradictory evidence is produced."

NYBP submitted both the Articles of Incorporation[18] and the SEC Certification of Non-Registration[19] of its lone client, Trans-Fast Remittance LLC. Following *Deutsche* and *Asalus*, in the absence of any contradictory evidence from the CIR, such documents constitute sufficient proof to establish that said client is an NRFC not engaged in trade or business in the Philippines.

Lastly. The CIR's contention that NYBP failed to prove that the subject input tax being claimed remained unutilized or had not been

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14 Exhibit "P-15," Docket (CTA Case No. 10417), Volume I, pp. 428-429.
15 G.R. No. 234445, July 15, 2020.
16 Emphasis supplied.
17 G.R. No. 221590, February 22, 2017.
18 Exhibit "P-16," Docket (CTA Case No. 10417), Volume I, pp. 430-535.
19 Exhibit "P-17," Docket (CTA Case No. 10417), Volume I, p. 536.

applied against any output tax in the succeeding quarters is unfounded.

Section 110(C) of the NIRC, as amended, merely requires that the amount of input VAT claimed for refund should be deducted from the accumulated input VAT as of the month or quarter when such claim is filed, *viz.*:

> SEC. 110. *Tax Credits.* –
>
> ...
>
> (C) *Determination of Creditable Input Tax* - The **sum of the excess input tax carried over from the preceding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarter shall be reduced by the amount of any claim for refund or tax-credit for value-added tax and other adjustments**, such as purchase returns or allowances and input tax attributable to exempt sale.[20]
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> ...

Here, NYBP's input VAT of ₱38,046,300.41 was carried over to the succeeding quarter/period but remained unutilized until it was deducted as "VAT Refund/TCC Claimed"[21] in its Quarterly VAT Return for the 1st quarter of CY 2019.[22] Hence, the claimed input VAT no longer formed part of the excess input VAT of ₱7,332,025.74 at the end of said quarter. The claimed input VAT could not have been carried over or utilized in the succeeding quarters of CY 2019.

From all the foregoing, the CIR's petition shall fail.

NYBP's Petition for Review
(CTA EB No. 2916)

NYBP contends that the Court in Division erred in disallowing its input VAT credits amounting to ₱4,136,795.37 and ₱1,323,549.64 on the ground that the scanned ORs and their amount breakdowns were unreadable. While it concedes that the scanned ORs submitted in compliance with CTA *En Banc* Resolution No. 8-

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20 Emphasis supplied.
21 Exhibit "P-12," Docket (CTA Case No. 10417), Volume I, p. 425.
22 See page no. 37 of the Assailed Decision.

2016[23] may have been blurred, it emphasizes that the original physical copies of it are clear, legible, and the very ones that were marked and admitted[24] in evidence. This admission of evidence made it believe in good faith that all its exhibits were in order. Thus, rendering the subject disallowance unjust.

We remain unconvinced.

Mere admission of evidence does not guarantee its probative value. *People v. Lastimosa*[25] has made a clear distinction between the concepts of admissibility and probative value:

> Admissibility of evidence should not be confounded with its probative value.
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> The admissibility of evidence depends on its relevance and competence, while the **weight of evidence pertains to evidence already admitted and its tendency to convince and persuade**. The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving at a decision as to the truth. ...Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue. **Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence.**[26]

Here, while the physical copies of the ORs may have been admitted in evidence, the scanned copies submitted for the Court's appreciation were unreadable and failed to clearly establish the input VAT credits claimed. The Court, in the exercise of its judicial evaluation, is not bound to be convinced and persuaded by

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23 CTA *En Banc* Resolution No.8-2016 reads:

...

NOW THEREFORE, the Court *En Banc* **RESOLVES** as it is hereby **RESOLVED**, to **ADOPT** the proposal that the submission of pre-marked receipts, invoices, vouchers or other documents in evidence be in soft copies or scanned copies of the same saved in PDF format in a portable storage device such as memory cards, CDs, DVDs or USBs and that it is the responsibility of the party submitting the portable storage device to ensure that the same is accessible by the Court, subject to the provisions of Section 5(b), Rule 12 and Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals on the availability of the original receipts, invoices, vouchers or other documents for verification and comparison, if necessary.

24 In a Resolution dated March 30, 2022.

25 G.R. No. 265758, February 03, 2025.

26 Emphasis supplied.

evidence which it cannot properly examine or verify, regardless of its admission.

Moreover, the burden of proof lies with the taxpayer-claimant to prove its entitlement to the refund. *Commissioner Internal Revenue v. Filminera Resources Corporation* (*Filminera*)[27] is on point:

> We stress that the taxpayer-claimant has the burden of proving the legal and factual bases of its claim for tax credit or refund. After all, tax refunds partake the nature of exemption from taxation, and as such, must be looked upon with disfavor. .... **The burden of proof rests upon the taxpayer to establish by sufficient and competent evidence its entitlement to a claim for refund.**[28]

Consistent with *Filminera*, NYBP, as the taxpayer-claimant, bears the burden of submitting its evidence in a condition that allows the Court to verify and examine it with certainty. The mere admission of such evidence does not relieve NYBP of its responsibility to ensure that the documents submitted as evidence are complete, legible, and in proper order. Here, the scanned copies on which NYBP relies are blurred and unreadable; its evidentiary burden, therefore, remains unmet.

As such, the Court in Division correctly disallowed the contested input VAT credits.

Meanwhile, NYBP also contends that the Court in Division erred in disallowing input VAT amounting to ₱221,710.64 for failure of the official receipts (ORs) to indicate the nature of the services rendered. It argues that the nature of the services can be reasonably inferred from the identity and business style of the suppliers reflected on the ORs, and that each OR cross-references billing statements or invoices detailing the corresponding services.

We are not swayed.

A creditable input tax should be evidenced by a VAT invoice or official receipt, which must comply with the requirements of the

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27 G.R. No. 236325, September 16, 2020.

28 Emphasis supplied.

NIRC, as amended, and related revenue regulations.[29] Section 113(B) and Section 237 of the National Internal Revenue Code (NIRC), as amended, mandate that a VAT-registered seller of services should issue an OR showing, among others, the description of the goods or properties, or the nature of the service, thus:

> SEC. 113. Invoicing and Accounting Requirements for VAT-registered Persons. —
>
> (B) Information Contained in the VAT Invoice or VAT Official Receipt. — The following information shall be indicated in the VAT invoice or VAT official receipt:
>
> ...
>
> (3) The date of transaction, quantity, unit cost and description of the goods or properties or **nature of the service**; and[30]
>
> ...
>
> SECTION 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, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or **nature of service**:.. [31]

Here, NYBP concedes that "the subject ORs did not indicate the nature of services that were covered by [its] payment."[32] NYBP's theory that the name of its supplier and service provider, or a cross-reference to billing statements, can cure this defect cannot prosper.

The most competent evidence of input VAT remains the original VAT receipts and invoices themselves. As *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[33] instructs: other documents, "do not replace the pertinent invoices [and] receipts as competent evidence to prove the fact of refundable or creditable input VAT."

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[29] See *Commissioner of Internal Revenue v. Philex Mining Corporation*, G.R. No. 230016, November 23, 2020 citing *Western Mindanao Power Corp. v. Commissioner of Internal Revenue*, G.R. No.181136, June 13, 2012.
[30] Emphasis supplied.
[31] Emphasis supplied.
[32] Par. 41, *Rollo* (CTA EB No. 2916), p. 19.
[33] G.R. No. 159490, February 18, 2008.

The Court cannot rely on inferences or other documents to fill in details that the OR must inherently contain. To hold otherwise would defeat the very purpose of the invoicing requirements, which is to ensure an accurate audit trail and to guard against unsupported refund claims.

Lastly, NYBP's invokes the general principle of VAT neutrality, which prescribes, among others the elimination of disproportionate compliance costs for business.[34]

For NYBP, input VAT must be allowed once the substantive requirements are met, even if some formal conditions were not observed, citing the ruling of the European Court of Justice (ECJ) in *Barlis 06 – Investimentos Imobiliários e Turísticos SA v Autoridade Tributária e Aduaneira*[35], in light of the principle of VAT neutrality.

The argument of NYBP is unavailing.

Commissioner of Internal Revenue v. Philex Mining Corporation, (Philex)[36] emphasized that a taxpayer's entitlement to a VAT refund must be clearly granted by law, and that such entitlement is conditioned on strict compliance with all procedural and documentary requirements, including invoicing requirements, thus:

> In a claim for tax refund or tax credit, the applicant must prove not only entitlement to the grant of the claim under substantive law. It must also show satisfaction of all the documentary and evidentiary requirements for an administrative claim for a refund or tax credit. Hence, the mere fact that petitioner's application for zero-rating has been approved by the CIR does not, by itself, justify the grant of a refund or tax credit. **The taxpayer claiming the refund must further comply with the invoicing and accounting requirements mandated by the NIRC, as well as by revenue regulations implementing them.**[37]

VAT invoicing requirements are not optional; it is the sole means of determining the veracity of taxpayer's claims.[38] In *Team*

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34 International VAT/GST Guidelines of the Organization for Economic Co-operation and Development ("OECD"), p.20.
35 Case C-516/14, September 15, 2016.
36 G.R. No. 230016, November 23, 2020.
37 Emphasis supplied.
38 *Nippon Express (Philippines) Corporation v. Commissioner of Internal Revenue*, G.R. No. 191495, July 23, 2018.

Energy Corporation v. Commissioner of Internal Revenue (Team Energy),[39] the Supreme Court explained:

> Strict compliance with substantiation and invoicing requirements is necessary considering VAT's nature and VAT system's tax credit method, where tax payments are based on output and input taxes and where the seller's output tax becomes the buyer's input tax that is available as tax credit or refund in the same transaction. It ensures the proper collection of taxes at all stages of distribution, facilitates computation of tax credits, and provides accurate audit trail or evidence for BIR monitoring purposes.

Following *Philex* and *Team Energy*, the general principle of VAT neutrality cannot override the Philippines' domestic legislation, which requires strict invoice conditions for claiming input tax credits. It is not within the Court's power to relax statutory requirements on the basis of policy arguments and international guidelines, which do not have the force of law. While foreign precedent can be persuasive in appropriate cases, it cannot be applied to dilute an unequivocal requirement of the law. The form and content of VAT invoices/ORs are substantive requirements in the Philippine VAT system, not mere formal conditions.

In *precis*, the Court in Division correctly disallowed NYBP's input VAT on account of unreadable OR, OR amount breakdown, and failure to indicate the nature of supplier's service in the amounts of ₱4,136,795.37, ₱1,323,549.64, and ₱221,710.64, respectively. So it must stand.

WHEREFORE, the Petitions for Review, filed by the Commissioner of Internal Revenue in CTA EB No. 2915, and by New York Bay Philippines, Inc. in CTA EB No. 2916, are **DENIED.** The Decision dated October 4, 2023, and Resolution dated April 19, 2024, in CTA Case No. 10417, are **AFFIRMED**.

SO ORDERED.

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

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39 G.R. No. 197663, March 14, 2018.

WE CONCUR:

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ON LEAVE
MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

ON LEAVE
LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

ON LEAVE
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 case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Acting Presiding Justice