REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

ROYAL CARIBBEAN CRUISES LTD., doing business under the name RCL REGIONAL OPERATING HEADQUARTERS, *Petitioner,*	**CTA CASE NO. 10256** *Members*: **BACORRO-VILLENA,** *Acting Chairperson, and* **CUI-DAVID,** *JJ.*
-versus-	
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: NOV 07 2023 3:10 p.m.

x- -x

DECISION

CUI-DAVID, J.:

Before this Court is a *Petition for Review*[1] filed by petitioner Royal Caribbean Cruises Ltd. praying that the Court render judgment ordering respondent Commissioner of Internal Revenue (CIR) to release to petitioner the aggregate amount of ₱20,737,902.28 as tax refund representing erroneously paid 15% final withholding tax (FWT) for the year 2018.[2]

THE PARTIES

Petitioner is the regional operating headquarters (ROHQ) in the Philippines of Royal Caribbean Cruises Ltd., a multinational company organized and existing under the laws of Liberia. It was issued a License to Transact Business in the Philippines under SEC License No. FS201624326 issued by the Securities and Exchange Commission (SEC) on October 18, 2016, with its principal business address at 12/F Unit 1201-P,

---

[1] Docket – Vol. I, pp. 7-27.
[2] Pre-Trial Order dated July 9, 2021, Docket – Vol. I, p. 469.

Pacific Drive, Five E-com Center Building, Harbor Drive, Mall of Asia Complex, Pasay City.[3]

Respondent is the head of the Bureau of Internal Revenue (BIR), with office address at the Office of the CIR, BIR National Building, Quezon City, but may be served with summons, notices, and court processes at the Legal Division of Revenue Region 8B - South NCR located at the 2nd Floor, BIR Building, 313 Gil Puyat Avenue, Makati City.[4]

THE FACTS AND THE PROCEEDINGS

For the year 2018, petitioner paid the following FWT:

For the period of	Date of Payment	Amount
January 2018	February 9, 2018[5]	₱ 1,779,751.06
February 2018	March 12, 2018[6]	4,213,477.85
March 2018 (1st Quarter 2018)	April 30, 2018[7]	1,512,785.41
April 2018	May 10, 2018[8]	1,470,574.12
May 2018	June 11, 2018[9]	1,964,534.70
June 2018 (2nd Quarter 2018)	July 26, 2018[10]	1,417,274.21
July 2018	August 10, 2018[11]	1,586,445.56
August 2018	September 10, 2018[12]	1,636,384.67
September 2018 (3rd Quarter 2018)	October 29, 2018[13]	1,236,631.80
October 2018	November 12, 2018[14]	1,504,613.88
November 2018	December 10, 2018[15]	2,415,329.02
December 2018 (4th Quarter 2018)	January 31, 2019[16]	100.00
	TOTAL	**₱ 20,737,902.28**

hw

---

[3] Par. A (1), *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, pp. 403-404.
[4] Par. A (2), *Joint Stipulation of Facts and Issues* (JSFI), Docket – Vol. I, p. 404.
[5] Exhibit "P-4", Docket – Vol. II, pp. 556 to 558; and Exhibit "P-35".
[6] Exhibits "P-5" and "P-5-a", Docket – Vol. II, pp. 559-561; and Exhibit "P-36", USB marked as Exhibit "P-111".
[7] Exhibits "P-6" and "P-6-a", Docket – Vol. II, pp. 562-564; and Exhibit "P-37", USB marked as Exhibit "P-111".
[8] Exhibits "P-7" and "P-7-a", Docket – Vol. II, pp. 565-567; and Exhibit "P-38", USB marked as Exhibit "P-111".
[9] Exhibits "P-8" and "P-8-a", Docket – Vol. II, pp. 568-570; and Exhibit "P-39", USB marked as Exhibit "P-111".
[10] Exhibits "P-9" and "P-9-a", Docket – Vol. II, pp. 571-576; and Exhibit "P-40", USB marked as Exhibit "P-111".
[11] Exhibits "P-10" and "P-10-a", Docket – Vol. II, pp. 577-580; and Exhibit "P-41", USB marked as Exhibit "P-111".
[12] Exhibits "P-11" and "P-11-a", Docket – Vol. II, pp. 581-584; and Exhibit "P-42", USB marked as Exhibit "P-111".
[13] Exhibits "P-12" and "P-12-a", Docket – Vol. II, pp. 585-588; and Exhibit "P-43", USB marked as Exhibit "P-111".
[14] Exhibits "P-13" and "P-13-a", Docket – Vol. II, pp. 589-591; and Exhibit "P-44", USB marked as Exhibit "P-111".
[15] Exhibits "P-14" and "P-14-a", Docket – Vol. II, pp. 592-594; and Exhibit "P-45", USB marked as Exhibit "P-111".
[16] Exhibits "P-15" and "P-15-a", Docket – Vol. II, pp. 595-597; and Exhibit "P-46", USB marked as Exhibit "P-111".

On January 20, 2020, petitioner filed the letter dated January 15, 2020 with the BIR,[17] requesting a refund of the alleged erroneously paid FWT on its payment of the salaries and wages received by its qualified managerial employees in the aggregate amount of ₱20,737,902.28, for the period January 2018 to December 2018.

Petitioner then filed the present *Petition for Review* on February 7, 2020.[18] The case was initially raffled to this Court's Third Division.

On July 9, 2020, respondent filed a *Motion for Extension of Time to File Answer to the Petition for Review*,[19] which the Court granted in the Resolution dated July 23, 2020.[20] However, on August 19, 2020, respondent posted a *Second Motion for Extension of Time to File Answer*,[21] which the Court granted in the Resolution dated September 8, 2020.[22]

Respondent's *Answer* was posted on September 9, 2020,[23] interposing the following special and affirmative defenses:

(a) petitioner's claim is not a case of erroneously or illegally collected tax that falls within the purview of Section 229 of the NIRC since petitioner was fully aware of the situation when he made payments. Despite knowledge of the effectivity of RA 10963, petitioner still chose to pay the alleged 15% FWT. Clearly, this is not a case of erroneous payment referred to in Section 229 of the NIRC, but a voluntary act on the part of petitioner, with full knowledge of the situation and consequence thereof;

(b) petitioner failed to exhaust administrative remedies prior to the filing of the instant Petition for Review. Petitioner filed its administrative claim with the BIR only on January 20, 2020, which is just eighteen (18) days apart from the filing of the instant petition on February 7, 2020. As a result, petitioner appeared to have pursued an empty remedy and has effectively deprived respondent of the opportunity to ascertain the validity of the claim; and

hw

[17] Exhibits "P-30" and "P-30-a", Docket – Vol. II, pp. 675 to 693.
[18] *Supra*, note 1.
[19] Docket – Vol. I, pp. 145 to 147.
[20] Docket – Vol. I, p. 150.
[21] Docket – Vol. I, pp. 155 to 158.
[22] Docket – Vol. I, p. 164.
[23] Docket – Vol. I, pp. 165 to 173.

x---x

(c) even assuming for argument's sake that petitioner indeed made erroneous payments of the FWT, petitioner is still not entitled to tax refund in the amount of ₱20,737,902.28 because of failure to substantiate its claim. Submission of complete documents in support of the administrative claim for refund is a must, otherwise there could be no compliance with regard to the filing of administrative claim for tax credit/refund which is a condition sine qua non prior to the filing of a judicial claim.

On November 9, 2020, respondent transmitted the BIR Records of the case, consisting of 597 pages in one (1) folder.[24]

The Pre-Trial Conference was set and held on March 9, 2021,[25] wherein respondent's counsel manifested that she would not present evidence in this case. Prior thereto, petitioner's *Pre-Trial Brief* was filed on February 22, 2021,[26] while *Respondent's Pre-Trial Brief (with Attached Special Power of Attorney for Respondent)* was submitted on March 5, 2021.[27]

On May 17, 2021, the parties filed their *Joint Stipulation of Facts and Issues*,[28] which was admitted and approved by this Court in the Resolution dated May 28, 2021,[29] thereby deeming the termination of the Pre-Trial. The Court then issued the Pre-Trial Order dated July 9, 2021.[30]

As the trial ensued, petitioner presented its documentary and testimonial evidence. It offered the testimonies of the following individuals, namely: (1) Mr. Joven Lee Raymundo,[31] petitioner's Director of Accounting and Finance, and (2) Mr. Jerome Antonio B. Constantino,[32] the Court-commissioned Independent Certified Public Accountant (ICPA).[33]

The Report of the said ICPA was submitted on October 27, 2021.[34]

---

[24] *Compliance* dated September 9, 2020, Docket – Vol. I, pp. 186-187.
[25] Notice of Pre-Trial Conference dated October 5, 2020, Docket – Vol. I, pp. 177-178; Minutes of the hearing held on, and Order dated, March 9, 2021, Docket, pp. 399-402.
[26] Docket – Vol. I, pp. 198-212.
[27] Docket – Vol. I, pp. 387-397.
[28] Docket – Vol. I, pp. 403-414.
[29] Docket – Vol. I, pp. 457-458.
[30] Docket – Vol. I, pp. 469-476.
[31] Exhibit "P-32", Docket – Vol. I, pp. 219-231; Minutes of the hearing held on, and Order dated, July 8, 2021, Docket – Vol. I, pp. 465-467.
[32] Exhibit "P-112", Docket – Vol. I, pp. 497-501; Minutes of the hearing held on, and Order dated, March 2, 2022, Docket – Vol. II, pp. 524-526.
[33] Minutes of the hearing held on, and Order dated, July 8, 2021, Docket – Vol. I, pp. 465-467.
[34] Exhibit "P-33".

On March 16, 2022, petitioner filed a *Formal Offer of Evidence.*[35] Respondent, however, failed to file his comment thereon.[36]

In the Resolution dated May 20, 2022,[37] the Court admitted petitioner's offered exhibits, *except* for Exhibits "P-1", "P-1-a", "P-2", "P-3", "P-15-a", and "P-16", "P-16-a" and "P-16-b", for failure to present originals for comparison. In the same Resolution, the Court noted that although petitioner mentioned in the *Formal Offer of Evidence* that Exhibits "P-32", "P-32-a", "P-112" and "P-112-a", "P-31" to "P-31-d", "P-33", "P-34" to "P-110", and "P-111" are submitted to this Court and formed parts of the case records, they had not been formally offered by petitioner. Moreover, considering that respondent will not present evidence in this case,[38] the parties were given thirty (30) days to file their respective memorandum.

Thereafter, upon petitioner's *Motion for Partial Reconsideration* filed on June 10, 2022,[39] and without comment from respondent,[40] the Court, in the Resolution dated September 19, 2022,[41] admitted Exhibits "P-1", "P-1-a", "P-2", "P-3", "P-15-a", "P-31" to "P-31-d", "P-32", "P-32-a", "P-33", "P-34" to "P-110", and "P-111", and "P-112" and "P-112-a", but still denied the admission of Exhibits "P-16", "P-16-a" and "P-16-b", for failure to present originals for comparison.

In the Order dated June 30, 2022,[42] the present case was transferred to the Second Division of this Court.

On July 7, 2022, petitioner filed its *Memorandum* with the Court.[43] Respondent, however, failed to file his memorandum.[44]

The present case was deemed submitted for decision on November 7, 2022.[45]

---

[35] Docket – Vol. II, pp. 527 to 538.
[36] Records Verification Report dated April 19, 2022, Docket – Vol. II, p. 695.
[37] Docket – Vol. II, pp. 699 to 701.
[38] Refer to Pre-Trial Order dated July 9, 2021, Docket – Vol. I, p. 474.
[39] Docket – Vol. II, pp. 702 to 706.
[40] Records Verification dated July 20, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 750.
[41] Docket – Vol. II, pp. 752 to 756.
[42] Docket – Vol. II, p. 749.
[43] Docket – Vol. II, pp. 726 to 747.
[44] Records Verification dated October 20, 2022 issued by the Judicial Records Division of this Court, Docket – Vol. II, p. 757.
[45] Resolution dated November 7, 2022, Docket – Vol. II, p. 758.

THE ISSUE

The parties stipulated the following issue for the resolution of this Court:

> WHETHER PETITIONER IS ENTITLED TO A TAX REFUND AMOUNTING TO PHP20,737,902.28 THAT WAS PAID FOR THE YEAR 2018 BASED ON THE PREFERENTIAL RATE OF 15% FWT UNDER SECTION 25(C) OF THE TAX CODE.[46]

Petitioner's arguments:

Petitioner argues that the claim for refund should be granted because it is only liable for the payment of withholding taxes on wages using the graduated tax rate based on the Tax Reform for Acceleration and Inclusion (TRAIN) Law as vetoed by the President of the Republic of the Philippines; that there is an erroneous or illegal, or wrongful collection of tax; that the claim for refund has been duly filed with respondent, and the suit or proceeding was instituted with this Court, both within two (2) years from the date of erroneous payments of the 15% FWT; and that the ICPA Report is explicit in recommending the FWT amount subject for refund totaling ₱20,219,852.45.

Respondent's arguments:

Respondent counter-argues that petitioner's claim is not a case of erroneously or illegally collected tax that falls within the purview of Section 229 of the National Internal Revenue Code (NIRC) of 1997, as amended; that petitioner failed to exhaust administrative remedies prior to the filing of the instant *Petition for Review*; that even assuming for argument's sake that petitioner indeed made erroneous payments of the FWT, petitioner is still not entitled to tax refund in the amount of because of failure to substantiate the same; and that in this case, aside from its bare allegations, petitioner failed to show proof to support its claim for refund based on erroneous payment.

---

[46] Par. B, JSFI, Docket – Vol. I, p. 404.

THE COURT'S RULING

The Court has jurisdiction over the instant Petition.

Considering the timely filing of the instant *Petition for Review*, as discussed below, the Court has jurisdiction to take cognizance of the instant case under Section 3(a)(2),[47] Rule 4 of the Revised Rules of the Court of Tax Appeals (RRCTA).

Petitioner complied with the requirements of Sections 204(C) and 229 of the NIRC of 1997, as amended.

Petitioner timely filed its administrative and judicial claims.

Sections 204(C) and 229 of the NIRC of 1997, as amended, govern the procedure for claiming a refund of erroneously or illegally collected taxes:

> SEC. 204. *Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.* — The Commissioner may —
>
> ... ...
>
> (C) Credit or refund taxes erroneously or illegally received or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund within two (2) years after the payment of the tax or penalty**: *Provided, however,* that a

---

[47] SEC. 3. *Cases Within the Jurisdiction of the Court in Divisions.* — The Court in Divisions shall exercise:
(a) Exclusive original or appellate jurisdiction to review by appeal the following:

... ...

(2) **Inaction by the Commissioner of Internal Revenue in cases involving** disputed assessments, **refunds of internal revenue taxes, fees or other charges, penalties in relation thereto,** or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable law provides a specific period for action: ...; and Provided, still further, that **in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petition for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code**; ... [*Emphasis supplied*]

> return filed showing an overpayment shall be considered as a written claim for credit or refund. [*Emphasis supplied*]
>
> SEC. 229. *Recovery of Tax Erroneously or Illegally Collected.* — **No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected,** or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, **until a claim for refund or credit has been duly filed with the Commissioner**; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, **no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty, regardless of any supervening cause that may arise after payment:** *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid. [*Emphasis supplied*]

The afore quoted provisions clearly state that within two (2) years from the tax payment date, the claimant must first file an administrative claim with respondent before filing its judicial claim with the Court. Both claims must be filed within a two (2)-year reglementary period. Timeliness of the filing of the claim is mandatory and jurisdictional. So, the Court cannot take cognizance of a judicial claim for a refund filed prematurely or out of time. As for the judicial claim, it must be filed within two (2) years from payment of the tax "regardless of any supervening cause that may arise after payment."[48]

Further, the foregoing provisions allow the recovery of taxes erroneously or illegally collected. An "erroneous or illegal tax" is defined as one levied without statutory authority, or upon property not subject to taxation, or by some officer having no authority to levy the tax, or one which is some other similar aspect is illegal.[49] In other words, what can be refunded or credited is a tax that is erroneously, illegally, excessively, or

---

[48] *Commissioner of Internal Revenue v. San Miguel Corporation, et seq.*, G.R. Nos. 180740 and 180910, November 11, 2019.

[49] *Commissioner of Internal Revenue v. Pilipinas Shell Petroleum Corporation*, G.R. No. 188497, April 25, 2012, citing the definition provided in BLACK'S LAW DICTIONARY, Fifth Edition, p. 486.

wrongfully collected. In short, there must be a wrongful payment because what is paid, or part of it, is not legally due.[50]

Thus, for the present claim for refund to prosper, petitioner must not only establish that it timely filed its refund claim. It must also prove that the subject FWT paid is erroneous, illegal, or wrongful.

In this case, it is shown that petitioner paid FWT totaling ₱20,737,902.28 to the BIR on February 9, 2018, March 12, 2018, April 30, 2018, May 10, 2018, June 11, 2018, July 26, 2018, August 10, 2018, September 10, 2018, October 29, 2018, November 12, 2018, December 10, 2018, and January 31, 2019.[51]

From the earliest payment, February 9, 2018, petitioner had until **February 9, 2020,** to file its administrative and judicial claims for a refund. Petitioner's administrative claim for refund was filed on January 20, 2020, before respondent,[52] and the judicial claim for refund was filed with this Court on February 7, 2020.[53] Thus, both administrative and judicial claims fell within the two-year prescriptive period.

As for respondent's claim that petitioner failed to exhaust administrative remedies, it should be emphasized that the law only requires an administrative claim to be first filed. As long as the administrative and judicial claims were filed within the two-year prescriptive period, there is exhaustion of administrative remedies.[54] The taxpayer need not wait for respondent to act on the administrative claim for a refund.[55]

The Supreme Court's ruling in *Commissioner of Internal Revenue v. Carrier Air Conditioning Philippines, Inc.*[56] is instructive, *viz.:*

[50] *Commissioner of Internal Revenue v. San Roque Power Corporation, et seq.*, G.R. Nos. 187485, 196113, and 197156, February 12, 2013.
[51] Exhibits "P-4" to "P-15-a", Docket – Vol. II, pp. 556 to 597; and Exhibits "P-35" to "P-46", USB marked as Exhibit "P-111".
[52] Exhibits "P-30" and "P-30-a", Docket – Vol. II, pp. 675 to 693.
[53] Docket – Vol. I, pp. 7 to 27.
[54] *Commissioner of Internal Revenue v. Univation Motor Philippines, Inc. (formerly Nissan Motor Philippines, Inc.)*, G.R. No. 231581, April 10, 2019.
[55] *Id.*
[56] G.R. No. 226592, July 27, 2021.

> Still, in *CBK Power Company,* this Court further held that Section 229 does not require that the Commissioner first act on the taxpayer's claim and that the taxpayer cannot go to court without the Commissioner's action. Citing *P.J. Kiener Company, Ltd. v. David,* this Court held that the administrative claim filed before the Commissioner was intended "primarily as a notice of warning that unless the tax or penalty alleged to have been collected erroneously or illegally is refunded, court action will follow."
>
> Hence, applying the ruling in *CBK Power Company,* this **Court finds proper respondent's filing of judicial claim <u>10 days</u> after it had filed its administrative claim**, even without petitioner's ruling. The judicial claim was timely filed within the two-year prescriptive period based on the plain language of Section 229 of the 1997 National Internal Revenue Code. *[Emphasis supplied; citations omitted]*

There was an erroneous or wrongful payment of FWT.

Section 25(C) of the NIRC of 1997, as amended, prior to the effectivity of RA No. 10963, also known as TRAIN, on January 1, 2018, reads:

> SEC. 25. *Tax on Nonresident Alien Individuals.* —
>
> (C) *Alien Individual Employed by Regional or Area Headquarters and Regional Operating Headquarters of Multinational Companies.* — **There shall be levied, collected, and paid for each taxable year upon the gross income received by every alien individual employed by** regional or area headquarters and **regional operating headquarters established in the Philippines by multinational companies as salaries, wages, annuities, compensation, remuneration and other emoluments, such as honoraria and allowances**, from such regional or area headquarters and regional operating headquarters, **a tax equal to fifteen percent (15%) of such gross income**: *Provided, however,* That **the same tax treatment shall apply to Filipinos employed and occupying the same position as those of aliens employed by these multinational companies**. For purposes of this Chapter, the term 'multinational company' means a foreign firm or entity engaged in international trade with affiliates or subsidiaries or branch offices in the Asia-Pacific Region and other foreign markets. [*Emphasis supplied*]

Mr

From the foregoing, prior to the effectivity of RA No. 10963, Filipinos employed and occupying the same position as those aliens employed by ROHQs established in the Philippines by multinational companies are taxed at 15% of gross income.

The above provision was retained in RA No. 10963, but a new paragraph was added to Section 25, to wit:

> (F) The preferential tax treatment provided in Subsections (C), (D), and (E) of this Section shall not be applicable to regional headquarters (RHQs), regional operating headquarters (ROHQs), offshore banking units (OBUs) or petroleum service contractors and subcontractors registering with the Securities and Exchange Commission (SEC) after January 1, 2018: *Provided, however,* That **existing RHQs/ROHQs,** OBUs or petroleum service contractors and subcontractors **presently availing of preferential tax rates for qualified employees shall continue to be entitled to avail of the preferential tax rate for present and future qualified employees**. [*Emphasis supplied*]

However, there was apparent confusion when President Rodrigo R. Duterte vetoed the above proviso. In his veto message dated December 19, 2017, to the Speaker of the House and members of the House of Representatives, he stated as follows:

> **II. DIRECT VETO**
>
> By the power vested in me by Article VI, Section 27 (2) of the Constitution, which provides that 'the President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill,' I hereby register the following line item vetoes to this law:
>
> **A. Reduced income tax rate of employees of Regional Headquarters (RHQs), Regional Operating Headquarters (ROHQs), Offshore Banking Units (OBUs), and Petroleum Service Contractors and Subcontractors**
>
> I am constrained to veto the proviso under Section 6 (F) of the enrolled bill that effectively maintains the special tax rate of 15% of gross income for the aforementioned employees, to wit:
>
> > **'PROVIDED, HOWEVER, THAT EXISTING RHQS/ROHQS, OBUS OR PETROLEUM SERVICE CONTRACTORS AND SUBCONTRACTORS PRESENTLY AVAILING OF PREFERENTIAL TAX RATES FOR QUALIFIED EMPLOYEES SHALL CONTINUE TO BE**

> **ENTITLED TO AVAIL OF THE PREFERENTIAL TAX RATE FOR PRESENT AND FUTURE QUALIFIED EMPLOYEES.'**
>
> While I understand the laudable objective of the proposal, the provision is violative of Equal Protection Clause under Section 1, Article III of the 1987 Constitution, as well as the rule of equity and uniformity in the application of the burden of taxation:
>
> ... ...
>
> In line with this, the overriding consideration is the promotion of fairness of the tax system for individuals performing similar work. Given the significant reduction in the personal income tax, the employees of these firms should follow the regular tax rates applicable to other individual taxpayers.

Pursuant thereto, through Revenue Regulations No. 8-2018[57] dated January 25, 2018, the Secretary of Finance, upon the recommendation of respondent, has interpreted the above veto to mean that the 15% preferential tax rate was no longer applicable to employees of RHQs, ROHQs, offshore banking units (OBUs), or petroleum service contractors and subcontractors, without prejudice to the application of preferential tax rates under existing international tax treaties, and shall be subject to the regular income tax rate, to wit:

> SEC. 4. *Income Tax Rates on Non-Resident Alien Individual.* — The following income tax rates shall be imposed to non-resident alien individual:
>
> ... ...
>
> C. The preferential income tax rate under subsection (C), (D) and (E) of Section 25 of the Tax Code, as amended, shall no longer be applicable without prejudice to the application of preferential tax rates under existing international tax treaties, if warranted. Thus, all concerned employees of the regional or area headquarters and regional operating headquarters of multinational companies, offshore banking units and petroleum service contractor and subcontractors shall be subject to the regular income tax rate under Sec. 24 (A) (2) (a) of the Tax Code, as amended.

[57] SUBJECT: Implementing the Income Tax Provisions of Republic Act No. 10963, Otherwise Known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Act"

Notably, although the proviso in Section 25(F) was vetoed, the 15% preferential tax rate of ROHQ employees in Section 25(C) of the NIRC was not correspondingly vetoed.

The confusion as to what type of tax should be paid can be seen in the testimony of petitioner's witness, Mr. Joven Lee Raymundo,[58] who, upon clarificatory questions interposed by the Court, made the following explanation why petitioner paid both the 15% FWT and the withholding tax on compensation, *viz*:

> JUSTICE UY
>
> Justice San Pedro, you have questions?
>
> JUSTICE SAN PEDRO
>
> Just a few. Thank you.
>
> Mr. Raymundo, in your answers to Questions 31, 32 and 35, you state that petitioner in effect paid tax twice, is that correct?
>
> MR. RAYMUNDO
>
> Yes, your Honor.
>
> JUSTICE SAN PEDRO
>
> Can you explain why it did so?
>
> MR. RAYMUNDO
>
> Well originally, we were paying the FWT, right, the Final Withholding Tax for the employee for that year. However, at the end of the year because of the change in the provision that the FWT will no longer be applicable to the ROHQ employee so towards the end of the year, I believe that was November of 2019, we then paid as well for the WTW of all these employees. Hence, the taxes withheld like double the, you know ... interrupted
>
> JUSTICE SAN PEDRO
>
> But you already paid tax FWT previously?

[58] Transcript of Stenographic Notes (TSN) at the hearing held on July 8, 2021, pp. 36-37, and 40-42.

MR. RAYMUNDO

Yes, we did. And from what was explained because I asked the same question do we need to pay and we were advised by our tax agent and the BIR said that yes, we need to remit because it is t[w]o different tax regime[s], right. We cannot, at first, the question was, can we offset what we have paid against the WTW but the BIR has ruled that saying that we cannot as mentioned it's two different tax regime[s]. Hence, we have paid and then they said once you have paid then you can file for a refund.

JUSTICE SAN PEDRO

All right. You just mentioned that the BIR ruled. Did you obtain a formal BIR ruling to ... interrupted

MR. RAYMUNDO

I must have used the wrong word. That's what they said to our tax agent.

JUSTICE SAN PEDRO

Was there anything in writing about these representations of BIR? You also said that the BIR said that once paid, you can apply for refund. Was any of these representations in writing?

MR. RAYMUNDO

I would believe so, but I have to reach out to SGV if you require those documentations.

... ...

JUSTICE LIBAN

And you said that in your petition, you already said that, you said that you were already aware of the TRAIN Law and why did not stop at the beginning of 2018?

MR. RAYMUNDO

Because we had to, we aligned ourselves or we got external consultants, lawyers, ACCRA, you know to ask them how, what it was because there's a bit of ambiguity from what we understood at that time about the TRAIN Law. It was new. So the counsel, the external counsel, what they said is, please, you know, continue on taking out the FWT, right, while they, because a petition was filed by ACCRA on our behalf, however, come November, we made a decision that, you know, let us

W

just present to ACCRA we'll just follow, you know, we'll have to stop this petition because it is just going nowhere, right and decided that, okay, we will just ... interrupted

JUSTICE LIBAN

When did ACCRA, okay, when did ACCRA file that petition and what petition is that?

MR. RAYMUNDO

Asking that, you know, that we continue on, if we can continue with the FWT, because regardless, regarding the TRAIN Law, right.

JUSTICE SAN PEDRO

It was filed before the BIR?

MR. RAYMUNDO

Let's say in court. It was filed in a court. I just have to, I just I have no recollection now of you know which court, I apologize, right.

JUSTICE LIBAN

It was a declaratory relief? Anyway, so it was upon the advice of your lawyer that you continued on with the 15% withholding and then before the year ended in 2018, you decided to deduct, withhold again in accordance with what the TRAIN Law stated?

MR. RAYMUNDO

Before the 2019 year ended, right, around November, we then, after deducting the FWT, we then recomputed how much it would cost for the WTW so we paid it again, right.

JUSTICE LIBAN

All right. No more questions.

JUSTICE SAN PEDRO

Chair, I have some clarificatory.

JUSTICE UY

Yes, Justice San Pedro.

JUSTICE SAN PEDRO

From Justice Liban's questioning. I just want to be very clear. Before you paid the WTW recomputed, was petitioner already consulting with the SGV or ACCRA?

MR. RAYMUNDO

Yes.

JUSTICE SAN PEDRO

So this decision, I heard you say that despite the acts of ACCRA in filing that case, you decided to just go ahead and pay taxes anew because you felt that the case was going nowhere, your words, so this decision to pay taxes twice was already the petitioner's own decision?

MR. RAYMUNDO

Well it was our decision, however, we are following the law that, hey you know, we have to pay sorry, we have to pay the WTW as well because you know to us it was like the FWT would really be abolish[ed], right.

JUSTICE SAN PEDRO

But all the while while making this decision, you were already acting upon advi[ce] of both SGV and ACCRA?

MR. RAYMUNDO

Yes.

Considering the confusion brought about by the amendment introduced to Section 25 of the NIRC of 1997, as amended by RA No. 10963, and the subsequent veto of the President to the proviso of Section 6(F) of RA No. 10963, petitioner should not be faulted for having paid both the 15% FWT and withholding taxes on wages "to avoid being penalized,"[59] as the question of whether the 15% FWT or the regular income tax is applicable may be considered a doubtful question of law.

Since the proviso under Section 6(F) of RA No. 10963 was vetoed by then President Duterte, it effectively removed the preferential tax rate of 15% of gross income of employees of RHQs/ROHQs, OBUs, and petroleum service contractors and

---

[59] Exhibit "P-32" (Q&A No. 35), Docket – Vol. I, p. 228.

W

subcontractors, effective January 1, 2018. Thus, said employees' salaries, wages, annuities, compensation, remuneration, and other emoluments, such as honoraria and allowances, are now subject to the regular income tax rate. Accordingly, petitioner's payment of the 15% FWT is without statutory authority or not legally due.

As can be gleaned from Section 229 of the NIRC of 1997, as amended, what can be refunded or credited are taxes that are *erroneously, illegally, excessively, or in any manner wrongfully collected.*

In *SMI-ED Phil. Technology, Inc. v. Commissioner of Internal Revenue,*[60] the Supreme Court explained that erroneously paid taxes may also come in the form of tax payments for the wrong category of tax, to wit:

> Taxes are generally self-assessed. They are initially computed and voluntarily paid by the taxpayer. The government does not have to demand it. If the tax payments are correct, the BIR need not make an assessment.
>
> The self-assessing and voluntarily paying taxpayer, however, may later find that he or she has erroneously paid taxes. Erroneously paid taxes may come in the form of amounts that should not have been paid. Thus, a taxpayer may find that he or she has paid more than the amount that should have been paid under the law. **Erroneously paid taxes may also come in the form of tax payments for <u>the wrong category of tax</u>. Thus, a taxpayer may find that he or she has paid a certain kind of tax that he or she is not subject to**.
>
> **In these instances, the taxpayer may ask for a refund.** If the BIR fails to act on the request for refund, the taxpayer may bring the matter to the Court of Tax Appeals. [*Emphasis supplied*]

Here, there was an erroneously or wrongfully paid FWT as the same was without statutory authority. Otherwise stated, there was wrongful payment because what is paid is not legally due. Thus, petitioner may claim a refund for such erroneously paid FWT.

---

[60] G.R. No. 175410, November 12, 2014.

In *Commissioner of Internal Revenue v. Acesite (Philippines) Hotel Corporation*,[61] the Supreme Court held that tax refunds are based on the principle of quasi-contract or *solutio indebiti*, to wit:

> ***Solutio indebiti applies to the Government***
>
> Tax refunds are based on the principle of quasi-contract or *solutio indebiti* and the pertinent laws governing this principle are found in Arts. 2142 and 2154 of the Civil Code, which provide, thus:
>
> > Art. 2142. Certain lawful, voluntary, and unilateral acts give rise to the juridical relation of quasi-contract to the end that no one shall be unjustly enriched or benefited at the expense of another.
> >
> > Art. 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.
>
> When money is paid to another under the influence of a mistake of fact, that is to say, on the mistaken supposition of the existence of a specific fact, where it would not have been known that the fact was otherwise, it may be recovered. The ground upon which the right of recovery rests is that money paid through misapprehension of facts belongs in equity and in good conscience to the person who paid it.

That no one shall unjustly enrich oneself at the expense of another is a long-standing principle prevailing in our legal system. This applies not only to individuals but to the State as well. In the field of taxation, where the State exacts strict compliance upon its citizens, the State must likewise deal with taxpayers with fairness and honesty. The harsh power of taxation must be tempered with even-handedness. Hence, under the principle of *solutio indebiti*, the Government has to restore to petitioner the sums representing erroneous payments of taxes.[62]

---

[61] G.R. No. 147295, February 16, 2007.
[62] *Filinvest Development Corporation v. Commissioner of Internal Revenue*, G.R. No. 146941, August 9, 2007.

Petitioner proved the alleged erroneous or wrongful FWT payments.

Petitioner presented the Monthly Remittance Forms of Final Income Taxes Withheld (BIR Forms No. 0619-F), Quarterly Remittance Returns of Final Income Taxes Withheld (BIR Forms No. 1601-FQ), Payment Forms (BIR Forms No. 0605) and the related bank deposit slips, proving payment of the amount of ₱20,737,902.28, representing 15% FWT on "payments to alien individual employed by OBUs, Foreign Petroleum Service Contractors and Subcontractors by, Regional or Area Headquarters and Regional Operating Headquarters of multinational companies including its Filipino employees occupying the same position" with Alphanumeric Tax Code (ATC) WI320, detailed as follows:

Exhibit No.	Period Covered the Year 2018	Date of Filing of Return/ Payment of Tax	Tax Base[63]	15% FWT Paid	Tax Form
"P-4";[64] "P-35" to "P-35-1"[65]	January	February 9, 2018	₱11,865,007.13	₱1,779,751.06	BIR Form No. 0605
"P-5" to "P-5-a";[66] "P-36" to "P-36-1"[67]	February	March 12, 2018	28,089,852.02	4,213,477.85	BIR Form No. 0605
"P-6" to "P-6-a";[68] "P-37" to "P-37-1"[69]	March	April 30, 2018	10,085,236.15	1,512,785.41	BIR Form 1601-FQ
"P-7" to "P-7-a",[70] "P-38" to "P-38-1"[71]	April	May 10, 2018	9,803,827.73	1,470,574.12	BIR Form No. 0619-F
"P-8" to "P-8-a";[72] "P-39" to "P-39-1"[73]	May	June 11, 2018	13,096,897.97	1,964,534.70	BIR Form No. 0619-F
"P-9" to "P-9-a";[74]	June	July 26, 2018	9,448,494.71	1,417,274.21	BIR Form 1601-FQ

[63] Exhibit "P-29-a", Docket – Vol. II, pp. 636 to 646.
[64] Docket – Vol. II, pp. 556 and 558.
[65] USB marked as Exhibit "P-111".
[66] Docket – Vol. II, pp. 559 to 561.
[67] USB marked as Exhibit "P-111".
[68] Docket – Vol. II, pp. 562 to 564.
[69] USB marked as Exhibit "P-111".
[70] Docket – Vol. II, pp. 565 to 567.
[71] USB marked as Exhibit "P-111".
[72] Docket – Vol. II, pp. 568 to 570.
[73] USB marked as Exhibit "P-111".
[74] Docket – Vol. II, pp. 571 to 576.

Exhibit No.	Period Covered the Year 2018	Date of Filing of Return/ Payment of Tax	Tax Base[63]	15% FWT Paid	Tax Form
P-40" to "P-40-1"[75]					
"P-10" to "P-10-a";[76] "P-41" to "P-41-1"[77]	July	August 10, 2018	10,576,303.72	1,586,445.56	BIR Form No. 0619-F
"P-11" to "P-11-a";[78] "P-42" to "P-42-1"[79]	August	September 10, 2018	10,909,231.20	1,636,384.67	BIR Form No. 0619-F
"P-12" to "P-12-a";[80] "P-43" to "P-43-1"[81]	September	October 29, 2018	8,244,211.99	1,236,631.80	BIR Form 1601-FQ
"P-13" to "P-13-a";[82] "P-44" to "P-44-1"[83]	October	November 12, 2018	10,030,759.20	1,504,613.88	BIR Form No. 0619-F
"P-14" to "P-14-a";[84] "P-45" to "P-45-1"[85]	November	December 10, 2018	16,102,193.50	2,415,329.02	BIR Form No. 0619-F
"P15" to "P-15-a";[86] "P-46" to "P-46-1"[87]	December	January 31, 2019		100.00	BIR Form 1601-FQ
		Total	**₱138,252,015.32**	**₱20,737,902.28**	

As represented by petitioner, the Quarterly Remittance Returns of Final Income Taxes Withheld (BIR Forms No. 1601-FQ) for 2018 were filed manually.[88] No BIR Confirmation Receipts were attached to the BIR Forms 1601-FQ for the 1st to 4th quarters of the year 2018, but the corresponding returns were stamped received by the corresponding bank that received the remittance. Moreover, the FWT filed and paid for the 4th quarter amounting to ₱100.00 represents the minimum FWT liability as the authorized receiving bank does not accept "no-payment" quarterly FWT remittance forms.[89]

[75] USB marked as Exhibit "P-111".
[76] Docket – Vol. II, pp. 577 to 580.
[77] USB marked as Exhibit "P-111".
[78] Docket – Vol. II, pp. 581 to 584.
[79] USB marked as Exhibit "P-111".
[80] Docket - Vol. II, pp. 585 to 588.
[81] USB marked as Exhibit "P-111".
[82] Docket – Vol. II, pp. 589 to 591.
[83] USB marked as Exhibit "P-111".
[84] Docket – Vol. II, pp. 592 to 594.
[85] USB marked as Exhibit "P-111".
[86] Docket – Vol. II, pp. 595 to 597.
[87] USB marked as Exhibit "P-111".
[88] Exhibits "P-37-1", "P-40-1", "P-43-1" and "P-46-1", USB marked as Exhibit "P-111".
[89] Exhibit "P-33", p. 8, USB marked as Exhibit "P-111".

According to petitioner, at the time of filing the FWT returns for January and February 2018, the Monthly Remittance Form for Final Income Taxes Withheld (BIR Form No. 0619-F) was not available.

On April 16, 2018, Revenue Memorandum Circular No. 27-2018[90] prescribed the new and revised BIR forms, including the Quarterly Remittance Return of Final Income Taxes Withheld (BIR Form 1601-FQ). It stated that "...[i]n case manual filers have remitted the creditable/final taxes withheld for the third month using BIR Form No. 0605 or the old return (BIR Form No. 1601-E/1601-F) or the new remittance form under BIR Form No. 0619-E/0619-F once available, the taxpayer still needs to file the quarterly return (BIR Form No. 1601-EQ/1601-FQ) and indicate therein the total amount/taxes withheld for the quarter and the total remittances made for the three (3) months or the quarter."

Petitioner filed and paid its final withholding taxes due for January and February 2018 through Payment Form (BIR Form No. 0605) and thereafter used the Quarterly Remittance Return of Final Income Taxes Withheld (BIR Form No. 1601-FQ) for the 1st quarter of 2018.[91]

The 15% FWT of ₱20,737,902.28 was summarized in petitioner's Annual Information Return of Income Taxes Withheld on Compensation and Final Withholding Taxes (BIR Form No. 1604-CF) for 2018.[92]

Based on petitioner's "Alphalist of Employees from Whom Taxes Were Withheld" for the year 2018,[93] the amount of ₱20,737,902.28 was withheld on the following employees' compensation amounting to ₱138,252,015.30, detailed as follows:

EMPLOYEE'S NAME	AMOUNT OF INCOME PAYMENT	AMOUNT OF TAX WITHHELD
AGUILAR, REMIERE JOIE VILLAFUERTE	₱1,840,237.37	₱276,035.61
ALARCON, IRENE CRISTOBAL	3,040,089.44	456,013.42
ALONSO, TANAY	12,072,461.10	1,810,869.17
ARNEDO, CARLA TUAZON	1,243,915.60	186,587.34

[90] SUBJECT: Circularizing New and Revised BIR Forms Affected by Tax Reform for Acceleration and Inclusion (TRAIN) Law
[91] Exhibit "P-33", p. 8, USB marked as Exhibit "P-111".
[92] Exhibit "P-47", USB marked as Exhibit "P-111".
[93] Exhibit "P-29-a", Docket – Vol. II, pp. 636-646.

x---x

BAYLON, JOCELYN RISE SECARRO	839,718.51	125,957.78
BONDOC, ERIC PABLO	1,477,513.65	221,627.05
BORROMEO, NANETTE CELADA	1,533,495.94	230,024.39
BRILLANTE, JERRY PIDO	1,467,513.53	220,127.03
BRIONES, RIO ZANDRO AUSTRIA	1,381,397.20	207,209.58
CANARE, JOANNE LIM	1,389,983.52	208,497.53
CARIAGA, IGMEDIO JR. BACUGAN	1,053,529.18	158,029.38
CATIMPO, DARCI ATIENZA	67,087.33	10,063.10
CHEE, LAWRENCE MUN FEI	6,814,025.12	1,022,103.77
CHIA, JENNY SU KEN	3,774,223.18	566,133.48
CHONG, NANCY GRACE YU	1,129,660.84	169,449.13
CRUZ, VIVIAN CARR	16,569,800.19	2,485,470.03
DAVID, CHRISTY ANN RAMOS	919,150.52	137,872.58
DE LEON, MARIVIC PEREZ	2,268,902.83	340,335.42
DELA CRUZ, PRINCESS APPLE MERCADO	1,553,388.76	233,008.31
DOMINGO, JESSAMYN ULEP	1,625,755.79	243,863.37
DY, AILENE TEPASE	1,451,741.16	217,761.17
GACHO, JORY	1,162,687.01	174,403.05
HAGOS, RICKZON CUIZON	1,175,273.80	176,291.07
IMPERIAL, EJAY CLEOFE	489,022.47	73,353.37
LACAP, EDWARD JOHN SANTOS	712,773.95	106,916.09
LIMGENCO, JOSE ANTONIO PADILLA	2,070,003.27	310,500.49
LONTOK, FRACESCA NICOLE DE GUZMAN	1,127,627.07	169,144.06
LUGOD, GERALDINE ITURRALDE	3,110,797.76	466,619.66
MAGHUYOP, SHELLA DELOS TRICO	1,184,857.32	177,728.60
MALAPO, MYRA DACARA	1,793,492.86	269,023.93
MERCADO, VERGEL	942,664.68	141,399.70
MISHRA, JAINENDRA	3,184,462.49	477,669.37
MOLMISA, HAZELL D	1,316,111.67	197,416.75
MONTEZA, JOSEPHINE GAD	1,317,971.87	197,695.78
MORALES, RENAN KATIMBANG	1,037,997.88	155,699.68
NONOY, JOYCE INTONG	911,313.88	136,697.08
PAGTALUNAN, PAOLO ENRICO VILLANUEVA	132,298.87	19,844.83
PANKOWSKI, ARTUR	17,020,823.97	2,553,123.60
PARINAS, ANGELLA DENES MONDANO	901,682.81	135,252.42
PEDIDO, ERICKSON TOLEDO	971,563.83	145,734.57
PINON, CHEERIL ANGANA	993,932.85	149,089.93
PIOCOS, HEIDI SANCHEZ	1,209,176.37	181,376.46
RAMOS, PAULA NONES	2,191,015.77	328,652.37
RASQUIN, ELIAS EDUARDO MORA	8,740,415.12	1,311,062.27
RAYMUNDO, JOVEN LEE QUEBENGCO	10,533,663.30	1,580,049.50
SANTOS, RUSSEL KIM CALCETAS	1,594,448.42	239,167.26
SERNADILLA, NIGELLE	1,162,279.71	174,341.96
SIY, IMELDA FUA	1,323,815.09	198,572.26

SOTO, JOHN PAUL JR. CERDENIO	2,917,976.43	437,696.46
TUMAMAO, RODOLFO JR. ACENO	2,334,177.71	350,126.66
WALI, MUHALLIDIN GAFFAR	1,174,096.31	176,114.45
		100.00[94]
TOTAL	**₱138,252,015.30**	**₱20,737,902.32**[95]

A careful examination of petitioner's Monthly Remittance Returns of Income Taxes Withheld on Compensation (BIR Forms No. 1601-C),[96] Annual Information Return of Income Taxes Withheld on Compensation, and Final Withholding Taxes (BIR Form No. 1604-CF),[97] Alphalist for withholding tax on compensation (WTC)[98] filed by petitioner for the year 2018, and the related Tax Return Receipt Confirmations and bank deposit slips,[99] as well as the report of the Court-commissioned ICPA,[100] disclosed that petitioner also withheld and remitted the corresponding WTC on the aforesaid employees' compensation of ₱138,252,015.30 for the same year.

In 2019, petitioner received Letter of Authority (LOA) No. eLA201700001639/LOA-051-2019-00000908 dated November 12, 2019, from the BIR.[101] The LOA authorized the BIR to examine petitioner's books of accounts and other accounting records for all internal revenue taxes, including documentary stamp tax and other taxes (miscellaneous taxes) from January 1, 2018 to December 31, 2018.

On September 14, 2020, petitioner paid through Payment Forms (BIR Forms No. 0605)[102] a total amount of ₱5,066,351.98 to settle its tax liabilities for the taxable year 2018. The payment for deficiency withholding tax on wages amounted to ₱1,116,428.08, comprised of basic tax and penalties and surcharges amounting to ₱756,214.45 and ₱360,213.63, respectively. Thereafter, on September 15, 2020, petitioner, through its duly authorized representative, issued a letter to the BIR[103] informing the latter of the payments made and the submission of the corresponding proof of payments.

[94] *Supra*, notes 86, 87, and 89.
[95] Rounding-off difference of ₱0.04.
[96] Exhibits "P-17" to "P-28", Docket – Vol. II, pp. 599, 602, 605, 608, 611, 614, 617,620, 623, 626, 629, 632; Exhibits "P-48-1" to "P-63-1" and "P-64", USB marked as Exhibit "P-111".
[97] Exhibit "P-47", USB marked as Exhibit "P-111".
[98] Exhibit "P-29-b", Docket – Vol. II, pp. 647 to 674.
[99] Exhibits "P-17-a" to "P-28-a", Docket – Vol. II, pp. 600-601, 603-604, 606-607, 609-610, 612-613, 615-616, 618-619, 621-622, 624-625, 627-628, 630-631, 633-634; Exhibits "P-48" to "P-63", USB marked as Exhibit "P-111".
[100] Exhibit "P-33", USB marked as Exhibit "P-111".
[101] Exhibit "P-108", USB marked as Exhibit "P-111".
[102] Exhibit "P-109", USB marked as Exhibit "P-111".
[103] Exhibit "P-110", USB marked as Exhibit "P-111".

The foregoing circumstances sufficiently prove that petitioner withheld and paid taxes twice on the compensation of certain employees for 2018 that is, *first,* based on the preferential rate of 15% FWT, and *second*, the graduated WTC under Section 24(A)(2)(a) of the NIRC of 1997, as amended.

In fine, considering that the 15% FWT that petitioner withheld and remitted in the amount of ₱20,737,902.28 is without statutory authority, the same constitutes erroneously paid tax, which is refundable under Sections 204(C) and 229 of the NIRC of 1997, as amended. Therefore, respondent has the obligation under the law to restore the said tax erroneously paid by petitioner.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is **GRANTED**.

Accordingly, respondent is **ORDERED TO REFUND** to petitioner the amount of **₱20,737,902.28**, representing 15% FWT it erroneously withheld and remitted to the BIR for the year 2018.

SO ORDERED.

LANEE S. CUI-DAVID
Associate Justice

I CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Special 2nd Division Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Special 2nd Division Acting Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice