REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

INTERNATIONAL EXCHANGE BANK, as Trustee of various Retirement Funds,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7113

Members:

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:
SEP 1 2 2008
3:05 p.m.

x- x

DECISION

UY, *J*.:

This is a Petition for Review filed on December 22, 2004 by petitioner International Exchange Bank, as Trustee of various Retirement Funds, seeking for a refund in the amount of **SEVEN HUNDRED THIRTY-FIVE THOUSAND SIX HUNDRED TWENTY-TWO and 39/100 PESOS (P735,622.39)** allegedly representing final withholding taxes on interest income from treasury bond investments of tax-exempt Retirement Funds for taxable years 2002 to 2004.

THE FACTS

The facts as culled from the records are as follows:

Petitioner, International Exchange Bank (iBank), is a commercial banking corporation duly organized and existing under Philippine laws, with principal office at 142 Amorsolo Street, Legaspi Village, Makati City.[1] As such, it is authorized through its Trust Center to engage in trust and investment activities.[2]

Respondent Commissioner of Internal Revenue, on the other hand, is the officer authorized under the National Internal Revenue Code (NIRC) of 1997 to evaluate and approve applications for tax refund by taxpayers. He holds office at the Bureau of Internal Revenue (BIR) National Office Building, Diliman, Quezon City.[3]

By virtue of various Trust Agreements,[4] petitioner was appointed as trustee to manage the retirement plans for the employees of the following companies, to wit:

1. Jimenez/Darcy, Incorporated Retirement Plan;
2. iBank Employees Retirement Plan;
3. Philippine General Merchandising Corporation Employees Retirement Plan;
4. Eastern Telecommunications Philippine, Inc. Employees Retirement Plan;
5. Lamitube Corporation Employees Retirement Plan;
6. Quorum International, Inc. and Affiliates Multi-Employer Retirement Plan; and
7. e-Business Services, Inc. Retirement Plan.

The retirement plans were established to provide retirement, death, disability, and separation benefits to the members of the aforesaid companies.

[1] Par. 1, Statement of Facts, Joint Stipulation of Facts and Issues; Docket, p. 252.
[2] Par. 4, Petition for Review; Docket, p. 2.
[3] Par. 2, Statement of Facts, Joint Stipulation of Facts and Issues; Docket, p. 252.
[4] Annexes "A", "B", "C", "D", "E", "F", and "G"; Docket, pp. 14-70.

As trustee of the subject retirement plans, petitioner is authorized to hold, manage, invest and reinvest the assets of these retirement plans; thus, pursuant to the trust agreements, petitioner invested the funds of the retirement plans in various investment vehicles including treasury bonds in government securities which necessarily earned interest income.[5]

The BIR issued various Certifications[6] which stated that the retirement plans of the aforementioned companies qualify as "Reasonable Retirement Benefit Plans" for having met the requirements prescribed under Republic Act No. 4917[7] and that the interest income earned by these retirement funds are exempt from income tax.

Based on the said BIR Certifications declaring that the interest income earned by the retirement funds are tax-exempt, petitioner on August 23, 2004, filed an Application for Refund[8] in the amount of P735,622.39 with the BIR, representing 20% final taxes erroneously withheld from the interest income earned by the aforementioned tax-exempt retirement funds for taxable years 2002 to 2004.

For failure of the BIR to immediately resolve petitioner's claim for refund and in order to toll the running of the prescriptive period under Section 229 of the NIRC of 1997, as amended, petitioner filed the instant Petition for Review on December 22, 2004.

On March 3, 2005, respondent filed an Answer raising the following Special and Affirmative Defenses:

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[5] Par. 7, Petition for Review, Docket, pp. 3-4.
[6] Exhibits "I" to "O", inclusive; Docket, pp. 390-468.
[7] An Act Providing That Retirement Benefits of Employees of Private Firms Shall Not be Subject To Attachments, Levy Execution, or Any Tax Whatsoever.
[8] Exhibit "FFFF"; Docket, pp. 546-548.

"5. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau;

6. The amount of P735,622.39 being claimed by petitioner as alleged final taxes withheld on interest income from treasury bonds investments of tax-exempt retirement funds for taxable years 2002 until 2004 is not properly documented;

7. 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;

8. Petitioner must 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;

9. Claims for refund are construed strictly against the claimant for the same partake the nature of exemption from taxation (**Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95**) and as such, they are looked upon with disfavor (**Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211**)."

During trial, petitioner presented its documentary and testimonial evidence, while respondent was deemed to have waived the right to present evidence for failure to appear at the scheduled hearing for the presentation of respondent's evidence despite due notice and final warning.[9]

On October 9, 2007, this case was submitted for decision after petitioner filed its Memorandum on September 24, 2007, sans respondent's Memorandum.

Hence, this Decision.

THE ISSUE

The sole issue presented for resolution of this Court is whether or not petitioner is entitled to the refund in the amount of P735,622.39 allegedly representing final taxes withheld on interest income for taxable years 2002 to

[9] Resolution dated August 9, 2007; Docket, p. 657.

2004, purportedly arising from investments in treasury bonds of tax-exempt retirement funds under trust with iBank.

THIS COURT'S RULING

The petition is partly meritorious.

Well-settled is the rule that the income from employees' trusts of retirement funds are exempted from taxation.

Republic Act (R.A.) No. 4917 and Section 60(B) of the NIRC of 1997, as amended, specifically provide that employees' trusts enjoy tax-exempt status. The pertinent provisions of the aforesaid laws state:

> "Section 1. Any provision of law to the contrary notwithstanding the retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer ***shall be exempt from all taxes*** and shall not be liable to attachment, garnishment, levy or seizure by or under any legal or equitable purpose whatsoever xxx." *(Emphasis Ours)*
>
> "SEC. 60. Imposition of Tax. –
>
> (A) Application of Tax. - The tax imposed by this Title upon individuals shall not apply to the income of estates or any kind of property held in trust including.
>
> xxx xxx xxx
>
> (B) Exception. - The tax imposed by this Title shall not apply to employee's trust which forms part of a pension, stock bonus or profit-sharing plan of an employer for the benefit of some or all of his employees (1) if contributions are made to the trust by such employer, or employees, or both for the purpose of distributing to such employees the earnings and principal of the fund accumulated by the trust in accordance with such plan, xxx."

Moreover, the Supreme Court settled the issue and clarified the reason for the tax-exemption of employees' trusts in the case of ***Commissioner of***

Internal Revenue vs. Court of Appeals, the Court of Tax Appeals and GCL Retirement Plan, represented by its Trustee-Director,[10] in this wise:

> "The tax-exemption privilege of employees' trusts, as distinguished from any other kind of property held in trust, springs from the foregoing provisions. It is unambiguous. Manifest therefrom is that the tax law has singled out employees' trusts for tax exemption.
>
> And rightly so, by virtue of the *raison d'etre* behind the creation of employees' trusts. Employees' trusts or benefit plans normally provide economic assistance to employees upon the occurrence of certain contingencies, particularly, old age retirement, death, sickness, or disability. It provides security against certain hazards to which members of the Plan may be exposed. It is an independent and additional source of protection for the working group. What is more, it is established for their exclusive benefit and for no other purpose.
>
> xxx xxx xxx
>
> It is evident that tax-exemption is likewise to be enjoyed by the income of the pension trust. Otherwise, taxation of those earnings would result in a diminution of accumulated income and reduce whatever the trust beneficiaries would receive out of the trust fund. This would run afoul of the very intendment of the law.
>
> xxx xxx xxx
>
> ***There can be no denying either that the final withholding tax is collected from income in respect of which employees' trusts are declared exempt*** (Sec. 56[b], now 53[b], Tax Code). The application of the withholding system to interest on bank deposits or yield from deposit substitutes is essentially to maximize and expedite the collection of income taxes by requiring its payment at the source. If an employees' trust like the GCL enjoys a tax-exempt status from income, we see no logic in withholding a certain percentage of that income which it is not supposed to pay in the first place." *(Emphasis Ours)*

As a matter of fact, in the more recent case of ***Far East Bank and Trust Company, As Trustee of Various Retirement Funds vs.***

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[10] G.R. No. 95022, March 23, 1992.

Commissioner of Internal Revenue and Court of Appeals,[11] the Supreme Court reiterated and maintained that the exemption from income tax of income from employees' trusts still stands. Thus:

> "***We hold,*** as the CTA did***, that the exemption from income tax of income from employees' trusts still stands***. The Court had first recognized such exemption in the aforementioned *CIR v. Court of Appeals* case, arising as it did from the enactment of Republic Act No. 4917 which granted exemption from income tax to employees' trusts. The same exemption was provided in Republic Act No. 8424, the Tax Reform Act of 1997, and may now be found under Section 60(B) of the present National Internal Revenue Code. Admittedly, such interest income of the petitioner for 1993 was not subject to income tax.
>
> xxx xxx xxx
>
> Clarifications are in order. The cited passage may seem to implicitly assume that only such income earned by the employees' trusts from money market placements, bank deposits, other deposit substitute instruments and government securities are exempted from income taxation. This is contrary to the provisions in Republic Act No. 4917, which then stood as the governing provision on income tax exemption of employees' trusts:
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>> 'SECTION 1. Any provision of law to the contrary notwithstanding, the retirement benefits received by official and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer shall be exempt from all taxes and shall not be liable to attachment, levy or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employee concerned to the private benefit plan or that arising from liability imposed in a criminal action; xxx'
>
> ***The tax exemption enjoyed by employees' trusts was absolute, irrespective of the nature of the tax.*** There was no need for the petitioner to particularly show that the tax withheld was derived from interest income from money market placements, bank deposits, other deposit substitute instruments and government securities, since ***the source of the interest***

[11] G.R. No. 138919, May 2, 2006.

nwb

> ***income does not have any effect on the exemption enjoyed by employees' trusts.***" *(Emphasis Ours)*

In addition, the BIR already certified that the income of the retirement funds from its investments is exempt from income tax having met all the requirements of a reasonable benefit plan pursuant to R.A. 4917. The pertinent excerpts of one of the said Certifications read as follows:

> "In view thereof, this Office finds the ... Retirement Plan to be a 'reasonable retirement benefit plan' within the contemplation of Section 32 (B)(6)(a) of the Tax Code of 1997. Accordingly, the retirement benefits to be received by the employee-member shall be exempt from all taxes; ***the income of the Trust Fund from its investments are exempt from income tax***; and the contributions of the company to the retirement fund are deductible from its gross income." [12] *(Emphasis Ours)*

Accordingly, income earned from treasury bond investments by the subject retirement funds under trust with petitioner is not subject to final withholding taxes.

Having definitely resolved the legal issue of tax-exemption of income from employees' trusts, We now proceed to the determination of the refundable amount petitioner is entitled based on the evidence presented.

Records reveal that petitioner invested the assets of the subject retirement funds in treasury bonds pursuant to the Trust Agreements which earned interest income that was subjected to 20% final withholding tax.

The various "Confirmation of Sales Without Recourse"[13] submitted by petitioner showed that petitioner's Trust Center, on behalf of the retirement funds, purchased Fixed Rate Treasury Notes (FXTN) from the Bureau of Treasury via on-line trading facility. The purchase transactions as reflected

[12] Page 2 of Exhibit "I"; Docket, p. 391.
[13] Exhibits "P" to "QQ", inclusive; Docket, pp. 469-494.

on the aforesaid "Confirmation of Sales Without Recourse", were summarized in petitioner's Schedule of Tax Claim Computation.[14] The Schedule listed all the retirement funds subject of the instant Petition with their corresponding trust account numbers and the details of each investment made per trust account such as the treasury bonds' face value, coupon date, 20% final withholding tax, net and gross interest income earned, as follows:

RETIREMENT AND CLIENT TRUST ACCOUNT NUMBER	TREASURY BILLS/NOTES SERIES NO.	FACE VALUE	COUPON DATE	GROSS INTEREST INCOME	20% FINAL TAX WITHHELD	NET INTEREST INCOME	EXHIBITS
iBank Trust 96-TA-801	PIBD0203B743	971,616.08	15-Feb-03	66,191.35	13,238.27	52,953.08	P,P-1,P-2
iBank Trust 98-TA-804	PIBD0203B743	1,923,818.56	15-Feb-03	131,060.14	26,212.03	104,848.11	Q,Q-1,Q-2
iBank Trust 98-TA-806	PIBD0203B743	505,940.72	15-Feb-03	34,467.21	6,893.44	27,573.77	R,R-1,R-2
iBank Trust 98-TA-806	PIBD0203B743	951,861.02	15-Feb-03	64,845.53	12,969.11	51,876.43	S,S-1,S-2
			subtotal	**296,564.23**	**59,312.85**	**237,251.39**	
iBank Trust 98-TA-806	PIBD0503C175	408,351.45	26-Mar-03	40,835.15	8,167.03	32,668.12	T,T-1,T-2
			subtotal	**40,835.15**	**8,167.03**	**32,668.12**	
iBank Trust 96-TA-801	PIBD0503F184	263,389.80	25-Dec-02	27,655.93	5,531.19	22,124.74	U,U-1,U-2
iBank Trust 96-TA-801	PIBD0503F184	263,389.80	25-Jun-03	27,655.93	5,531.19	22,124.74	U,U-1,U-2
			subtotal	**55,311.86**	**11,062.38**	**44,249.48**	
iBank Trust 96-TA-801	PIBD0505D295	2,986,480.32	13-Oct-03	19,038.81	3,807.76	15,231.05	V,V-1,V-2
			subtotal	**19,038.81**	**3,807.76**	**15,231.05**	
iBank Trust 03-TA-812	PIBD0507B435	211,865.96	28-Feb-04	13,312.24	2,662.45	10,649.80	X,X-1,X-2
			subtotal	**13,312.24**	**2,662.45**	**10,649.80**	
iBank Trust 98-TA-806	PIBD0703L073	330,240.54	19-Jun-03	10,531.00	2,106.20	8,424.80	Y,Y-1,Y-2
iBank Trust 98-TA-806	PIBD0703L073	330,240.54	19-Dec-03	23,116.84	4,623.37	18,493.47	Y,Y-1,Y-2
			subtotal	**33,647.84**	**6,729.57**	**26,918.27**	
iBank Trust 98-TA-806	PIBD0706D146	2,563,750.51	29-Apr-03	27,916.39	5,583.28	22,333.12	Z,Z-1,Z-2
iBank Trust 98-TA-806	PIBD0706D146	2,563,750.51	29-Oct-03	179,462.54	35,892.51	143,570.03	Z,Z-1,Z-2
			subtotal	**207,378.93**	**41,475.79**	**165,903.15**	
iBank Turst 98-TA-804	PiBD0707L305	7,295,956.54	14-Jun-03	83,903.50	16,780.70	67,122.80	DD,DD-1,DD-2
iBank Trust 96-TA-801	PiBD0707L305	1,188,049.62	14-Jun-03	9,677.65	1,935.53	7,742.12	AA,AA-1,AA-2
iBank Trust 98-TA-806	PiBD0707L305	113,672.05	14-Jun-03	925.95	185.19	740.76	CC,CC-1,CC-2
iBank Trust 96-TA-801	PiBD0707L305	1,188,049.62	14-Dec-03	102,469.28	20,493.86	81,975.42	AA,AA-1,AA-2
iBank Trust 98-TA-804	PiBD0707L305	7,295,956.54	8-Jul-03	83,903.50	16,780.70	67,122.80	DD,DD-1,DD-2
iBank Trust 98-TA-804	PiBD0707L305	7,195,956.54	14-Dec-03	537,897.75	107,579.55	430,318.20	
iBank Trust 98-TA-806	PiBD0707L305	113,672.05	14-Dec-03	9,804.21	1,960.84	7,843.37	CC,CC-1,CC-2
			subtotal	**828,581.84**	**165,716.37**	**662,865.47**	
iBank Trust 03-TA-812	PIBD1009B084	2,132,868.84	25-Aug-03	98,734.05	19,746.81	78,987.24	FF,F-1,F-2
iBank Trust 03-TA-812	PIBD1009B084	2,132,868.84	25-Feb-04	175,961.68	35,192.34	140,769.34	FF,F-1,F-2
			subtotal	**274,695.73**	**54,939.15**	**219,756.58**	
iBank Trust 98-TA-803	PIBL1202K229	236,324.63	26-Nov-03	7,549.58	1,509.92	6,039.66	GG,GG-1,GG-2
iBank Trust 96-TA-801	PIBL1202K229	19,117,656.17	26-Nov-03	513,500.54	102,700.11	410,800.43	HH,HH-1,HH-2

[14] Exhibits "T^4" and "T^4-1"; Docket, p. 587.

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iBank Trust 99-TA-807	PIBL1202K229	5,790,804.40	26-Nov-03	155,541.10	31,108.22	124,432.88	II,II-1,II-2
iBank Trust 01-TA-810	PIBL1202K229	10,347,385.80	26-Nov-03	277,930.94	55,586.19	222,344.75	JJ,JJ-1,JJ-2
			subtotal	**954,522.16**	**190,904.44**	**763,617.72**	
iBank Trust 96-TA-801	PiiD0306F020	278,824.49	1-Oct-03	6,622.08	1,324.42	5,297.67	KK,KK-1,KK-2
iBank Trust 96-TA-801	PiiD0306F020	278,824.49	1-Jan-04	6,622.08	1,324.42	5,297.67	KK,KK-1,KK-2
				13,244.16	**2,648.84**	**10,595.34**	
iBank Trust 01-TA-810	PiiD0306L030	10,000,000.00	5-Mar-04	250,000.00	50,000.00	200,000.00	
iBank Trust 96-TA-801	PiiD0306L030	19,000,000.00	5-Mar-04	475,000.00	95,000.00	380,000.00	
iBank Trust 01-TA-807	PiiD0306L030	5,000,000.00	5-Mar-04	125,000.00	25,000.00	100,000.00	
			subtotal	**850,000.00**	**170,000.00**	**680,000.00**	
iBank Trust 98-TA-803	PiiD0508F021	4,212,159.09	1-Oct-03	109,252.88	21,850.58	87,402.30	OO,OO-1,OO-2
iBank Trust 98-TA-804	PiiD0508F021	487,840.91	1-Oct-03	12,653.37	2,530.67	10,122.70	PP,PP-1,PP-2
iBank Trust 98-TA-803	PiiD0508F021	4,212,159.09	1-Jan-04	109,252.88	21,850.58	87,402.30	OO,OO-1,OO-2
iBank Trust 98-TA-804	PiiD0508F021	487,840.91	1-Jan-04	12,653.37	2,530.67	10,122.70	PP,PP-1,PP-2
			subtotal	**243,812.50**	**48,762.50**	**195,050.00**	
iBank Trust 96-TA-801	PIBL1203D074	1,712,498.93	31-Mar-04	38,070.94	7,614.19	30,456.75	QQ,QQ-1,QQ-2
			subtotal	**38,070.94**	**7,614.19**	**30,456.75**	
			Total	**3,869,016.40**	**773,803.28**	**3,095,213.12**	

The collection of interest income (net of 20% final tax) earned by the subject retirement funds from the aforesaid investments are shown in the Trust Deal Slips.[15] It can be noticed from the Trust Deal Slips that the net amounts of interest income were credited to the accounts of the subject retirement funds.

However, not all information indicated in the Schedule of Tax Claim Computation,[16] which showed the final taxes withheld from the interest income earned on the treasury bond investments of the retirement funds, tally with the Certification issued by the Bureau of Treasury dated July 26, 2004.[17] The following treasury bonds with the corresponding series numbers, face value, coupon date, gross interest income, tax withheld, and net interest

[15] Exhibits "VV" to "DDDD", inclusive; Docket, pp. 501-535.
[16] Exhibits "T^4" and "T^4-1"; supra.
[17] Exhibits "TT", "TT-1" to "TT-11", inclusive; Docket, pp. 496-499.

income can not be found on the Certification issued by the Bureau of Treasury:[18]

TREASURY BILLS/NOTES SERIES NO.	FACE VALUE	COUPON DATE	GROSS INTEREST INCOME	20% FINAL TAX WITHHELD	NET INTEREST INCOME
PIBL1202K229	236,324.63	26-Nov-03	7,549.58	1,509.92	6,039.66
PIBL1202K229	19,117,656.17	26-Nov-03	513,500.54	102,700.11	410,800.43
PIBL1202K229	5,790,804.40	26-Nov-03	155,541.10	31,108.22	124,432.88
PIBL1202K229	10,347,385.80	26-Nov-03	277,930.94	55,586.19	222,344.75
PIBL1203D074	1,712,498.93	31-Mar-04	38,070.94	7,614.19	30,456.75
TOTAL	**37,204,669.93**		**992,593.10**	**198,518.63**	**794,074.47**

The trust account numbers designated to the subject retirement funds are as follows:

Client' Name:	Trust Account Designated	Exhibit
Jimenez Basic Advertising, Inc. Retirement Fund	iBank Trust 96-TA-801	RR
International Exchange Bank Employee Retirement Fund	iBank Trust 98-TA-803	RR
Philippine General Merchandising Corp. Retirement Fund	iBank Trust 98-TA- 804	RR
Eastern Telecom Philippines, Inc. Retirement Fund	iBank Trust 01-TA-810	RR
Eassel Propack Philippines, Inc. (formerly Lamitude Corp) Retirement Fund	iBank Trust 98-TA-806	RR
Quorum International & Affiliates Retirement Fund	iBank Trust 99-TA-807	RR
e-Business Services, Inc. Retirement Fund	iBank Trust 03-TA-812	RR

It was found that the account number iBank Trust 01-TA-807 was not among the assigned account numbers for the subject retirement funds. Thus, the withheld tax in the amount of P25,000.00 in the said account number should be deducted from petitioner's claim.

Likewise, the total claim by petitioner in its Petition for Review amounting to P735,622.39 shows a discrepancy with the documents submitted by petitioner as reflected on the Schedule of Tax Claim Computation which shows that the total final tax withheld is in the amount of P773,803.28. Inasmuch as petitioner cannot claim a higher amount than what

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[18] Exhibits "TT-2" to "TT-11", inclusive; ibid.

is prayed for in its Petition for Review, the Court will take into consideration only the amount petitioner prayed for in its petition; and hence, We will deduct the difference of P38,180.89 at the base for the computation of the refund.

In view of all the foregoing, the Court is convinced that petitioner has sufficiently proven that it is entitled to a refund of the erroneously withheld taxes on interest income from treasury bond investments of tax-exempt Retirement Funds for taxable years 2002 to 2004 but only in the reduced amount of P512,103.76 , computed as follows:

Amount Per Schedule of Tax Claim			P 773,803.28
Less: Disallowances			
a.	Discrepancy in Claim Per Petition for Review *vis-à-vis* the Schedule of Tax Claim	P 38,180.89	
b.	Not included in the Bureau of Treasury Certificate	198,518.63	
c.	Not among the account numbers designated	25,000.00	261,699.52
Refundable Claim			**P 512,103.76**

WHEREFORE, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Respondent is hereby **ORDERED to REFUND** petitioner the reduced amount of **FIVE HUNDRED TWELVE THOUSAND ONE HUNDRED THREE PESOS and 76/100 (P512,103.76)**, representing final taxes withheld on interest income from treasury bond investments of tax-exempt retirement funds for taxable years 2002 to 2004.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest 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's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, 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.

ERNESTO D. ACOSTA
Presiding Justice