Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

En Banc

COMMISSIONER OF INTERNAL REVENUE, Petitioner, - versus - **RCD REALTY MARKETING CORPORATION,** Respondent.	**CTA EB No. 1481** (CTA Case No. 8468) Present: DEL ROSARIO, *PJ,* CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN, *and* MANAHAN, *J.J.* Promulgated: AUG 04 2017 3:52 p.m.

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DECISION

CASANOVA, *J.*:

This is an appeal, by way of Petition for Review, filed by petitioner-Commissioner of Internal Revenue, from the Decision dated February 1, 2016 (the "Assailed Decision") and Amended Decision dated June 22, 2016 (the "Assailed Amended Decision"), both rendered by the Court of Tax Appeals' (CTA) Third Division granting respondent's claim for tax refund/credit in the full amount of ₱1,735,583.24, representing its unutilized and excess creditable withholding tax for the calendar year 2009.

Petitioner is the duly appointed Commissioner of Internal Revenue, vested by law in general to implement and enforce the provisions of the National Internal Revenue Code (NIRC) and other tax laws and in particular, decide claims for refund of internal revenue taxes. He holds office at the Bureau of Internal Revenue National Office Building, BIR Road, Diliman, Quezon City.

Respondent is a domestic corporation duly organized and existing under Philippine laws, with principal office address at the 2/F EGI Condominium cor. A. Medina St., Pio del Pilar, Makati City.

The facts of the case, as found by the CTA-Third Division and narrated in the Assailed Decision, are as follow:

> "On May 29, 2009, August 28, 2009 and November 27, 2009, petitioner filed its Quarterly Income Tax Return (BIR Form No. 1702Q) for the first, second and third quarters, respectively, of 2009.
>
> On April 15, 2010, petitioner filed its Annual Income Tax Return ('ITR') for taxable year 2009, wherein it chose the option '*To be issued a Tax Credit Certificate*'.
>
> On May 27, 2010, respondent received petitioner's request for the issuance of a TCC, in the amount of One Million Seven Hundred Thirty-Five Thousand Five Hundred Eighty-Three & 24/100 Pesos (Php1,735,583.24) attached to the request were the following documents: Annual ITR for the year 2009 (BIR Form 1702); Certificate of Creditable Withholding Tax at Source (BIR Form No. 2307); and its Financial Statement ('FS') for the year 2009. Petitioner likewise filed an Application for Tax Credit/Refunds (BIR Form No. 1914) on even date.
>
> Petitioner received Letter of Authority No. 2008000334867 ('LOA No. 34867') dated May 24, 2010, and the list of documents for submission/presentation of records/documents for the year 2009. LOA No. 34867 authorizes Revenue Officer ('RO') Maezy Claire T. Laggui ('Laggui') and Group Supervisor ('GS') Narciso T. Laguerta ('Laguerta'), to examine its books of accounts and other accounting records *'<u>for all internal revenue taxes (refundable)</u> for the period January 1, 2009 to December 31, 2009'*.
>
> On September 30, 2010, petitioner received SN: Ela 201000004372 LOA-048-2010-00000103, dated August 27, 2010, which also authorized RO Laggui and GS Laguerta to examine its books of accounts and other accounting records *'<u>for all internal revenue taxes</u> for the period of January 1,*

2009 to December 31, 2009 pursuant to regular audit program for 2010'.

On May 11, 2011, petitioner received the First Notice for Presentation of Records bearing the same date, requesting for the presentation of books of accounts and other related accounting records.

On August 19, 2011, petitioner received the Final Notice for Presentation of Books of Accounts and Other Accounting Records, dated August 16, 2011, informing petitioner that failure to submit and/or present the required documents within ten (10) days from receipt thereof, may compel the issuance of a *Subpoena Duces Tecum*.

On September 1, 2011, RO Laggui received from petitioner the following 2009 documents: 1) Annual Registration Fee Return; 2) Latest General Information Sheet; 3) Annual Income Tax Return; 4) Certificates of Creditable Withholding Taxes; 5) Quarterly Income Tax Return; 6) VAT Return; 7) Monthly Remittance of Tax Withheld at Source; 8) Monthly Remittance of Tax Withheld - Wages; 9) Annual Information Return - w/tax at source; 10) Annual Information Return & Alphalist - wages; and 11) Schedule of Taxes, Permits & Licenses.

There being no action on petitioner's application for tax credit/refund filed on May 24, 2010, petitioner filed the instant Petition for Review on April 13, 2012.

On May 4, 2012, respondent filed, by registered mail, a Motion for Extension of Time to File Answer, which was granted by the Court in its Order dated May 15, 2012.

On May 11, 2012 and through registered mail, respondent filed her Answer, raising the following Special and Affirmative Defenses:

> 3. [He] reiterates, restates, and repleads the preceding paragraphs of this Answer as part of [his] *(sic)* Special and Affirmative Defenses.
>
> 4. Petitioner's claim for refund is still subject to the administrative routinary investigation/examination by the respondent's Bureau;

5. Taxes paid and collected are presumed to have been made in accordance with law and implementing regulations, hence, not refundable.

6. Petitioner's claim for refund/issuance of tax credit in the amount of Php1,735,583.24 as alleged unutilized creditable income taxes withheld for the taxable year 2009 were not fully substantiated by proper documentary evidence such as, but not limited to certificates of income taxes withheld at source and other required tax returns.

7. Petitioner failed to prove that the amount of Php1,735,583.24, as alleged unutilized creditable income taxes withheld for taxable year 2009 was included as part of its gross income for taxable year 2009 and the same was not utilized in payment of its income tax liability for the succeeding taxable quarters/years[.]

8. Petitioner has already exercised its option to carry-over to the succeeding taxable quarters/years the subject of its claim, pursuant to Section 76 of the 1997 Tax Code.

9. Petitioner failed to prove that the amount subject of its claim was remitted in full to the BIR.

10. Petitioner failed to comply with the requirements prescribed under Section 76 of the 1997 Tax Code.

11. It is incumbent upon the latter to show that it has complied with the provisions under Sections 204 in relation to Section 230 (now 229) of the Tax Code. Otherwise, its failure to prove the same is fatal to its claim for refund.

12. Claims for refund are construed strictly against herein petitioner for the same partakes 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).*

On July 9, 2012, the parties, through their respective counsels, filed their Joint Stipulation of Facts and Issues ('JSFI').

On August 6, 2012, a Pre-Trial Order was issued by the Court terminating pre-trial and setting the date/s for the presentation of evidence by the parties.

During trial, petitioner presented the Judicial Affidavits ('JA'), *in lieu* of direct testimony, of the following witnesses: (1) Ms. Maricel Rellosa, petitioner's Accounting Head; and (2) Mr. Arvin B. Francisco, petitioner's President.

On April 3, 2013, an Order was issued by the Court transferring the case to the Third Division, pursuant to CTA *Administrative Circular No. 01-2013*, thereby cancelling all previously set hearings until further orders from the Court.

On July 26, 2013, the parties, through their respective counsels filed a Joint Manifestation with Motion, praying that they be allowed to conduct the comparison and/or re-marking of petitioner's remaining Exhibits at respondent's office, which was granted by the Court in open court during the August 1, 2013 hearing.

On October 9, 2013 and through registered mail, petitioner filed a Motion for Extension of Time to File Formal Offer of Evidence ('FOE'), which was granted by the Court in its Order dated October 22, 2013.

On October 14, 2013, petitioner filed its FOE, which was resolved by the Court on January 6, 2014.

On June 27, 2014, and by registered mail, respondent filed her FOE, and on November 18, 2014, a Resolution was issued by the Court admitting respondent's exhibits.

On January 12, 2015, and by registered mail, respondent filed a Manifestation and Motion, stating that she is adopting all her arguments (factual and legal) found in the special and affirmative defenses of her Answer dated May 10, 2012, including the purposes for which all the documentary evidence of respondent were formally offered and admitted by the Court, as part of her Memorandum.

On January 20, 2015, petitioner filed its Memorandum by registered mail.

On February 5, 2015, a Resolution was issued by the Court submitting the case for decision, hence, this Decision."

On February 1, 2016, the CTA-Third Division promulgated the Assailed Decision partially granting petitioner's (now respondent) Petition for Review. Accordingly, respondent (now petitioner) was ordered to issue a tax credit certificate in favor of respondent in the amount of ₱1,464,346.14.

Both parties moved for reconsideration of the Assailed Decision. Petitioner filed, by registered mail, his Motion for Partial Reconsideration on February 29, 2016, with respondent's Comment (To Motion for Partial Reconsideration) filed on March 21, 2016. Respondent, on the other hand, filed its Motion for Partial Reconsideration on February 29, 2016, with petitioner's Comment/Opposition filed, by registered mail, on March 22, 2016.

On June 22, 2016, the CTA-Third Division promulgated an Amended Decision denying petitioner's Motion for Partial Reconsideration and granting respondent's Motion for Partial Reconsideration. Thus, the Assailed Decision was modified and petitioner was ordered to refund or to issue a tax credit certificate in favor of respondent in the amount of ₱1,735,583.24.

On July 11, 2016, petitioner filed a Motion for Extension of Time to File Petition for Review praying for an extension of fifteen (15) days from July 12, 2016, or until July 27, 2016, within which to file his Petition for Review with this Court.

On July 14, 2016, the Court *En Banc* resolved to grant petitioner's Motion for Extension of Time to File Petition for Review. Thus, on July 27, 2016, petitioner filed the instant Petition for Review.

On August 15, 2016, the Court *En Banc* promulgated a Resolution[1] ordering respondent to file its Comment to the Petition for Review. Thus, on September 13, 2016, respondent filed its Comment/Opposition[2] to petitioner's Petition for Review.

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[1] En Banc Docket, pp. 65-66.
[2] *Ibid*, pp. 67-90.

The case was, thereafter, submitted for decision per the Court *En Banc*'s Resolution[3] dated September 26, 2016.

Hence, this Decision.

Petitioner, in the instant Petition for Review, contends that the CTA-Third Division erred in holding that respondent is entitled to its claim for refund/tax credit in the full amount of ₱1,735,583.24, representing its unutilized and excess creditable withholding tax (CWT) for calendar year 2009.

Petitioner argues that, contrary to the Court in Division's finding in the Assailed Amended Decision dated June 22, 2016, his Motion for Reconsideration dated February 26, 2016, was timely filed, thru registered mail, on February 29, 2016, at the Makati Central Post Office, Makati City. The mailing date, as shown in the original copy of Registry Receipt No. 34631 (Registered Letter No. AC200898235ZZ) or Certification dated July 22, 2016, issued by the Chief Records Unit of the Makati Central Post Office, Makati City, shall be considered as the date of filing or deposit thereof in Court pursuant to the ruling of the Supreme Court in the case of Barcelona, Roxas Securities, Inc. (now known as UBP Securities, Inc.) vs. Commissioner of Internal Revenue[4].

Petitioner further posits that the absence of any entry in the "Creditable Tax Withholding" column in respondent's 2009 Annual Income Tax Return would mean that no part of the gross income reported therein were ever subjected by respondent to creditable withholding tax; thus, the supposed income payments to which taxes were withheld - the subject of the present claim - cannot be said to have been declared as part of the gross income of respondent in its 2009 ITR. Moreover, petitioner, likewise, claims that respondent evidently failed to comply with the requirements under Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 2-2006, on the claim for refund of excess/unutilized creditable income taxes withheld for taxable year 2009.

Petitioner, finally posits that respondent's documentary exhibits consisting of Certificate of Creditable Withholding Tax at Source (i.e. BIR Forms 2307) marked as Exhibits "L-1" to "L-66" are inadmissible in

[3] *Id.*, p-487.
[4] G.R. No. 157064, August 7, 2006.

evidence for being hearsay; and, that respondent's instant claim for refund should be construed *strictissimi juris* against it.

Respondent, on the other hand, contends that it indicated the creditable taxes withheld for the year 2009 in its 2009 Annual Income Tax Return for the same taxable year; that, respondent complied with the requirements to support its claim for refund of unutilized creditable taxes withheld for the year 2009; that, respondent is not required to submit proof of remittance of the withheld creditable tax to the BIR; and, that, there is no basis for petitioner's claim that the withholding tax certificates submitted by respondent should have been denied admission.

After a careful evaluation and consideration of the arguments of both parties and the records of the case, We find no merit in petitioner's Petition for Review.

As borne by the records of the case, it appears that petitioner failed to timely file a motion for reconsideration of the Amended Decision dated June 22, 2016 with the CTA-Third Division prior to the filing of the instant Petition for Review before the Court *En Banc*. The Amended Decision, thus, has already attained finality following the ruling of the Supreme Court in the recent decision of Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue/Commissioner of Internal Revenue vs. Asiatrust Development Bank, Inc.[5] (Asiatrust case) where the Supreme Court ruled in this wise, viz:

> **"G.R. No. 201680-81**
>
> **An appeal to the CTA En Banc must be preceded by the filing of a timely motion for reconsideration or new trial with the CTA Division.**
>
> Section 1, Rule 8 of the Revised Rules of the CTA states:
>
> > SECTION 1. *Review of cases in the Court en banc.* - In cases falling under the exclusive

[5] Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue, G.R. No. 201530, April 19, 2017/Commissioner of Internal Revenue vs. Asiatrust Development Bank, Inc., G.R. No. 201680-81, April 19, 2017.

appellate jurisdiction of the Court en banc, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.

Thus, in order for the CTA *En Banc* to take cognizance of an appeal via a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word 'must' indicates that the filing of a prior motion is mandatory, and not merely directory.

The same is true in the case of an amended decision. Section 3, Rule 14 of the same rules defines an amended decision as '[a]ny action modifying or reversing a decision of the Court en banc or in Division'. As explained in *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration.

In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA *En Banc*. Thus, the CTA *En Banc* did not err in denying the CIR's appeal on procedural grounds.

<u>Due to this procedural lapse, the Amended Decision has attained finality insofar as the CIR is concerned. The CIR, therefore, may no longer question the merits of the case before this Court</u>. Accordingly, there is no reason for the Court to discuss the other issues raised by the CIR. (Underscoring ours)

As the Court has often held, procedural rules exist to be followed, not to be trifled with, and thus, may be relaxed only for the most persuasive reasons."

As the Asiatrust case is on all fours with the Petition for Review now before Us, this Court has no recourse except to uphold and apply the ruling therein. The Supreme Court, being the final arbiter of any justiciable controversy[6], has the last word on what the law is. And there is only one Supreme Court from whose decision all other courts should take their hearings.[7]

WHEREFORE, premises considered, petitioner's Petition for Review is hereby **DENIED** for lack of merit.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

(With Dissenting Opinion)
MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

[6] Commissioner of Internal Revenue vs. Michael J. Lhuillier Pawnshop, Inc., G.R. No. 150947, July 15, 2003.
[7] GSIS vs. Court of Appeals, G.R. No. 101632, January 13, 1997.

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.

ROMAN G. DEL ROSARIO
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 1481** (CTA Case No. 8468)
- versus -	Members: **DEL ROSARIO,** *P.J.,* **CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, FABON-VICTORINO, MINDARO-GRULLA, RINGPIS-LIBAN,** *and* **MANAHAN,** *JJ.*
RCD REALTY MARKETING CORPORATION, Respondent.	Promulgated: AUG 04 2017 3:52 p.m.

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DISSENTING OPINION

RINGPIS-LIBAN, *J.*:

With due respect, I dissent from the majority decision which ordered the outright dismissal the instant Petition for Review for failure by Petitioner to seek any reconsideration of the Amended Decision dated June 22, 2016 (assailed Amended Decision). For the orderly administration of justice, I maintain my position that the ruling laid down by the Supreme Court in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*[1] should only be applied in instances of similar factual milieu. This is obviously not the case here.

On this score, I adopt my Concurring Opinion in *Philam Properties Corporation V. Commissioner of Internal Revenue*[2], which expound on why *Asiatrust* should not be applied in each and every case, as dictated by sound procedural rules. The relevant portions are quoted below:

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[1] G.R. Nos. 201530 & 201680-81, April 19, 2017.

[2] CTA EB NO. 1406, July 07, 2017.

Before the Court *En Banc* could take cognizance of a Petition for Review concerning a case falling under its exclusive appellate jurisdiction, the litigant must sufficiently show that it sought prior reconsideration or moved for a new trial with the concerned division, following Section 1, Rule 8 of the Revised Rules of the Court of Tax Appeals. This has always been the rule, and it still is.

Said section provides, to wit:

> **"RULE 8**
> **PROCEDURE IN CIVIL CASES**
>
> **SECTION 1.** *Review of cases in the Court en banc.* – In cases falling under the exclusive appellate jurisdiction of the Court en banc, the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division. (n)"

On July 13, 2015, the Third Division (court in Division) promulgated a Decision denying Philam's claim for refund or issuance of a tax credit certificate for insufficiency of evidence...

xxx xxx xxx

On August 04, 2015, Philam filed a Motion for Reconsideration alleging that its claim was fully substantiated.

On December 03, 2015, the court in Division issued an Amended Decision partially granting Philam's Motion for Reconsideration and ordering the Commissioner of Internal Revenue (CIR) to issue a tax credit certificate in the amount of Php612,287.61.

Thereafter, the CIR filed a Motion for Reconsideration on the Amended Decision, which was denied by the court in Division in a Resolution. Subsequently, Philam filed the instant Petition with this Court.

Hence, as borne by the records of the case, it is very clear that Philam already sought prior reconsideration with the court in Division before it filed a Petition for Review with the Court *En*

Banc. The mandatory requirement under Section 1 of Rule 8 of the Revised Rules of the Court of Tax Appeals was already complied with.

I am not unaware of the recent pronouncement of the Supreme Court in *Asiatrust Development Bank, Inc. v. Commissioner of Internal Revenue*. However, I humbly stress and emphasize that the factual milieu of the said case differs significantly from the case at bar. *Asiatrust* is not on all fours with the instant case and should not be applied to the same.

At first glance, the facts of *Asiatrust* and this case may seem similar for in both cases, an amended decision was promulgated by the court in division partially granting the motion for reconsideration to the original decision. A perusal of the case however discloses that prior to the issuance of the amended decision, the court set a hearing for the presentation of the originals of the documents attached to Asiatrust's motion for reconsideration, documentary exhibits were presented and marked, a witness was recalled, and a supplemental formal offer of evidence was filed. Otherwise stated, a formal hearing was held which became the foundation of the amended decision in *Asiatrust*. Therefore, it is only proper that the Commissioner of Internal Revenue in *Asiatrust* file a motion for reconsideration to the amended decision as to the findings made by the Court in division during the hearing.

In contrast with the case at bar, the only basis for the court in Division's Amended Decision dated December 03, 2015 was Philam's Motion for Reconsideration dated August 04, 2015. No hearing was set nor additional evidence presented.

Moreover, to insist that Philam file a motion for reconsideration of the Amended Decision would only force Philam to reiterate its argument in its Motion for Reconsideration to the original decision, *i.e.,* that its claim for refund was fully substantiated, which was already passed upon and resolved by the court in Division in its Amended Decision.

Otherwise stated, to apply the rule in *Asiatrust* to include all situations involving issuance of an Amended Decision despite the fact that the issues to be raised in the "second motion for reconsideration" were already included in the motion for reconsideration filed and passed upon by the court when it promulgated the Amended Decision would set a dangerous and mischievous precedent. A second motion for reconsideration which contains mere iterations and reiterations of the same points and arguments over and over again becomes, in effect, a mere dilatory strategy and consequently nothing more than pro forma.

To reiterate, the use of precedents should not be mechanical. Application of a particular doctrine is appropriate only in cases involving similar facts. When the facts vary, one should analyze and re-examine if the same doctrine would still apply. As aptly put by the Supreme Court in *Philippine Carpet Manufacturing v. Ignacio B. Tagyamon*:

> "Under the doctrine of stare decisis, when a court has laid down a principle of law as applicable to a certain state of facts, it will adhere to that principle and apply it to all future cases in which the facts are substantially the same, even though the parties may be different. Where the facts are essentially different, however, stare decisis does not apply, for a perfectly sound principle as applied to one set of facts might be entirely inappropriate when a factual variant is introduced. (Emphasis supplied)"

Similar to *Philam*, Petitioner herein timely filed a Motion Partial for Reconsideration to the Decision dated February 01, 2016 (assailed Decision), on February 29, 2016 *via* registered mail.[3] Second, the only basis for the court in Division's assailed Amended Decision was Respondent's Motion for Partial Reconsideration and Petitioner's Motion Partial for Reconsideration both filed on February 29, 2016. And third, no hearing was set nor additional evidence presented for the resolution of the parties' motions for reconsiderations. Hence, I am of the humble opinion that *Asiatrust* does not apply in this case, and that outright dismissal of the instant Petition for Review is unwarranted.

Having resolved the procedural issue, we shall now proceed to the merits of the case. After carefully perusing Petitioner's arguments in the instant Petition for Review, I find that the same had already been exhaustively discussed and resolved in the findings and conclusions of the court in Division in the assailed Decision and assailed Amended Decision. Thus, I sustain the ruling of the court in Division that Respondent is entitled to a refund or issuance of a tax credit certificate. However, I cannot disregard the fact that, after scrutiny of Exhibits "L-1" to "L-66", which were used in the computation of the total amount refunded to Respondent in the assailed Decision and assailed Amended Decision, I have noted that some exhibits which were denied admission thereon were nevertheless considered by the court in Division.

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3 Petitioner received a copy of the Decision on February 12, 2016. Hence, he had until February 29, 2016 within which to file his Motion for Reconsideration, as February 27, 2016 falls on a Saturday; Docket, p. 4723 and 4763.

Per Resolutions dated January 06, 2014[4] and April 29, 2014[5], the following exhibits were denied admission:

Exhibits	Amount of Tax Withheld
Exhibit "L-10"	Php 8,446.38
Exhibit "L-29"	3,248.44
Exhibit "L-30"	136,902.84
Exhibit "L-31"	5,731.70
Exhibit "L-57"	382.66
Exhibit "L-59"	942.16
TOTAL	**Php 155,654.18**

Thus, said exhibits should not have been considered by the court in Division in the determination of the amount refundable to Respondent. Php155,654.18 should be deducted from the total amount granted by the court in Division in the assailed Amended Decision, computed as follows:

Total Creditable Withholding Taxes	Php	3,059,404.23
Less: Income Tax Due		(1,323,820.99)
Subtotal: Adjusted Substantiated Unutilized Creditable Witholding Taxes per Assailed Amended Decision		1,735,583.24
Less: Exhibits Denied Admission by Court (see previous table)		*(155,654.18)*
Adjusted Unutilized Creditable Witholding Taxes	**Php**	**1,579,929.06**

In view of the foregoing, I vote for the **PARTIAL GRANT** of the instant Petition for Review. Accordingly, the Commissioner of Internal Revenue should be ordered to refund or issue a Tax Credit Certificate (TCC) in favor of Respondent in the reduced amount of Php1,579,929.06 representing its unutilized and excess creditable withholding tax for calendar year 2009.

Ma. Belen S.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

4 Docket, pp. 4363-4366.
5 *Id.*, pp. 4450-4457.