**REPUBLIC OF THE PHILIPPINES**
**COURT OF TAX APPEALS**
**QUEZON CITY**

***FIRST DIVISION***

**MAGSAYSAY LINES, INC., for and its own behalf; MAGSAYSAY LINES, INC., for and in behalf of FIM LIMITED OF THE MARDEN GROUP (HK); and, MAGSAYSAY LINES, INC., as the assignee of BALIWAG NAVIGATION, INC.**
*Petitioner,*

*-versus-*

**COMMISSIONER OF INTERNAL REVENUE,**
*Respondent.*

**CTA Case No. 9352**

Members:

**DEL ROSARIO**, *P.J., Chairperson,*
**FABON-VICTORINO**, *and*
**MANAHAN**, *JJ.*

Promulgated:

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# DECISION

***MANAHAN, J.:***

This case involves a Petition for Revival of Judgement seeking the revival of judgment of this Court's decision promulgated on April 27, 1992 and docketed as CTA Case No. 4353 entitled *Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company vs. Commissioner of Internal Revenue* which was affirmed by the Supreme Court in the case entitled *Commissioner of Internal Revenue vs. Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company.*[1]

[1] G.R. No. 146984, July 28, 2006.

## THE PARTIES

Petitioner Magsaysay Lines, Inc., for and in its own behalf and on behalf of FIM Limited of the Marden Group (HK) and Baliwag Navigation, Inc., (hereinafter collectively referred to as petitioner) is a corporation duly organized and existing under Philippine laws with principal office address at No. 520 T.M. Kalaw Street, Ermita, Manila.

Respondent is the duly appointed Commissioner of Internal Revenue (CIR) who holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

## THE FACTS

A narration of the historical antecedents of the case leading to the decision of the Supreme Court in the case of *Commissioner of Internal Revenue vs. Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company,* is proper to give us a clear grasp of the objective behind the filing of the Petition For Revival of Judgement filed by petitioner. For this purpose, we find it appropriate to quote portions of the decision (sought to be revived) of the Court of Tax Appeals (CTA) in CTA Case No. 4353 promulgated on April 27, 1992, thus:

> "Petitioners Magsaysay Lines, Inc. and Baliwag Navigation, Inc. are domestic corporations organized and existing under Philippine laws, while petitioner FIM Limited of the Marden Group (HK) is a corporation organized and existing under the laws of Liberia. The National Development Company (NDC), a 100% government-owned corporation, is impleaded as indispensable party petitioner in its capacity as the seller of subject vessels and in whose name and in its behalf the 10% VAT imposed in the said sale of said vessels were paid by petitioners Magsaysay Lines, Inc.; Baliwag Navigation Inc., and FIM Limited of the Marden Group (HK) as purchasers.
>
> During the period 1981 to 1984, NDC contracted with the Philippine Dockyard Corporation, the construction of five (5) 3,700 DWT Tween-Decker, "Kloeckner" type vessels. They were then leased on a bareboat basis to Luzon Stevedoring Company, a wholly owned subsidiary. These vessels were subsequently transferred and leased, on a bareboat basis, to the National Marine Corporation (NMC) another 100% fully owned subsidiary of NDC (Exh. P).

In line with the privatization efforts of the government, the NDC offered for sale as one lot and by the public bidding all of its shares of stock in NMC and five (5) NDC-owned "Kloeckner" vessels operated by NMC . The terms and conditions for the public auction sale of said shares of stock and vessels are contained in a "Information Memorandum" (Exhibit B)

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The bidding was held on June 3, 1988. On that same date, petitioner Magsaysay Lines, Inc., for an in behalf of a new company still to be formed, offered to buy all of NDC's shares in NMC and the 5 vessels for P168,000,000.00. The new company to be formed will be composed of: Magsaysay Lines, Inc.; Baliwag Navigation, Inc., and FIM Limited of the Marden Group (HK) with a 30:30:40 ratio shareholdings respectively (Exh C). An irrevocable Standby Letter of Credit with the EO-DOM-STY 11327 was submitted in favor of NDC to the extent of P16,800,000.00 to cover at least 10% of the total bid (Exh D).

In a "Notice of Award" dated July 1, 1988, NDC informed petitioner Magsaysay Lines, Inc. that its bid was approved by the Committee on Privatization (COP) in its meeting held on June 9, 1988 xxx xxx.

In the meantime, the law office of Sycip Salazar Hernandez and Gatmaitan in a letter dated September 27, 1988 requested respondent to issue a ruling on the applicability of the VAT on the sale of assets by NDC which, under the terms and conditions of the sale, the winning bidder, petitioners herein, will pay instead of the seller (NDC) (Exh F). Petitioners believe that the sale of said vessels should not be subject to the VAT.

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On January 4, 1989, petitioners received through the same law office, VAT Ruling No. 568-88 dated December 14, 1988 (Exh. R). The pertinent portion of the ruling states:

"In reply, please be informed that since NDC is VAT registered under VAT Registration No. 35-2-000880 on its sale of services, its transactions incident to its normal VAT registered activity of leasing out personal property including sale of its own assets that are movable tangible objects which are appropriable or transferable are subject to the 10% value-added tax. This finds support in VAT Ruling No. 395-88."

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Petitioners moved for the reconsideration of VAT Ruling Nos. 395-88 and 568-88. On March 10, 1989, petitioner received VAT Ruling No. 007-89 dated February 24, 1989 reiterating respondent's decision in VAT Ruling Nos. 395-88 and 568-88

> that the sale of vessels by NDC ( a VAT-registered taxpayer engaged in the leasing of said vessels is subject to VAT.
>
> Petitioner Magsaysay Lines, Inc. requested for reconsideration of VAT Ruling Nos. 007-89. Meantime, instead of joining the request, NDC insisted on drawing the Letter of Credit filed by petitioner (Magsaysay Lines, Inc.) to pay the VAT on the sales transaction. The VAT of P15,120,000.00 was paid on March 16, 1989 as evidenced by a Central Bank Confirmation Receipt No. B 16374703 (Exh T).
>
> Without waiting for respondent's decision on the request for reconsideration of VAT Ruling No. 007-89, petitioners filed herein "Appeal and Petition for Refund" on April 10, 1989 and a "Supplemental Petition for Review" on July 14, 1989 praying for the reversal of VAT Ruling Nos. 395-88, 568-88 and 007-89 and the refund of VAT payment amounting to P15,120,000.00. Petitioners filed their claim for refund with respondent on July 13, 1989.
>
> The only issue before this Court is whether or not the sale by NDC of its vessels to petitioners is subject to the 10% VAT."

In the afore-quoted case, the CTA ruled in favor of petitioner Magsaysay Lines, Inc. and set aside VAT Ruling Nos. 395-88; 568-88 and 007-89 and consequently canceled the Assessment Notice of the Acting Commissioner of Internal Revenue for Collection, and we quote:

> "**WHEREFORE**, finding the petition for review to be meritorious, the same is **GRANTED.** Respondent's VAT Ruling Nos. 395-88; 568-88 and 007-89 are set aside. The Assessment Notice of the Acting Commissioner for Collection dated June 29, 1989, assessing petitioners for the payment of interest totalling P734,534.89, is hereby CANCELLED as the same was issued without legal basis.
>
> **ACCORDINGLY,** respondent Commissioner of Internal Revenue is ordered to refund in favor of petitioners Magsaysay Lines, Inc.; Baliwag Navigation, Inc., and FIM Limited of the Marden Group (HK) for and in behalf of the National Development Corporation the VAT paid amounting to P15,120,000.00 under Confirmation Receipt No. B 16374703 dated March 16, 1989.
>
> Without pronouncement as to costs.
>
> **SO ORDERED."**

Respondent CIR filed a Motion for Reconsideration of the aforequoted CTA decision in CTA Case No. 4353 which was denied by the Court in a Resolution dated December 9, 1992.

Consequently, the CIR filed a Petition for Review with the Court of Appeals entitled *Commissioner of Internal Revenue vs. Court of Tax Appeals, Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company* docketed as CA-G.R. SP No. 299994. In his Petition for Review, the CIR sought the setting aside of the decision in CTA Case No. 4353.

In a decision dated March 11, 1997, the Court of Appeals reversed the decision of the CTA in CTA Case No. 4353 and ruled in favor of the CIR. Upon a Motion for Reconsideration filed by Magsaysay Lines, Inc., however, the Court Appeals reconsidered its Decision dated March 11, 1997 and ruled against the CIR in a Resolution dated February 5, 2001.

The CIR then filed a Petition for Review with the Supreme Court entitled *Commissioner of Internal Revenue vs. Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company* and docketed as G.R. No. 146984.

On July 28, 2006, the Supreme Court rendered a decision in the cited case which denied the Petition for Review filed by the CIR. We quote pertinent portions of the decision of the Supreme Court, thus:

> "Accordingly, the Court rules that given the undisputed finding that the transaction in question was not made in the course of trade or business of the seller, NDC that is, the sale is not subject to VAT pursuant to Section 99 of the Tax Code, no matter how the said sale may hew to those transactions deemed sale as defined under Section 100.
>
> In any event, even if Section 100 or Section 4 of R.R. No. 5-87 were to find application in this case, the Court finds the discussions offered on this point by the CTA and the Court of Appeals (in its subsequent Resolution) essentially correct. Section 4 (E) (i) of R.R. No. 5-87 does classify as among the transactions deemed sale those involving "change of ownership of business." However, Section 4 (E) of R.R. No. 5-87, reflecting Section 100 of the Tax Code, clarifies that such "change of ownership" is only an amending circumstance to "retirement from or cessation of business, with respect to all goods on hand as of the date of such retirement or cessation." Indeed Section 4 (E) of R.R. No. 5-87 expressly characterizes the "change of membership of business" as only a "circumstance" that attends those transactions "deemed sale", which are otherwise stated in the same section.

**WHEREFORE**, the petition is **DENIED**. No costs.

**SO ORDERED."**

The Supreme Court issued an Entry of Judgment[2] stating that the decision rendered in the afore-quoted case became final and executory on September 21, 2006.

On May 17, 2016, petitioner filed with the CTA, the instant Petition for Revival of Judgement.[3]

On August 31, 2016, respondent posted his Answer to the Petition and by way of Special and Affirmative Defenses alleged the following:

1. The instant Petition must be supported by concrete evidence to justify all the averments therein;
2. All the parties in interest are indispensable parties who should file the present action;

On November 23, 2016, respondent filed his Pre-Trial Brief while petitioner filed its Pre-Trial Brief on November 25, 2016.

During the pre-trial held on December 1, 2016, the Court noted that the authority granted to petitioner's counsel is confined to the proceedings in the Supreme Court and did not include the authority to appear before the CTA. Instead of dismissing the case, the Court opted to give counsel of respondent, Atty. Mendoza, five (5) days from date of hearing within which to file the appropriate motion in relation to the requirements of the Rules of Court on the Verification and Certification of Non-Forum Shopping. The Court likewise gave petitioner's counsel the same period of 5 days (from receipt) within which to file his comment or opposition thereto.[4]

On December 5, 2016, respondent filed a Motion to Dismiss seeking the dismissal of the Petition for Revival of Judgement on the ground that the Secretary's Certificate and the Verification and Certification of Non-Forum Shopping attached to the Petition, are defective.

Respondent alleges that the Secretary's Certificate only provides for the authority of counsels to represent petitioner in the Supreme Court and not the CTA. Further, the Secretary's

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[2] Exhibit "P-9", Court Docket, page 686.
[3] Court Docket, pp.10-16.
[4] Order dated December 1, 2016, Court Docket, pp. 240-241. a

Certificate limits the authority of the Corporate Secretary of Magsaysay Lines, Inc., Carmine Eliza T. Serrano to sign documents on behalf of petitioner including the Verification and Certification against Forum Shopping only with the Supreme Court. Respondent then concludes that the Corporate Secretary, Carmine Eliza T. Serrano who signed the Verification and Certification against Forum Shopping attached to the Petition for Revival of Judgement (filed with the CTA) did not have the requisite authority to do so, rendering the said document invalid.

Respondent also observed that the Secretary's Certificate did not particularly provide the names of the lawyers and/or partners of the law firm authorized to sign and execute the pleading on behalf of petitioner which likewise renders the Secretary's Certificate defective.

Respondent asserts that a Petition for Revival of Judgement with a defective Secretary's Certificate resulting to a defective Verification and Certification against Non-Forum Shopping has no legal effect and must be dismissed pursuant to Section 1, Rule 16 of the Revised Rules of Court. Respondent further asseverates that since the Petition for Revival of Judgement has no legal effect and is considered as not having been filed, the action to revive the judgment is now barred by the statute of limitations.

In its *Motion and Manifestation* filed on December 9, 2016, petitioner attached Annexes "A" and "B", described as follows:

1. A Secretary's Certificate clarifying that the authority stated in the original Secretary's Certificate included the authority to file the Petition for Revival of Judgement with the Court of Tax Appeals;
2. Special Power of Attorney authorizing the undersigned counsel of the law firm to appear in the case filed with the Court of Tax Appeals.

In a Resolution dated February 20, 2017,[5] the Court took note of the *Motion and Manifestation* filed by petitioner and denied the Motion to Dismiss filed by respondent for lack of merit. In this same Resolution, the Court ordered the petitioner to submit the original or certified true copy of any document that would establish that FIM Limited authorized Magsaysay Lines, Inc. to represent it before the Court.

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[5] Court Docket, pp. 303-310.

The pre-trial conference was held on June 1, 2017.

On June 19, 2017, petitioner filed a Motion for Leave of Court to File Amended Petition for Revival of Judgement for the sole purpose of including Baliwag Navigation, Inc. and FIM Limited of the Marden Group (HK) as "Parties-Petitioners" to the instant case. This was a result of petitioner receiving a Secretary's Certificate showing that FIM Limited of the Harden Group (HK) authorized Magsaysay Lines, Inc. to file the Petition for Revival of Judgement. Similarly, it received a Deed of Assignment issued by Baliwag Navigation, Inc. relating to its shareholdings in Magsaysay Lines, Inc.

Petitioner also attached an Amended Petition for Revival of Judgment with the Motion for Leave of Court to File Amended Petition for Revival of Judgement.

Respondent filed its Opposition Re: Petitioner's Motion for Leave of Court to File Amended Petition for Revival of Judgement on July 20, 2017 on the ground that the Amended Petition supersedes the pleading that it amends, hence, it is already barred by prescription.

In a Resolution dated August 25, 2017,[6] the Court granted petitioner's *Motion for Leave of Court to File Amended Petition for Revival of Judgement* with attached *Amended Petition for Revival of Judgment* and dismissed respondent's arguments as being bereft of merit, and we quote:

> "To reiterate, petitioner's sole purpose in amending the Original Petition is simply to include Baliwag Navigation, Inc., and FIM Limited of the Marden Group (HK) as named parties-petitioners in the case, who after all have been identified as parties represented by petitioner in the Original Petition with regard to their share in the amount sought to be refunded. Clearly, since the Amended Petition does not introduce an entirely new or different cause of action, the filing of the Amended Petition retroacts to the date of filing of the Original Petition. In fine, the Amended Petition is deemed filed within the ten-year period for instituting an action to enforce a judgment which has become final and executory.
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> On the basis of the foregoing, the Court finds no justifiable ground to deny petitioner's Motion for Leave of Court to File Amended Petition for Revival of Judgement and not to admit the attached Amended Petition for Revival of Judgement.

[6] Court Docket, pp.436-440.

Respondent filed a Motion for Reconsideration of the aforequoted Resolution dated August 27, 2017 which was denied by the Court in a Resolution dated October 27, 2017.[7]

The Amended Petition for Revival of Judgement is now entitled *Magsaysay Lines, Inc., for and its own behalf; Magsaysay Lines, Inc., for and in behalf of FIM Limited of the Marden Group (HK); and Magsaysay Lines, Inc. as the assignee of Baliwag Navigation, Inc. vs. CIR.*

Respondent filed an Amended Answer *Ex Abundanti Ad Cautelam* to the Amended Petition for Revival of Judgment on December 20, 2017.

Respondent then filed a Pre-Trial Brief on February 26, 2018 while petitioner filed a Pre-Trial Brief on March 2, 2018.

The parties filed their Joint Stipulations of Facts and Issues (JSFI) on June 19, 2018 which was approved by the Court on July 4, 2018. Thereafter, a Pre-Trial Order was issued by the Court on July 30, 2018.

The case was submitted for decision on November 21, 2018 with the submission of petitioner's Memorandum on October 22, 2018 and respondent's Memorandum on November 13, 2018.

## THE ISSUE

The sole issue to be resolved is whether or not petitioner is entitled to a "revival of judgment" in the instant case. [8]

### Petitioner's Arguments

Petitioner initially cites Section 6 of Rule 39 of the Revised Rules of Court as its legal basis for the revival of judgement of the CTA's decision in CTA Case No. 4353 dated April 27, 1992. Petitioner submits that after the expiration of five (5) years from the date of the judgment or decision and before it is barred by the statute of limitations, a judgement or decision may be enforced by an independent civil action. Further, it avers that the New Civil Code (NCC) provides that actions upon a judgement must be brought within ten (10) years from the time

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[7] Court Docket, pp. 460-462.

[8] JSFI, Court Docket, pp. 598-600.

the right of action accrues commencing from the time the judgment becomes final. Petitioner submits that an action to revive prescribes in ten (10) years counted from the date the judgment or decision becomes final or from the date of entry of the same. Hence, with the finality of the decision of the Supreme Court on September 21, 2006 affirming the CTA Decision in CTA Case No. 4353, as appearing in the Book of Entries of Judgments, and owing to the fact that the CTA Decision dated April 27, 1992 has not yet been executed up to this time, the latter decision becomes a mere right of action and the prevailing party may file an action for revival of judgment. Petitioner states that counted from September 21, 2006, the Petition for Revival of Judgement filed on May 17, 2016 is within the ten-year period and must be granted by the Court.

Petitioner also mentions that by offering in evidence the Secretary's Certificate of FIM Limited of the Harden Group (HK) and the Deed of Assignment executed by Baliwag Navigation Inc., relating to the latter's share in Magsaysay Lines, Inc., the petitioner has the proper authority to initiate and file the instant Petition on their behalf.

**Respondent's Counter-Arguments**

In his Amended Answer *Ex Abundanti Ad Cautelam,* respondent maintains that the Court has no jurisdiction to take cognizance of the Petition for Revival of Judgement because it is already barred by prescription. Respondent illustrates his point by narrating the timeline of events: that the original Petition for Revival of Judgement was filed on May 17, 2016 and was subsequently amended and filed only on June 19, 2017. Since the Decision of the Supreme Court in G.R. No. 146984 attained finality on September 21, 2006, respondent alleges that the ten-year prescriptive period expired on September 21, 2016 and that the Amended Petition which was filed only on June 19, 2017 is barred by prescription. Respondent theorizes that the Amended Petition for Revival of Judgement superseded the original Petition for Revival of Judgement hence it is the filing date of the Amended Petition for Revival of Judgement which should be determinative of whether or not it was filed within the ten-year period. Respondent reasons that the amendment of the original Petition resulted not just in adding Baliwag Navigation, Inc. and FIM Limited of the Marden Group (HK) as parties-petitioners but also produced two new and distinct causes of action, one for Baliwag Navigation, Inc., and another for FIM Limited of the Marden Group (HK). Respondent cites Section 8 of Rule 10 of the Revised Rules of Court which provides that an amended pleading supersedes the pleading that it amends, hence the Amended Petition which was filed beyond the ten-year prescriptive period for revival of judgments should be dismissed as it is already time barred.

## THE RULING OF THE COURT

We find the Amended Petition for Revival of Judgment meritorious.

An action for revival of judgement is governed by paragraph 3 of Article 1144 and Article 1152 of the NCC in relation to Section 6 of Rule 39 of the Revised Rules of Court, all of which are quoted below:

> New Civil Code
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> "Article 1144. The following actions must be brought within ten (10) years from the time the right of action accrues:
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> (1) Upon a written contract;
>
> (2) Upon an obligation created by law;
>
> **(3) Upon a judgment."** (emphasis supplied)
>
> "Article 1152. The period for prescription of actions to demand the fulfillment of obligation declared by a judgment **commences from the time the judgment became final."** (emphasis supplied)
>
> Revised Rules of Court
>
> Rule 39
>
> "Sec. 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgement may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations."

The Supreme Court has time and again elaborated on the relationship of the foregoing provisions on the revival of judgments[9], and we quote:

> "An action for revival judgment is a procedural means of securing the execution of a previous judgment which has become dormant after the passage of five years without it being executed upon motion of the prevailing party. After the lapse of the five-year period, the judgment is reduced to a mere right of action, which judgment must be enforced, as all other ordinary actions, by the institution of a complaint in the regular form. **Such action must be filed within ten (10) years from the date the judgment has become final.**
>
> In concrete terms, the prevailing party, who for some reason or another, failed to move for execution within five years from the date of entry of the judgment, can file an action to have the judgment revived. The rule allowing the filing of an action within ten years from the date of entry merely gives substance to the Civil Code provisions on the prescription of an action upon a judgment." (emphasis supplied)

The Supreme Court has also stated that the purpose of prescribing time limitations for enforcing judgments by action is to prevent the prevailing parties from sleeping on their rights.[10]

In the instant case, the judgment sought to be revived became final and executory on September 21, 2006 as evidenced by the Entry of Judgment issued by the Deputy Clerk of Court and Chief of the Judicial Records Office of the Supreme Court, Teresita Dimaisip, certifying that the decision rendered by the Supreme Court in the case of *CIR vs. Magsaysay Lines, Inc., Baliwag Navigation, Inc., FIM Limited of the Marden Group (HK) and National Development Company* docketed as G.R. No. 146984 has become final and executory.[11] This Supreme Court Decision affirmed the decision of the CTA in CTA Case No. 4353. The Petition for Revival of Judgement was filed by petitioner with this Court on May 17, 2016 which is well within the ten-year prescriptive period provided by the aforequoted Article 1144 of the NCC.

Respondent's argument that the Amended Petition for Revival of Judgement filed on June 19, 2017 superseded the original Petition for Revival of Judgement filed on May 17, 2016, is bereft of merit and deserves scant consideration.

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[9] Funk vs. Santos Ventura Hocorma Foundation, Inc., G.R. No. 212346, July 7, 2016.
[10] Macias vs. Lim, G.R. No. 139284, June 4, 2004.
[11] Exhibit "P-9", Court Docket, page 686.

A careful perusal and comparison of the Amended Petition for Revival of Judgement with the original Petition for Revival of Judgment reveals that the only change or amendment done was to include Baliwag Navigation, Inc. and FIM Limited of the Marden Group (HK) as additional parties-petitioners. The Supreme Court has ruled that if an amended complaint does not introduce new issues, causes of actions, or demands, the suit is deemed to have commenced on the date the original complaint was filed, not on the date of the filing of the amended complaint. [12] In short, for purposes of determining the commencement of a suit, the original complaint is deemed abandoned and superseded by the amended complaint *only if the amended complaint introduces a new or different cause of action or demand.*[13] As explained earlier, the introduction of additional parties-petitioners does not result into a new or different cause of action but simply clarifies or identifies the proper parties who have the right to file the Petition for Revival of Judgement, they being the original parties in the cases decided by the Court of Tax Appeals,[14] the Court of Appeals[15] and finally by the Supreme Court.[16]

**WHEREFORE**, premises considered, the Amended Petition for Revival of Judgment is hereby **GRANTED.** Accordingly, the Decision rendered in CTA Case No. 4353 promulgated on April 27, 1992 is hereby **REVIVED** and the Commissioner of Internal Revenue is hereby **ORDERED TO REFUND** in favor of petitioner the VAT paid amounting to Php15,120,000.00 under Confirmation Receipt No. 1316374703 dated March 16, 1989.

**SO ORDERED.**

Catherine T. Manahan

**CATHERINE T. MANAHAN**
Associate Justice

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[12] Wilfredo P. Verzosa and Pilar Martinez vs. Court of Appeals, et.al., G.R. No. 119511, November 24, 1998.
[13] Id.
[14] CTA Case No. 4353.
[15] CA-G.R. SP No., 29994.
[16] G.R. No. 146984.

**WE CONCUR:**

**ROMAN G. DEL ROSARIO**
Presiding Justice

**ESPERANZA R. FABON-VICTORINO**
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.

**ROMAN G. DEL ROSARIO**
Presiding Justice