

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

ATENEO DE MANILA C.T.A. CASE NO. 7246
UNIVERSITY (QUEZON CITY),
INC.,

Petitioner,

- versus -

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

x ----- x

ATENEO DE MANILA C.T.A. CASE NO. 7293
UNIVERSITY (QUEZON CITY),
INC.,

Petitioner,

Members:

ACOSTA, Chairperson
BAUTISTA, , and
CASANOVA, JJ.

- versus -

COMMISSIONER OF INTERNAL
REVENUE,

Respondent.

Promulgated:

MAR 11 2010 9:30 a.m.

x ----- x

DECISION

CASANOVA, J.:

Before this Court are consolidated Petitions for Review, praying that judgment be rendered ordering the cancellation and withdrawal of the assessment against petitioner for deficiency income taxes and value-added taxes, including the surcharges and interest thereon, in the amounts of TWO

MILLION THREE HUNDRED THIRTY-FOUR THOUSAND TWO HUNDRED ELEVEN PESOS & TWENTY TWO CENTAVOS (P2,334,211.22) for the fiscal year ending March 31, 2001; and SIX MILLION FIVE HUNDRED TWENTY-NINE THOUSAND EIGHT HUNDRED THIRTY ONE PESOS & THIRTEEN CENTAVOS (P6,529,831.13) for the fiscal years ending in March 31, 2001, March 31, 2002, and March 31, 2003.

The facts, as stipulated¹ by the parties, are as follows:

"2. Petitioner is a non-stock, non-profit educational institution duly organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office located at Loyola Heights, Quezon City. It is duly registered taxpayer with the Bureau of Internal Revenue ("BIR") with Tax Identification No. 000-707-229-000.

3. Respondent is the government official duly charged with the duty to assess and collect internal revenue taxes, as well as the power to decide disputed assessments, among others, subject to the exclusive appellate jurisdiction of this Court.

4. On 15 July 2004, Petitioner received Respondent's FAN dated 13 July 2004, with attached Details of Discrepancies for Petitioner's alleged deficiency income tax for the fiscal year ending 31 March 2001 in the aggregate amount of **Two Million Three Hundred Thirty Four Thousand Two Hundred Eleven Pesos and Twenty Two Centavos** (P2,334,211.22), computed as follows:

Basic	P 1,237,077.44
Surcharge	309,269.36
Interest 07-16-2001 to 08-15-2004	762,864.42
Compromise	25,000.00
TOTAL	P 2,334,211.22

5. On 30 September 2004, Petitioner received Respondent's FANs dated 7 September 2004 with attached Details of Discrepancies, for Petitioner's alleged deficiency income tax and VAT for the fiscal years ending 31 March 2002 and 31 March 2003 and for alleged deficiency VAT 

¹ Consolidated Joint Stipulation of Facts and Issues (CJSFI), Docket (CTA Case No. 7246), pp. 103-114

for the fiscal year ending 31 March 2001 in the aggregate amount of **Six Million Five Hundred Twenty Nine Thousand Eight Hundred Thirty One Pesos and Thirteen Centavos** (P6,529,831.13), inclusive of interest and penalties, computed as follows:

For Fiscal Year Ending 31 March 2001:

VAT	
Basic	P 386,586.70
Surcharge	96,646.68
Interest 07-16-2001 to 09-30-2004	265,241.43
Compromise	16,000.00
TOTAL	P 764,474.81

For Fiscal Year Ending 31 March 2002:

Income Tax	P 1,249,324.48
Basic	312,331.12
Surcharge	551,784.98
Interest 07-16-2001 to 08-15-2004	25,000.00
Compromise	P 2,138,440.58
TOTAL	

VAT	
Basic	P 390,413.90
Surcharge	97,603.48
Interest 07-16-2001 to 09-30-2004	190,869.02
Compromise	16,000.00
TOTAL	P 694,886.40

For Fiscal Year Ending 31 March 2003:

Income Tax	
Basic	P 1,465,616.00
Surcharge	366,404.00
Interest 01-06-2002 to 09-30-2004	354,190.53
Compromise	25,000.00
TOTAL	P 2,211,210.53

VAT	
Basic	P 458,005.00
Surcharge	114,501.25
Interest 04-21-2003 to 09-30-2004	132,312.56
Compromise	16,000.00
TOTAL	P 720,818.81

6. On 13 August 2004, Petitioner, through SGV & Co., protested the assessment for deficiency income tax for the fiscal year ending 31 ~~2~~

March 2001 by filing a letter dated 12 August 2004 with Respondent, seeking the cancellation or withdrawal of the assessment.

7. On 12 October 2004, Petitioner, through SGV & Co., filed a supplemental protest letter dated 12 October 2004 regarding the assessment for deficiency income tax for the fiscal year ending 31 March 2001.

8. On 28 October 2004, Petitioner, through SGV & Co., protested the assessment for alleged deficiency income tax and VAT for the fiscal years ending 31 March 2002 and 31 March 2003, and for alleged deficiency VAT for the fiscal year ending 31 March 2001 by filing a letter dated 27 October 2004 with the Respondent seeking the cancellation or withdrawal of the assessment.

9. On 23 December 2004, Petitioner, through SGV & Co., filed a supplemental protest letter of even date and submitted all the documents in support of the protest against the assessment for alleged deficiency income tax and VAT for the fiscal year ending 31 March 2002 and 31 March 2003, and for alleged deficiency VAT for the fiscal year ending 31 March 2001.

10. Section 228 of the Tax Code, in part, states:

'SEC. 228. Protesting an assessment.-

xxx xxx xxx

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180) day period; otherwise the decision shall become final, executory and demandable.'

11. Respondent did not decide on Petitioner's protests within the one hundred eighty (180)-day period provided by Section 228 of the Tax Code. These periods ended on 10 April 2005 (for the protest against the assessment for deficiency income tax for the fiscal year ending 31 March 2001), and 21 June 2005 (for the protest against the assessment for alleged deficiency income tax, and VAT for the fiscal years ending 31

March 2002 and 31 March 2003 and for alleged deficiency VAT for the fiscal year ending 31 March 2001)."

Petitioner filed Petitions for Review on May 10, 2005,² and July 21, 2005³ to protect its right to refute or protest the assessments. In a Resolution⁴ promulgated on December 2, 2005, CTA Case Nos. 7246 and 7293 were consolidated.

In the Answer⁵ filed on June 24, 2005, respondent argues that: a) petitioner's four (4) cafeterias are not operated by petitioner, but by different concessionaires; b) Section 2.2 of DOF Circular 137-87 and BIR Ruling 173-88 provide that revenues derived from assets used in the operation of canteens, dormitories, hospitals, and bookstores are exempt from taxation, *provided* they are **owned** and **operated** by the educational institution as ancillary activities and the same are located within the school premises; and c) petitioner's Income Tax Return and Financial Statements do not show the details of expenses from its cafeteria operations.

Further, in the Answer⁶ filed on October 10, 2005, respondent alleges that petitioner failed to exhaust all administrative remedies, and the deficiency tax assessments are presumed correct, unless the taxpayer proves the contrary.

After the parties filed a Consolidated Joint Stipulation of Facts and Issues on December 9, 2005, the parties presented, their respective testimonial and documentary evidence.

Both parties filed their respective Memorandum on January 12, 2009. Thereafter, in a Resolution dated March 19, 2009, this case was deemed submitted for decision after the Court admitted petitioner's Reply (to Respondent's Memorandum) filed on February 16, 2009.⁷ 

² Docket (C.T.A. Case No. 7246), pp. 1-16

³ Docket (C.T.A. Case No. 7293), pp. 1-16

⁴ Docket (C.T.A. Case No. 7246), pp. 101

⁵ Docket (C.T.A. Case No. 7246), pp. 52-57

⁶ Docket (C.T.A. Case No. 7293), pp. 70-75

⁷ Docket (C.T.A. Case No. 7246), p. 514

The parties stipulated on the following issues⁸ for this Court's resolution:

"1. Whether Petitioner is liable for deficiency income tax in the amount of Two Million Three Hundred Thirty Four Thousand Two Hundred Eleven and Twenty Two Centavos (P2,334,211.22) (inclusive of interest and surcharges) for the fiscal year ending 31 March 2001, as stated in Respondent's Final Assessment Notice dated 13 July 2004.

2. Whether Petitioner is liable for deficiency income tax and VAT for the fiscal years ending 31 March 2002 and 31 March 2003 as well as for deficiency VAT for the fiscal year ending 31 March 2001 in the aggregate amount of **Six Million Five Hundred Twenty Nine Thousand Eight Hundred Thirty One Pesos and Thirteen Centavos** (P6,529,831.13), inclusive of interest and penalties, as stated in Respondent's Final Assessment Notices dated 7 September 2004.

3. Whether Petitioner's revenues are exempt from taxation, regardless of their source, as long as the revenues are actually, directly, and exclusively used for educational purposes.

4. Whether Section 2.2 of DOF Circular No. 137-87 and BIR Ruling No. 173-88 are contrary to Section 4(3), Article XIV of the 1987 Constitution and, therefore, null and void.

5. Whether, assuming that Petitioner's revenues from concession fees are taxable, Petitioner is liable for income tax on its gross income rather than on its net taxable income for the fiscal years ending 31 March 2001, 31 March 2002, and 31 March 2003.

6. Whether, assuming that Petitioner's revenues from concession fees are taxable, Petitioner incurred expenses that were directly attributable or reasonably allocable to the concession fees received by Petitioner for the fiscal year ending 31 March 2001, 31 March 2002, and 31 March 2003.

7. Whether or not Petitioner's receipts arising out of concession fees paid by the operators of cafeterias in its premises is subject to income tax and VAT."

As regards the issue on whether petitioner's revenues are exempt from taxation, petitioner submits that:

1.) all revenues and assets of non-stock, non-profit educational institutions, which are actually, directly, and exclusively

⁸ CJSFI, Docket (C.T.A. Case No. 7246), pp. 112-113

used for educational purposes shall be exempt from taxes and duties as provided in Section 4(3) of Article XIV of the 1987 Constitution;

2.) the concession fees are actually, directly, and exclusively used for educational purposes; and

3.) Section 2.2 of DOF Circular No. 137-87 and BIR Ruling No. 173-88 are null and void for being contrary to Section 4(3), Article XIV of the 1987 Constitution.

Assuming that petitioner's revenues from concession fees are taxable, petitioner argues that respondent did not consider the expense items which are directly attributable or reasonably allocable to the petitioner's receipt of the concession fees. Income tax is imposed on net taxable income, and not on the gross income of a taxpayer. Respondent should have considered the petitioner's expenses that are either directly attributable or reasonably allocable to the petitioner's cafeteria operations.

Also, Sections 4.104-1, 4.104-2, and 4.104-5 of Revenue Regulations No. 7-95 provide that purchasers of domestic goods or properties may avail of input tax credits supported by VAT invoices or official receipts. These input tax credits can then be deducted from the output tax in order to compute the taxpayer's VAT liability. Thus, petitioner should be allowed to credit its input taxes against its alleged output tax.

On the other hand, respondent submits that petitioner is liable for income tax from income arising from the lease of cafeterias and canteens within the school premises; and that DOF Circular 137-87 and BIR Ruling No. 173-88 merely clarify Section 4(3) of the 1987 Constitution.

Also, petitioner is liable to pay VAT on concession fees paid by the operators of the cafeterias. The scope of the exemption privilege does not cover taxes which are only shifted or passed on to it, unless they are specified.

The issues submitted for this Court's resolution may be summed up into one issue, whether petitioner may be held liable to pay deficiency income taxes. 

and value-added taxes under Section 2.2. of DOF Circular 137-87, and BIR Ruling 173-88.

This Court rules in the negative.

As stated in the Details of Discrepancies attached to the Final Assessment Notices, the bases for deficiency Income Tax and VAT are Section 2.2. of DOF Circular 137-87, BIR Ruling 173-88, and Revenue Regulations 7-95.

Sec. 2.2 of DOF Circular 137-87⁹ reads:

"2.2 Revenues derived from and assets used in the operations of cafeterias/canteens, dormitories, bookstores are exempt from taxation provided they are **owned and operated** by the educational institution as ancillary activities and the same are located within the school premises."

In BIR Ruling 173-88, Former Commissioner Bienvenido A. Tan, Jr. ruled:

"Non-stock, non-profit educational institutions are exempt from tax on all revenues derived in pursuance of its purpose as an educational institution and used actually, directly, and exclusively for educational purposes. The exemption herein contemplated refers to internal revenue taxes and customs duties, in appropriate cases, imposed by the national government on all revenues and assets of non-stock, non-profit educational institutions used actually, directly and exclusively for educational purposes. They shall, however, be subject to internal revenue taxes on income from trade, business or other activity the conduct of which is not related to the exercise or performance by such educational institution of its educational purpose or function. (Sec. 2, Finance Department Order No. 137-87).

"xxx.

"Moreover, revenues derived from and assets used in the operations of cafeterias/canteens, dormitories, and bookstores are exempt from taxation provided they are owned and operated by the educational institution as ancillary activities and the same are located within the school premises. (Department Order No. 137-87 supra). Accordingly, the tax exemption does not include canteen owned by but operated by a concessionaire.

"Finally, the income from miscellaneous school-related operations like car stickers are likewise exempt from income tax imposed under the Tax Code, as amended. It is however, understood that the Benedictine Abbey School (San Beda Alabang), Inc. shall be 

⁹ "Rules and Regulations Implementing Section 4(3), Article XIV of the New Constitution."

subject to internal revenue taxes on its income from trade, business or other activity the conduct of which is not related to the exercise or performance by such educational institution of its educational purposes or function."

Section 2.2. of DOF Circular 137-87, and BIR Ruling 173-88 implement Paragraph 3 of Section 4, Article XIV of the 1987 Constitution, which reads:

"(3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

xxx."

Well-known Constitutionalist Fr. Joaquin G. Bernas, S.J., explained Section 4, Article XIV of the Constitution as follows:

"1. State 'supervision and reasonable regulation' of schools.

This power describes the nature of the power of the executive department, as exercised by the Department of Education, over schools. The power of supervision has a definite meaning in administrative law: it means the power to see to it that subordinates act within the scope of their authority. It does not mean control. It does not mean the power to substitute the judgment of the State for that of school authorities when the latter act within the scope of their authority.

The power of regulation refers to the normal rule-making authority of administrative agencies. xxx."¹⁰

He further explained:

"3. Tax breaks for private schools.

State financial assistance to private schools is a rare phenomenon in the Philippines. To the contrary, private schools are even taxed. Section 4(3) relieves non-stock, non-profit educational institutions of financial burden by exempting them from 'taxes and

¹⁰ *Constitutional Rights and Social Demands*, 1st ed., p. 597

duties' for all assets and revenues 'used actually, directly, and exclusively for educational purposes.' The relief includes exemption from import duties on educational materials such as books and equipment. The relief given to schools by this provision is expected to be passed on to students in the form of lower tuition fees. This constitutional relief, however, is given only to 'non-stock, non-profit' educational institutions. The specification of 'non-stock' has been added as a safeguard, because the moment a stock corporation is formed, there is expectation of dividends or profits."¹¹ (Underlining supplied.)

In *Commissioner of Internal Revenue vs. Court of Appeals*,¹² the Supreme Court gave only two requirements that the educational institution must prove, that: (1) it falls under the classification *non-stock, non-profit educational institution*; and (2) the income it seeks to be exempted from taxation is used *actually, directly, and exclusively for educational purposes*. (Italics supplied)

As regards the first requisite, the parties already stipulated that petitioner is a non-stock, non-profit educational institution. Hence, no evidence is necessary to prove the same.

As regards the second requisite, petitioner's witness, Mr. Jose P. Salvador, Jr.,¹³ testified that the canteen in Grade School is used as a medium for teaching Preparatory Level and Grade School students since it links the students' classroom lessons with practical applications in real life.¹⁴

Petitioner's witness, Ms. Leonora P. Wijancho,¹⁵ affirmed that income from cafeteria concession fees is commingled with the other funds that make up "other educational income," and such income is made available for school operations such as salaries, employee benefits, faculty development, supplies and expenses, new books, scholarships, research, new equipment, and major improvements.¹⁶ 

¹¹ *The Constitution of the Republic of the Philippines, A Commentary* (Volume II), 1st ed., p. 513.

¹² G.R. No. 124043, October 14, 1998

¹³ Assistant Headmaster for Student Affairs

¹⁴ Exhibit "Q," p. 2

¹⁵ Director of the Central Accounting Office

¹⁶ Exhibit "WW," pp. 3-4

In addition, pursuant to its Budgeting and Accounting Manual, specifically page S3-1,¹⁷ and pages S4-5 to S4-10,¹⁸ petitioner submitted Projection of Revenues by the different operating units, to wit:

<u>Location</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Grade School	Exh. V	Exh. Z	Exh. DD
High School	Exh. W	Exh. AA	Exh. EE
Loyola Schools			
College	Exh. X	Exh. BB	Exh. FF

Petitioner also presented its approved budget for the fiscal year ending March 31, 2003¹⁹ to prove that the foregoing projections were included in its budget.

Further, the Court-commissioned independent CPA (ICPA), Katherine O. Constantino of Constantino Guadalquiver & Co., found the following:²⁰

"The School considers cafeteria operations as part of school operations. As such, it does not maintain a separate fund account for Cafeteria operations. All revenue and expenses (including capital expenditures) relating to the Cafeteria operations are considered part of the General Fund account. The usage of the General Fund is shown in the audited financial statements (Exhibits M to M-2) specifically in Statement of Changes in Fund Balances."

The ICPA likewise identified the concessionaires for fiscal years 2001, 2002, and 2003 as follows:²¹

<u>Location</u>	<u>Concessionaire</u>
Grade School	• Ateneo Grade School Kilusang Bayan for Consumers • Elise Food Service
High School	• Race Foods Co., Inc.
College	• Ateneo de Manila Multi-Purpose Cooperative • Hans Gourmet Services, Inc.
Rockwell/Salcedo	• Ancor Cuisine, Inc.

¹⁷ Exhibit "T."

¹⁸ Exhibits "S" "S-1" to "S-5"

¹⁹ Exhibit "GG"

²⁰ Exhibit "F," Item II(14), page 9

²¹ Exhibit "F," Item III(1), page 9

Petitioner submitted a Breakdown of Accounts Receivable²² for the fiscal years 2001, 2002 and 2003. The foregoing showed ending balances for concession fees in the amounts of P529,850.60, P520,105.33, and P902,272.47, respectively, which tally with the Analysis of Concession Fee Receivable²³ prepared by the ICPA.

Petitioner also submitted Income Summaries (which include the concession fees received) for the fiscal years 2002 and 2003.²⁴ It is noteworthy, however, that petitioner did not submit Income/Revenue Summary for the fiscal year ending March 31, 2001.

To show that the concession fees were actually, directly, and exclusively used for educational purposes, petitioner submitted Summaries of Contribution and Expenditure for the fiscal years 2001, 2002, and 2003²⁵ and its Audited Financial Statements for the same period.²⁶ These documents established the fact that petitioner's expenses or disbursements from the general fund consisted of the following:

- Salaries and other related expenses
- Employee benefits
- Utilities, supplies and other expenses
- Scholarship and financial aid
- Faculty development
- Program development
- Other expenses allocated to school units:
 - Service units
 - Depreciation
 - Development expenses
 - Scholarship grants, financial assistance and research expenses
 - Performance awards
- Provision for doubtful accounts

From the foregoing, this Court holds that petitioner has proven that the concession fees it received for the fiscal years ending March 31, 2001, March 31,

²² Exhibit "N"

²³ Exhibit "P"

²⁴ Exhibits "HII," "II," "JJ," "KK," "LL," and "MM"

²⁵ Exhibits "NN," "OO," "PP," "QQ," "RR," "SS," "TT," "UU," and "VV."

²⁶ Exhibits "M," "M-1" to "M-2."

2002, and March 31, 2003 were actually, directly, and exclusively used for educational purposes.

Respondent's argument that Section 4(3), Article XIV of the 1987 Constitution requires that the canteen must be owned and operated by the educational institution, not by concessionaires, is without basis.

It is worthy to quote the ruling of the Supreme Court in *Manila Prince Hotel vs. GSIS*,²⁷ as follows:

"xxx. A constitution is a system of fundamental laws for the governance and administration of a nation. It is supreme, imperious, absolute and unalterable except by the authority from which it emanates. It has been defined as *the fundamental and paramount law of the nation*. **It prescribes the permanent framework of a system of government, assigns to the different departments their respective powers and duties, and establishes certain fixed principles on which government is founded. The fundamental conception in other words is that it is a supreme law to which all other laws must conform and in accordance with which all private rights must be determined and all public authority administered. Under the doctrine of constitutional supremacy, if a law or contract violates any norm of the constitution that law or contract whether promulgated by the legislative or by the executive branch or entered into by private persons for private purposes is null and void and without any force and effect.** Thus, since the Constitution is the fundamental, paramount and supreme law of the nation, it is deemed written in every statute and contract.

'Admittedly, some constitutions are merely declarations of policies and principles. Their provisions command the legislature to enact laws and carry out the purposes of the framers who merely establish an outline of government providing for the different departments of the governmental machinery and securing certain fundamental and inalienable rights of citizens. A provision which lays down a general principle, such as those found in Art. II of the 1987 Constitution, is usually not self-executing. **But a provision which is complete in itself and becomes operative without the aid of supplementary or enabling legislation, or that which supplies sufficient rule by means of which the right it grants may be enjoyed or protected, is self-executing.** Thus a constitutional provision is self-executing if the nature and extent of the right conferred and the liability imposed are fixed by the constitution itself, so that they can be determined by an 

²⁷ G.R. No. 122156, February 3, 1997

examination and construction of its terms, and there is no language indicating that the subject is referred to the legislature for action.

'As against constitutions of the past, modern constitutions have been generally drafted upon a different principle and have often become in effect extensive codes of laws intended to operate directly upon the people in a manner similar to that of statutory enactments, and the function of constitutional conventions has evolved into one more like that of a legislative body. Hence, unless it is expressly provided that a legislative act is necessary to enforce a constitutional mandate, the presumption now is that all provisions of the constitution are self-executing. If the constitutional provisions are treated as requiring legislation instead of self-executing, the legislature would have the power to ignore and practically nullify the mandate of the fundamental law. This can be cataclysmic. That is why the prevailing view is, as it has always been, that –

'x x x x in case of doubt, the **Constitution should be considered self-executing rather than non-self-executing** x x x x Unless the contrary is clearly intended, the provisions of the Constitution should be considered self-executing, as a contrary rule would give the legislature discretion to determine when, or whether, they shall be effective. These provisions would be subordinated to the will of the lawmaking body, which could make them entirely meaningless by simply refusing to pass the needed implementing statute." (Emphasis supplied.)

Further, a Constitutional provision should be construed so as to give it effective operation and suppress the mischief at which it is aimed, hence, it is the spirit of the provision which should prevail over the letter thereof.²⁸

The resolution of other issues becomes moot, as income from the operations of petitioner's canteens/cafeterias is tax-exempt under Section 4(3), Article XIV of the 1987 Constitution.

WHEREFORE, premises considered, the consolidated Petitions for Review are hereby **GRANTED**. The Final Assessment Notice dated July 13, 2004 for the alleged deficiency income tax for the fiscal year ending March 31, 2001 in the amount of Two Million Three Hundred Thirty Four Thousand Two Hundred 

²⁸ *Co vs. Electoral Tribunal of the House of Representatives*, G.R. Nos. 92191-92 and 92202-03, July 30, 1991

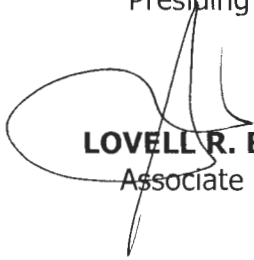
Eleven Pesos and Twenty Two Centavos (P2,334,211.22), and the Final Assessment Notice dated September 7, 2004 for alleged deficiency VAT for fiscal year ending March 31, 2001, and deficiency income tax and VAT for the fiscal years ending March 31, 2002 and March 31, 2003 in the amount of Six Million Five Hundred Twenty Nine Thousand Eight Hundred Thirty One Pesos and Thirteen Centavos (P6,529,831.13) are hereby **CANCELLED**.

SO ORDERED.


CAESAR A. CASANOVA
Associate Justice

WE CONCUR:


ERNESTO D. ACOSTA
Presiding Justice


LOVELL R. BAUTISTA
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's Division.


ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division