REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

VESTAS SERVICES PHILIPPINES, INC., Petitioner,	CTA EB NO. 1927 (CTA Case No. 8877)
	Present:
- versus -	DEL ROSARIO, *P.J.*, CASTAÑEDA, JR., UY, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, and MODESTO-SAN PEDRO, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: FEB 07 2020 1:47 p.m.

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DECISION

Fabon-Victorino, J.:

On appeal before the Court *En Banc* are the August 3, 2017 Decision[1] and August 15, 2018 Resolution[2] of the Court in Division in CTA Case No. 8877, which denied petitioner's claim for refund or issuance of tax credit certificate (TCC) of its alleged excess and unutilized input value-added tax (VAT) attributable to its zero-rated sales for the second and third quarters of calendar year (CY) 2013 in the aggregate amount of ₱65,650,037.39.

Petitioner prays to reverse the assailed Decision and Resolution and in lieu thereof issue a new one directing respondent to refund or issue a TCC in its favor in the total amount of ₱65,650,037.39.

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[1] *En Banc* docket, pp. 71-81.
[2] *En Banc* docket, pp. 83-93.

The Facts and the Proceedings

The facts, as found by the Court in Division, remain undisputed.

Petitioner Vestas Services Philippines, Inc. is a domestic corporation with principal office address at 31st Floor, Tower II, RCBC Plaza, Ayala Avenue corner Gil Puyat, Makati City.[3] It was registered with the Securities and Exchange Commission (SEC) on December 14, 2009.[4] It was likewise registered as a VAT taxpayer with the Bureau of Internal Revenue (BIR), Revenue District Office (RDO) No. 50 and was issued Taxpayer Identification Number (TIN) 007-533-154-000.[5]

On the other hand, respondent is the Commissioner of the BIR with the power to act upon and approve claims for refund or tax credit as provided by law. He holds office at the 5th Floor, BIR National Office Building, Agham Road, Diliman, Quezon City.

Petitioner filed its amended Quarterly VAT Returns for the second[6] and third[7] quarters of CY 2013, reflecting the following details:

Date Filed	Quarterly VAT Return (Amended)	Zero-rated Sales/Receipts	Input VAT
August 22, 2013	2nd Quarter	P 477,362,270.32	P 3,299,050.06
December 10, 2013	3rd Quarter	206,930,735.26	62,350,987.28
Total		**P684,293,005.58**	**P65,650,037.34**

Petitioner then filed with the BIR Revenue District Office No. 50 an administrative claim for refund of excess/unutilized input VAT for the second quarter of CY 2013 on October 9, 2013,[8] and on December 11, 2013,[9] for the third quarter of CY 2013.

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[3] Par. 1 (a), Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Division docket, p. 146.
[4] Par. 1 (c), Stipulation of Facts, JSFI, Division docket, p. 146.
[5] Par. 1 (d), Stipulation of Facts, JSFI, docket, p. 147; Exhibit P-2.
[6] Exhibit P-4.
[7] Exhibit P-5.
[8] Exhibits P-6 and P-8.
[9] Exhibit P-9.

Due to alleged inaction on the part of respondent, petitioner elevated its claim *via* a Petition for Review before the Court in Division on August 22, 2014.

In his *Answer with Motion to Dismiss*[10] posted on October 10, 2014, respondent mainly raised petitioner's failure to fully substantiate its claim as required under Revenue Regulations (RR) No. 16-2005 in relation to Sections 113 and 237 of the National Internal Revenue Code (NIRC) of 1997, as amended. According to him, the amount for refund was not fully supported by sales invoices, official receipts, vouchers and other relevant/pertinent documents. The Petition for Review should be dismissed outright pursuant to Section 1, Rule 16 of the 1997 Rules of Civil Procedure for failure to state a cause of action, there being no proof that petitioner filed its administrative claim for refund with the BIR on a particular period, in violation of Section 112 of the NIRC of 1997, as amended.

Respondent's Motion to Dismiss was denied in the Resolution[11] dated November 26, 2014.

After the scheduled Pre-Trial Conference,[12] petitioner commenced presentation of its evidence.

On the other hand, respondent opted not to present any.

On August 3, 2017, the Court in Division dismissed the Petition for Review on jurisdictional ground. It explained that the 120+30 periods prescribed under Section 112(C) of the NIRC of 1997, as amended, is not only mandatory but also jurisdictional. The failure of petitioner to observe the said prescriptive periods under Section 112(C) of the NIRC of 1997, as amended, deprived the Court of jurisdiction to hear and determine petitioner's claim for refund.

Unconvinced, petitioner, on August 22, 2017, filed a *Motion for Reconsideration with Motion with Leave of Court*

[10] Division docket, pp. 46-50.
[11] Docket, pp. 68-71.
[12] Division docket, p. 72.

for the Issuance of a Subpoena Duces Tecum and to Reopen the Case for Presentation of Additional Evidence (Re: Decision dated 03 August 2017).[13]

Petitioner's Motion was favorably acted upon in the Resolution[14] dated October 11, 2017. Accordingly, the case was set for hearing for the presentation of the documents cited and attached to petitioner's motion for reconsideration.

On June 4, 2018, petitioner filed *via* registered mail its *Supplemental Formal Offer of Evidence.*[15]

In the Resolution[16] dated August 15, 2018, the Court, despite admission of the additional evidence, denied petitioner's Motion for Reconsideration (Re: Decision dated 03 August 2017), for lack of merit. In so ruling, the Court in Division cited the case of *Commissioner of Internal Revenue vs. San Roque Power Corporation*, wherein the Supreme Court ruled that compliance with the 120+30 day period prescribed under Section 112(C) of the NIRC of 1997, as amended, is mandatory and jurisdictional.

Hence, the instant Petition for Review filed through registered mail on September 21, 2018, raising the lone issue of:

> WHETHER OR NOT THE CTA – 2ND DIVISION ERRED IN DISMISSING PETITIONER'S CLAIM FOR REFUND OF ITS EXCESS AND/OR UNUTILIZED INPUT VAT AMOUNTING TO SIXTY-FIVE MILLION SIX HUNDRED FIFTY THOUSAND THIRTY SEVEN & 39/100 (PHP65,650,037.39), REPRESENTING ITS EXCESS AND UNUTILIZED INPUT VAT CREDITS FOR THE SECOND AND THIRD QUARTERS OF CY 2013 ON THE SOLE GROUND THAT THE SAID CLAIM (APPEAL) WAS NOT TIMELY FILED WITH THE COURT OF TAX APPEALS.

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[13] Division docket, pp. 536-550.
[14] Division docket, pp. 568-573.
[15] Division docket, pp. 616-619.
[16] Division Docket, pp. 624-634.

Petitioner avers that Revenue Memorandum Circular (RMC) No. 49-2003 prescribes the period within which taxpayer-claimants should submit supporting documents to substantiate their claims for VAT refund. For petitioner, RMC No. 49-2003 did not merely interpret Section 112(C) of the Tax Code but actually sets the period within which documents supporting claims for VAT refund should be submitted, lest they will not be considered in processing claim for refund/TCC in the administrative level. These rules impact the prescribed 120-day period for respondent to process the claim, as well as the 30-day period for elevating the matter to the CTA. For imposing new burden upon the taxpayers, who have no option but to comply lest their refund claim be denied, RMC No. 49-2003 is legislative in nature, hence, should comply with the notice and publication requirements to be effective. Moreover, the periods prescribed in RMC No. 49-2003 are not found in the VAT law, which only provide that respondent shall act on the claim for refund "within 120 days from the submission of complete documents in support of the application."

Even assuming that RMC No. 49-2003 is valid, the request for additional documents referred therein cannot be equated to that in the Letter of Authority (LOA). Petitioner posits that an LOA is the authority given to the assigned revenue officer to conduct tax examination of a certain taxpayer. Allegedly, as a matter of procedure, respondent issues an LOA once a taxpayer files a claim for refund. Thus, an LOA should not be treated as one and the same as respondent's request for submission of additional documents material in the investigation or processing of a VAT refund claim. In other words, an LOA with the standard checklist of documentary requirements annexed to it does not represent a request for additional documents referred to in RMC No. 49-2003.

Further, the request contemplated in RMC No. 49-2003 is one that is made in the course of the investigation and for "additional documents" presupposing that respondent has commenced conducting the tax investigation and evaluation of the documents submitted by the taxpayer. On the other hand, an LOA with attached checklist issued to it does not contain a request for additional documents as contemplated under RMC No. 49-2003. Moreover, an examination of the checklist shows that it is for mandatory audit against the taxpayer and not in connection with the substantiation requirements for claims for VAT refund/TCC. If respondent deemed the documents it submitted inadequate, he should have issued a clear and definite request or notice for additional documents, and not issue a generic audit checklist. Hence, the 30-day period from receipt of the request for additional documents prescribed under RMC No. 49-2003 is not applicable to the present claim.

Finally, petitioner contends that its claim for refund is in all fours with the recent case of *Pilipinas Total Gas, Inc. vs. Commissioner of Internal Revenue*[17] *(Pilipinas Total Gas)*, hence, should likewise be considered timely filed.

Despite notice, [18] respondent failed to file comment/opposition to the instant Petition for Review. Thus, on February 7, 2019, the instant Petition for Review was submitted for decision.[19]

The Court *En Banc's* Ruling

After a judicious review of petitioner's arguments and the record of the case, the Court *En Banc* finds no reason nor rhyme to modify much more reverse the assailed Decision and Resolution of the Court in Division.

RMC No. 49-2003 is valid:

RMC No. 49-2003 belongs to a group of issuances that *"disseminate and embody pertinent and applicable portions, as well as amplifications of the rules, precedents, laws, regulations, opinions and other orders and directives issued by or administered by the Commissioner of Internal Revenue, and by offices and agencies other than the Bureau of Internal Revenue, for the information, guidance or compliance of revenue personnel."*[20] Based on this definition,

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[17] G.R. No. 207112, December 8, 2015.
[18] *En Banc* docket, pp. 97-98.
[19] Resolution, *En Banc* docket, pp. 100-101.
[20] Section 3 (g), Revenue Administrative Order No. 1-2003 provides:

RMC No. 49-2003 is an **interpretative rule** issued by respondent in the exercise of his quasi-legislative power under Section 4[21] of the NIRC of 1997, as amended.

In *Republic of the Philippines v. Drugmaker's Laboratories, Inc., et al.*,[22] the Supreme Court elucidated on the nature and function of interpretative rules in this wise:

> Administrative agencies may exercise quasi-legislative or rule-making powers only if there exists a law which delegates these powers to them. Accordingly, the rules so promulgated must be within the confines of the granting statute and must involve no discretion as to what the law shall be, but merely the authority to fix the details in the execution or enforcement of the policy set out in the law itself, so as to conform with the doctrine of separation of powers and, as an adjunct, the doctrine of non-delegability of legislative power.
>
> An administrative regulation may be classified as a legislative rule, an interpretative rule, or a contingent rule. Legislative rules are in the nature of subordinate legislation and designed to implement a primary legislation by providing the details thereof. They usually implement existing law, imposing general, extra-statutory obligations pursuant to authority properly delegated by Congress and effect a change in existing law or policy which affects individual rights and obligations. <u>Meanwhile, **interpretative rules** are intended to interpret, clarify or</u>

SECTION 3. *Classification of BIR Rulings and Issuances.* — The following terms shall have the meaning described below:

xxx xxx xxx

g) *Revenue Memorandum Circulars* (RMC) — These issuances shall disseminate and embody pertinent and applicable portions, as well as amplifications of the rules, precedents, laws, regulations, opinions and other orders and directives issued by or administered by the Commissioner of Internal Revenue, and by offices and agencies other than the Bureau of Internal Revenue, for the information, guidance or compliance of revenue personnel."

[21] SEC. 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.

[22] G.R. No. 190837, March 5, 2014, 718 SCRA 160-162.

> explain existing statutory regulations under which the administrative body operates. Their purpose or objective is merely to construe the statute being administered and purport to do no more than interpret the statute. Simply, they try to say what the statute means and refer to no single person or party in particular but concern all those belonging to the same class which may be covered by the said rules. Finally, contingent rules are those issued by an administrative authority based on the existence of certain facts or things upon which the enforcement of the law depends.
>
> In general, an administrative regulation needs to comply with the requirements laid down by Executive Order No. 292, s. 1987, otherwise known as the 'Administrative Code of 1987,' on prior notice, hearing, and publication in order to be valid and binding, **except when the same is merely an interpretative rule. This is because '[w]hen an administrative rule is merely interpretative in nature, its applicability needs nothing further than its bare issuance, for it gives no real consequence more than what the law itself has already prescribed**. When, on the other hand, the administrative rule goes beyond merely providing for the means that can facilitate or render least cumbersome the implementation of the law but substantially increases the burden of those governed, it behooves the agency to accord at least to those directly affected a chance to be heard, and thereafter to be duly informed, before that new issuance is given the force and effect of law.' (*Underscoring and emphases supplied*)

On the other hand, Quasi-legislative power is defined as the authority delegated by the lawmaking body to the administrative body to adopt rules and regulations intended to carry out the provisions of law and implement legislative policy.[23] For the exercise thereof to stand the test of judicial scrutiny, it must be confined to details for regulating the mode or proceedings in order to carry into effect the law as it has been enacted, and it cannot be extended to amend or expand the statutory requirements or to embrace matters not covered by the statute.[24]

Tested against the above jurisprudential guidelines, Section 112(C) of the NIRC, as amended, states that the 120-day period for petitioner to act on an administrative claim for VAT refund is counted from the date of submission of complete supporting documents. Note however that the Tax Code is silent on when are the foregoing supporting documents are considered complete. Precisely, RMC No. 49-2003 was issued to address the matter. Such circular did not unduly stretch, modify, or amend Section 112(C) of the Tax Code, but merely spelled out the instances when supporting documents may be deemed complete. In fact, the reckoning point for respondent to decide on administrative claims for VAT refund stands untouched – 120 days from submission of complete supporting documents, no more, no less.

At this juncture, it is well to note that in *Pilipinas Total Gas* case cited by petitioner, the Supreme Court clarified that the rule set forth in RMC No. 49-2003 must be observed on administrative claims for VAT refund filed prior to June 11, 2014.[25] Note that petitioner's administrative claims for refund for the 2nd and 3rd quarters of CY 2013 were filed on October 9, 2013 and December 11, 2013, respectively. Hence, RMC No. 49-2003 should be applied in the case at bar.

The Court in Division did not err in considering the Checklist of requirements attached to the LOA as a notice requesting to submit additional documents under RMC No. 49-2003:

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[23] *Alliance for the Family Foundation, Philippines, Inc. (ALFI), et al. vs. Hon. Garin*, G.R. Nos. 217872 and 221866, April 26, 2017.
[24] See *Commissioner of Internal Revenue vs. Fortune Tobacco Corporation*, G.R. Nos. 167274-75, July 21, 2008.
[25] Administrative claims for VAT refund filed on or after June 11, 2014, are governed by RMC No. 54-2014.

The Court *En Banc* is one with the Court in Division in the following ruling, to wit:

> Note that the 120-day period begins to run from the date of submission of complete documents supporting the administrative claim. If there is no evidence showing that the taxpayer was required to submit — or actually submitted — additional documents after the filing of the administrative claim, it is presumed that the complete documents accompanied the claim when it was filed.
>
> In this case, **petitioner avers that it submitted documents in support of its administrative claim for refund on February 18, 2014 and on March 25, 2014. However, no evidence was presented showing that petitioner submitted any document on the said dates. Records indicate that petitioner, upon filing of its administrative claim for the second quarter of CY 2013 on October 9, 2013, simultaneously submitted documents in support thereof.** Meanwhile, there is no evidence showing the submission of supporting documents for petitioner's claim covering the third quarter of CY 2013; **hence, the documents are presumed submitted upon the filing of the corresponding administrative claim on December 11, 2013**.
>
> Counting 120 days from October 9, 2013 and December 11, 2013, respondent had until February 6, 2014 and April 10, 2014 within which to act on petitioner's claims for the second and third quarters of CY 2013, respectively. Considering that respondent failed to act on the said claims, petitioner had 30 days after the lapse of the 120-day period or until March 8, 2014 and May 10, 2014, respectively, within which to file a judicial appeal before this Court.

> However, petitioner's appeal by way of a Petition for Review was filed only on August 22, 2014, 197 days and 134 days after the lapse of the 120-day period to file a judicial claim for the second and third quarters of CY 2013, respectively. Hence, petitioner's judicial claim was belatedly filed.

Note that the Court in Division reckoned the 120-day period from petitioner's filing of its administrative claims for refund as no evidence was presented to support its claim that it submitted additional supporting documents.

Thus, in its *Motion for Reconsideration with Motion with Leave of Court for the Issuance of a Subpoena Duces Tecum and the Reopen the Case for Presentation of Additional Evidence,* petitioner asked, among others, that it be allowed to present additional evidence, including the transmittal letters stamped received by the BIR, to establish the timely filing of its Petition for Review, which the Court in Division granted. In fact, during the hearing for the presentation of additional evidence, petitioner presented as evidence the Transmittal Letter stamped received on March 25, 2014 marked as Exhibit P-150, which indicated the submission of documents in relation to its claim for refund.

As correctly observed by the Court in Division, a perusal of **the Transmittal Letter** shows that the transmittal of the supporting documents **was made in connection with the BIR's Letter of Authority (LOA) VAT Credit Certificate for the third quarter of 2013**. Hence, the Court in Division, in the equally assailed Resolution of August 15, 2018 ruled, thus:

> Notably, in the *Pilipinas Total Gas* case, which is based on Revenue Memorandum Circular (RMC) No. 49-2003, the Supreme Court held that petitioner has thirty (30) days from request of the BIR within which to submit the additional documents. <u>From the evidence presented, petitioner appears to have been notified of the BIR's request for additional documents upon receipt of</u>

> the LOA, thus, the counting of the 30-day period should be made therefrom. However, the LOA referred to in the Transmittal Letter was not presented in evidence, thus, petitioner failed to establish that the submission of supporting documents was made within the abovementioned 30-day period.
>
> **Also, even if the Court considers the LOA found in the BIR Records, a perusal thereof reveals that the additional documents referred to in the Transmittal Letter was filed beyond the 30-day period**.
>
> Records show that the BIR issued Letter of Authority (LOA) No. SN: eLA201100055007/LOA-050-2014-00000001 on January 22, 2014 for examination of petitioner's books of accounts and other accounting records for VAT for the period from July 1, 2013 to September 30, 2013 with attached Checklist of Requirements dated January 22, 2014. The said checklist enumerated the additional documents required to be submitted by petitioner to the BIR. Records further reveal that the LOA was received by Ms. Lea N. Alfaro on January 24, 2014, which is the same signatory in petitioner's administrative claim filed on December 11, 2013 for the third quarter of CY 2013.

Clearly, it was petitioner who pointed out that its submission of additional documents was in connection with the LOA with attached Checklist of requirements, which in fact the Court in Division considered pursuant to RMC No. 49-2003.

However, as the Court in Division correctly considered, even if the submission of the additional documents was in connection to the LOA with attached Checklist of requirements, still, petitioner's Petition for Review was belatedly filed on August 22, 2014, to wit:

> Accordingly, counting from the receipt of the LOA, which was on January 24, 2014, petitioner had 30 days or until February 23, 2014 within which to submit the additional documents. Clearly, petitioner filed the additional documents on March 25, 2014, or beyond the 30-day period allowed by RMC No. 49-2003.
>
> In this regard, it must be pointed out that it is not from the date when the alleged additional documents were belatedly filed that the counting of the 120-day period should commence, but from the expiration of the 30-day period to submit supporting document. Thus, counting 120 days from February 23, 2014, respondent had until June 23, 2014 to act on petitioner's administrative claim for refund. From June 23, 2014, petitioner had 30 days, or until July 23, 2014, to file its judicial claim for refund. Unfortunately, the instant Petition for Review was belatedly filed on August 22, 2014 as provided under Section 112(C) of the NIRC of 1997, as amended.

Contrary to petitioner's claim, the Court in Division did not equate a LOA to a notice requesting for submission of additional documents but what was considered was the attached Checklist instructing petitioner on what documents to submit in order for the BIR to ascertain the veracity of its tax refund claim. Truth be told, without the LOA with attached Checklist of requirements, petitioner would have been required to submit additional supporting documents much earlier, *i.e.*, on or before January 10, 2014, as the 30-day period within which to submit supporting documents pursuant to RMC No. 49-2003 would have been reckoned from the date of filing of its administrative claim on December 11, 2013. Besides, other than the attached Checklist of requirements, there was no other notice issued by the BIR to justify petitioner's late submission of additional supporting documents.

*Petitioner's claim for refund is **NOT** in all fours with the Pilipinas Total Gas case*:

In paragraph 26 of the instant Petition for Review, petitioner averred:

> 26. in as mush as the Supreme Court ("SC") in the case of Plipinas Total Gas, Inc. vs. CIR ("Pilipinas Total Case") upheld the timely filing of the judicial claim of Pilipinas Total, the CTA - 2nd Division should also have taken the same view considering that the facts of both cases are virtually identical. <u>If we are to scrutinize the decision of the SC in the Pilipinas Total Case, **the only difference between the situation of two cases is the fact that the submission of Petitioner's additional document was duly received and dated in accordance with RMO No. 40-94 as evidenced by the BIR's stamp "received" appearing on Petitioner's transmittal letter dated 25 March 2014 (Exhibit "P-150"), while Pilipinas Total's additional documents did not have a receiving date**</u>. xxx (Underscoring and Boldfacing supplied)

Clearly, petitioner's admission negates its claim that the instant case is in all fours with the *Pilipinas Total Gas* case. In fact, the discrepancy pointed out by petitioner between the two cases, specifically the date of submission of additional documents, cannot just be ignored. As observed by the Supreme Court in the *Pilipinas Total Gas* case, to wit:

> *Third*, it is observed that whether before the CTA or this Court, the **BIR had never questioned the date it received the supporting documents filed by Total Gas, or the propriety of the filing thereof**. xxx (*Boldfacing supplied*)

In the instant case, while respondent did not question the date of submission of petitioner's additional supporting documents, the Court in Division took the same into consideration in deciding the case following the mandate of RMC No. 49-2003, to wit:

> Q-18: *For pending claims with incomplete documents, what is the period within which to submit the supporting documents required by the investigating/processing office? When should the investigating/processing office officially receive claims for tax credit/refund and what is the period required to process such claims?*
>
> A-18: **For pending claims** which have not been acted upon by the investigating/processing office due to incomplete documentation, **<u>the taxpayer-claimants are given thirty (30) days within which to submit the documentary requirements</u> unless given further extension by the head of the processing unit, but such extension should not exceed thirty (30) days.**
>
> For claims to be filed by claimants with the respective investigating/processing office of the administrative agency, the same shall be officially received only upon submission of complete documents.
>
> For current and future claims for tax credit/refund, the same shall be processed within one hundred twenty (120) days from receipt of the complete documents. If, in the course of the investigation and processing of the claim, additional documents are required for the proper determination of the legitimate amount of claim, the

> taxpayer-claimants shall submit such documents **<u>within thirty (30) days from request</u> of the investigating/processing office, <u>which shall be construed as within the one hundred twenty (120)-day period</u>**. (*Emphases supplied*)

WHEREFORE, the *Petition for Review* filed on September 21, 2018 by petitioner Vestas Services Philippines, Inc. is hereby **DENIED**, for lack of merit. Accordingly, the assailed Decision and Resolution dated August 3, 2017 and August 15, 2018, respectively, are **AFFIRMED.**

SO ORDERED.

ESPERANZA R. FABON-VICTORINO
Associate Justice

We Concur:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

MA. BELEN RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII 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.

ROMAN G. DEL ROSARIO
Presiding Justice