Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB CASE NO. 604** (CTA Case No. 7393)
	For: Refund/issuance of a Tax Credit Certificate for Excess Input Value-Added Tax
-versus-	
CE LUZON GEOTHERMAL POWER COMPANY, INC., Respondent.	

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CE LUZON GEOTHERMAL POWER COMPANY, INC., Petitioner,	**CTA EB CASE NO. 606** (CTA Case No. 7393)
	For: Refund/issuance of a Tax Credit Certificate for Excess Input Value-Added Tax
-versus-	Present: **ACOSTA, P.J., CASTAÑEDA, JR. BAUTISTA UY CASANOVA PALANCA-ENRIQUEZ FABON-VICTORINO MINDARO-GRULLA COTANGCO-MANALASTAS, JJ.**
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUN 27 2011 3:45 pm

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DECISION

MINDARO-GRULLA, J.:

These are consolidated cases of two (2) Petitions for Review separately filed by the Commissioner of Internal Revenue (CIR) as petitioner, against CE Luzon Geothermal Power Company, Inc. (CE Luzon) as respondent, which is docketed as CTA EB Case No. 604, and *vice versa*, filed by CE Luzon Geothermal Power Company, Inc. (CE Luzon) as petitioner against the Commissioner of Internal Revenue (CIR) as respondent, which is docketed as CTA Case No. 606, for the CTA En Banc under Section 18 of Republic Act 1125[1], as amended and Rule 4, Section 2(a)(1), in relation to Rule 8, Section 4(b) of the Revised Rules of the Court of Tax Appeals (RRCTA)[2], as amended, assailing the Decision[3] dated August 26, 2009, rendered by the former First Division[4] of this

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[1] An Act Creating the Court of Tax Appeals

[2] Sec. 2. *Cases within the jurisdiction of the Court en banc.*- The Court en banc shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

(1) Cases arising from administrative agencies- Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture;

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Sec. 4. *Where to appeal; mode of appeal.*-

(a) xxx.

(b) An appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court. The Court en banc shall act on the appeal.

(c) xxx.

[3] En Banc Docket, pp. 32-54(CTA EB No.604).

[4] Penned by Associate Justice Lovell R. Bautista, concurred in by Presiding Justice Ernesto D. Acosta and Associate Justice Caesar A. Casanova.

Court in CTA Case No. 7393, and its Amended Decision[5] dated March 2, 2010.

The dispositive portions thereof, respectively, read as follows:

Decision dated August 26, 2009:

"**WHEREFORE**, petitioner's claim for refund or issuance of tax credit certificate is hereby **PARTIALLY GRANTED.** Accordingly, respondent is hereby **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the reduced amount of P19,264,022.79, representing its excess/unutilized input VAT for the period covering the four quarters of taxable year 2004.

SO ORDERED."

Amended Decision dated March 2, 2010:

"**WHEREFORE,** petitioner's Motion for Partial Reconsideration is hereby **PARTIALLY GRANTED.** The Decision dated August 26, 2009 is hereby **MODIFIED.** On the other hand, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.

Accordingly, respondent is hereby **ORDERED** to **REFUND** or **ISSUE** a **TAX CREDIT CERTIFICATE** in favor of petitioner in the increased amount of P19,302,698.48, representing its excess/unutilized input VAT for the period covering the four quarters of taxable year 2004.

SO ORDERED." L

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[5] En Banc Docket, pp. 55-79(CTA EB No. 604). Penned by Associate Justice Lovell R. Bautista, concurred in by Associate Justice Caesar A. Casanova while Presiding Justice Ernesto D. Acosta dissents.

The pertinent facts as narrated by this Court's Division are undisputed:

"CE Luzon[6] [Petitioner] filed its Quarterly VAT Returns for taxable year 2004, which reflected the following information:

Period Covered	Date of Filing	Zero-Rated Sales	Input VAT	Exhibit
1st Quarter	April 26,2004	P 939,531,582.28	P 7,640,716.26	"D"
2nd Quarter	July 26, 2004	1,278,777,054,.28	2,879,103.77	"F"
3rd Quarter	Oct. 25, 2004	944,618,618.11	6,887,641.9	"H"
4th Quarter	Jan. 25, 2005	1,523,421,116.17	4,383,880.15	"J"
	TOTAL	P4,686,348,370.84	P 21,791,342.08	

CE Luzon later filed Amended Quarterly VAT Return for the first, second, and third quarters of taxable year 2004, which indicated the following details:

Period Covered (Quarter)	**Date of Filing**	**Zero-Rated Sales**	**Excess/ Unutilized Input VAT Credits**				**Total**	**Exh.**
			Domestic Purchases of Goods other than Capital Goods	**Domestic Purchases of Services**	**Services Rendered By Non-Residents**	**Importation other than Capital Goods**		
First	Nov. 24, 2004	939,531,582,.28	705,793.72	7,290,564,.59	19,747.32	395,147.00	8,411,252.63	"E
Second	Nov. 24, 2004	1,278,777,054.28	777,449,.47	1,868,151.21	286,776.02	107,487.00	3,039,863,70	"G"
Third	Nov. 24, 2004	944,618,618.11	1,685,621,.25	2,862,388.27	147,737.4	2,233,851.00	6,929,597.92	"W
Fourth	Jan. 25, 2005	1,523,421,116.17	1,004,266.38	2,074,029.23	664,843.01	640,741.53	4,383,880.15	"J"
Total Excess/Unutilized Vat Credits for the 1st to 4th Quarters of CY 2004 (10% of Total Purchases)							**22,764,594.40**	

CE Luzon filed its administrative claims for refund of input VAT for the first quarter in the amount of P8,411,252.63 on April 12, 2005, and for the second, third, and fourth quarters in the aggregate amount of P14,353,341.77 on December 14, 2005.

Due to CIR's inaction, CE Luzon filed the present Petition for Review on December 29, 2005, praying for the refund or issuance of tax credit certificate in the total amount of P22,764,594.40, allegedly representing unutilized input VAT from petitioner's domestic purchases, services rendered by non-

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[6] CE Luzon was the petitioner while the CIR was the respondent in CTA Case No. 7393.

> residents, and importation of goods for the four quarters of taxable year 2004.
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> xxx xxx xxx.

In a Resolution dated August 26, 2008, the case was deemed submitted for decision, considering the parties' Memoranda, both filed on August 15, 2008. Hence, the assailed Decision was promulgated on August 26, 2009.

The parties submitted the following issues for this Court's resolution:

> "1. Whether or not CE Luzon is registered as a VAT taxpayer pursuant to the provisions of the Tax Code, as amended.
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> 2. Whether or not CE Luzon has complied with the invoicing and accounting requirements for VAT-registered persons, as well the filing and payment of VAT in compliance with the provisions of Section 113 and 114 of the Tax Code, as amended.
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> 3. Whether or not CE Luzon has complied with the submission of complete documents in support of its administrative claim for refund pursuant to Section 112(D) of the Tax Code, as amended.
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> 4. Whether or not the input taxes of P22,764,594.40 allegedly unutilized input VAT from its domestic purchases of goods and services, services rendered by non-residents and importation of goods for the calendar year 2004 were:

a. paid by the CE Luzon;
b. attributable to its zero-rated or effectively zero-rated sales; and
c. such have not been applied against any output tax.

5. Whether or not CE Luzon's claim for tax credit or refund of the unutilized input VAT was filed within two (2) years after the close of the taxable quarter when the sales were made in accordance with Section 112(A) of the Tax Code, as amended.

6. Whether or not CE Luzon's alleged domestic purchases of goods and services, services rendered by non-residents and importation of goods were made in the course of its trade or business and whether or not the same are properly supported by VAT invoices and/or official receipts and other documents, such as subsidiary Purchase Journal, showing that it actually paid VAT in accordance with Sections 110 (A)(2) and 113 of the Tax Code, as amended.

7. Whether or not CE Luzon has complied with the governing rules and regulations with reference to recovery of tax erroneously or illegally collected as explicitly found in Sections 112(A) and 229 of the Tax Code, as amended.

8. Whether or not the claimed input tax were carried over to the succeeding quarter/s of the CE Luzon's VAT returns.

9. Whether or not CE Luzon is entitled to a refund or issuance of a tax credit certificate for the total amount of P22,764,594.40 allegedly representing unutilized input VAT from its domestic purchases of goods and services, services rendered by non-residents and importation of goods for the first to fourth quarters of taxable year 2004."

The above-enumerated issues were summarized into a single issue, to wit:

"Whether or not CE Luzon is entitled to the refund or issuance of tax credit certificate in the amount of P22,764,594.40, representing unutilized input VAT covering the period from the first quarter to the fourth quarter of taxable year 2004."

After trial, on August 26, 2009 this Court's former First Division rendered a Decision[7] which in summary held that CE Luzon is entitled to the refund or issuance of tax credit certificate in the reduced amount of P19,264,022.79, representing unutilized input VAT for the four quarters of taxable year 2004.

This Court's Division found CE Luzon to have complied with the following requisites:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. That the claim for refund was filed within the two-year prescriptive period counted from the close of the taxable quarter when the sales were made.

Citing Section 112 (D)[8] of the 1997 National Internal Revenue Code (NIRC), the CIR filed a motion for reconsideration of the assailed

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[7] Supra Note 2.
[8] Sec. 112. Refunds or Tax Credits of Input Tax. —xxx.

(D) Period within which Refund or Tax Credit of Input Taxes shall be Made. — In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the

Decision on the ground that the petition for review was filed beyond the prescriptive period. CE Luzon on the other hand, filed a motion for the partial reconsideration of the assailed Decision.

In an Amended Decision dated March 2, 2010, this Court's former First Division denied CIR's motion and partially granted CE Luzon's motion. However, this time Presiding Justice Ernesto D. Acosta rendered his dissenting opinion that the CE Luzon's claim for the 1st quarter should be dismissed for lack of jurisdiction considering that it was filed beyond the 30-day period while the 2nd, 3rd and 4th quarter should be dismissed for lack of cause of action due to non-exhaustion of administrative remedies. Thus, the dissenting opinion concluded that it was an error on the part of the majority to have entertained the case and thereafter partially grants CE Luzon's motion for reconsideration.

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date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.

In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

Both parties assailed the Amended Decision, hence, the consolidated Petitions for Review.

In CTA EB No. 604, the CIR asseverates that CE Luzon is not entitled to the refund or issuance of tax credit on the ground that:

1. CE Luzon's claim for refund was filed outside the period provided under Section 112 of the NIRC of 1997, and

2. CE Luzon is not entitled to a claim for refund or tax credit of its unutilized/excess input VAT because a claim for refund is not ipso facto granted upon filing of the claim.

Considering the CIR's previous argument and queuing from the dissenting opinion, the CIR stands firm in the position that the petition for review filed before this Court's Division was outside the prescriptive period provided under Section 112 of the 1997 NIRC, as amended.

In CTA EB No. 606, CE Luzon raised the following issues for this Court en banc to resolve:

1. Whether or not the CTA-Division erred when it ruled that some of CE Luzon's official receipts and invoices supporting its unutilized input VAT did not comply with the invoicing requirements of the Tax Code;

2. Whether or not the CTA-Division erred when it failed to consider in evidence the certified true copies of the official receipts and invoices issued by CE Luzon's suppliers.

3. Whether or not the CTA-Division erred when it denied the refund of the amounts of P19,332.01 and 4,220.70, representing input VAT passed-on to CE Luzon by its suppliers of petroleum products.

4. Whether or not the CTA-Division erred when it failed to consider that the CIR was deemed to have waived or abandoned any objection with respect to the alleged failure of CE Luzon's supporting documents to comply with invoicing requirements for failing to raise such issue during the trial.

CE Luzon maintains that this Court's Division erred in disallowing input VAT amounting to P3,461,895.92 for not having been properly substantiated.

On September 15, 2010, these consolidated petitions were deemed submitted for decision, with CE Luzon filing its Comment (to CIR's Petition for Review) and Memorandum, while the CIR did not file any pleading.

Due to the dissimilarity of the issues and arguments raised by the CIR and CE Luzon in their respective petitions, we shall resolve first the

CIR's arguments in CTA EB No. 604 - whether CE Luzon's Petition for Review in the Division level was filed outside the prescriptive period provided under Section 112 of the Tax Code, before looking into CE Luzon's assigned errors in CTA EB No. 606.

We resolve in favor of the CIR.

In the case of Commissioner of Internal Revenue vs. Aichi Forging Company of Asia, Inc.[9], reiterating the "Mirant Case"[10], the Supreme Court categorically ruled that unutilized input VAT must be claimed within two years after the close of the taxable quarter when the sales were made and that the 120-day period is crucial in filing an appeal with this Court. The pertinent portion of which states as follows:

> "The pivotal question of when to reckon the running of the two-year prescriptive period, however, has already been resolved in *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation,* where we ruled that Section 112(A) of the NIRC is the applicable provision in determining the start of the two-year period for claiming a refund/credit of unutilized input VAT, and that Sections 204(C) and 229 of the NIRC are inapplicable as "both provisions apply only to instances of erroneous payment or illegal collection of internal revenue taxes."xxx.
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> xxx xxx xxx.

[9] G.R. No. 184823, October 6, 2010.
[10] CIR vs. Mirant Pagbilao Corporation, G.R. No. 172129, September 12, 2008

In view of the foregoing, we find that the CTA *En Banc* erroneously applied Sections 114(A) and 229 of the NIRC in computing the two-year prescriptive period for claiming refund/credit of unutilized input VAT. To be clear, Section 112 of the NIRC is the pertinent provision for the refund/credit of input VAT. Thus, the two-year period should be reckoned from the close of the taxable quarter when the sales were made.

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Section 112(D) of the NIRC clearly provides that the CIR has "120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit]," within which to grant or deny the claim. In case of full or partial denial by the CIR, the taxpayer's recourse is to file an appeal before the CTA within 30 days from receipt of the decision of the CIR. However, if after the 120-day period the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to CTA within 30 days.

In this case, the administrative and the judicial claims were simultaneously filed on September 30, 2004. Obviously, respondent did not wait for the decision of the CIR or the lapse of the 120-day period. For this reason, we find the filing of the judicial claim with the CTA premature.

Respondent's assertion that the non-observance of the 120-day period is not fatal to the filing of a judicial claim as long as both the administrative and the judicial claims are filed within the two-year prescriptive period has no legal basis.

There is nothing in Section 112 of the NIRC to support respondent's view. Subsection (A) of the said provision states that "any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, **within two years** after the close of the taxable quarter when the sales were made, **apply for the issuance of a tax credit certificate or refund** of creditable input tax due or paid attributable to such sales." The phrase "within two (2) years x x x apply for the issuance of a tax credit certificate or refund" refers to applications for refund/credit filed with the CIR and not to appeals made to the CTA. This is apparent in the first paragraph of subsection (D) of the same provision, which states that the CIR has "120 days from the submission of complete documents in support of the **application** filed in accordance with **Subsections (A)** and (B)" within which to decide on the claim.

> In fact, applying the two-year period to judicial claims would render nugatory Section 112(D) of the NIRC, which already provides for a specific period within which a taxpayer should appeal the decision or inaction of the CIR. The second paragraph of Section 112(D) of the NIRC envisions two scenarios: (1) when a decision is issued by the CIR before the lapse of the 120-day period; and (2) when no decision is made after the 120-day period. In both instances, the taxpayer has 30 days within which to file an appeal with the CTA. As we see it then, the 120-day period is crucial in filing an appeal with the CTA.
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> With regard to *Commissioner of Internal Revenue v. Victorias Milling, Co., Inc.* relied upon by respondent, we find the same inapplicable as the tax provision involved in that case is Section 306, now Section 229 of the NIRC. And as already discussed, Section 229 does not apply to refunds/credits of input VAT, such as the instant case.
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> In fine, the premature filing of respondent's claim for refund/credit of input VAT before the CTA warrants a dismissal inasmuch as no jurisdiction was acquired by the CTA."

Accordingly, it is very clear that in claiming refund or tax credits under Section 112 of the NIRC of 1997, as amended, the taxpayer should apply for refund/credit of unutilized input VAT within two years after the close of the taxable quarter when the sales were made. Thereafter, the CIR has "120 days, from the date of the submission of the complete documents in support of the application [for tax refund/credit]," within which to grant or deny the claim. If after the 120-day period, the CIR fails to act on the application for tax refund/credit, the remedy of the taxpayer is to appeal the inaction of the CIR to this Court within 30 days.

This Court is a court of special jurisdiction and can only take cognizance of such matters as are clearly within its jurisdiction.[11] Pursuant to Section 7 of Republic Act (R.A.) No. 9282, amending R.A. No. 1125, otherwise known as the "*Law Creating the Court of Tax Appeals*[12]" and Section 3, Rule 4 and Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals [13], decisions/rulings or

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[11] Rizal Commercial Banking Corp. vs. Commissioner of Internal Revenue, G.R. No. 168498, April 24, 2007, 522 SCRA 144.

[12] Sec. 7. *Jurisdiction.* — The CTA shall exercise:

> (a) **Exclusive appellate jurisdiction to review by appeal**, as herein provided:
>
> > (1) **Decisions of 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 or other laws administered by the Bureau of Internal Revenue;
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> > (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 provides a specific period of action, in which case the inaction shall be deemed a denial;

[13]

RULE 4
Jurisdiction of the Court

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inaction of the Commissioner are necessary in order to vest the Court of Tax Appeals with jurisdiction to entertain the appeal[14]. The 30-day

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SECTION 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:

(1) **Decisions of 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;

(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: Provided, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; Provided, further, that should the taxpayer opt to await the final decision of the Commissioner of Internal Revenue on the disputed assessments beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; 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;

[14] Rizal Commercial Banking Corp. vs. CIR, G.R. No. 168498, April 24, 2007, 522 SCRA 144.

period after the inaction or expiration of the 120-day period fixed by law for the Commissioner to act on the claim for refund is jurisdictional and failure to comply therewith would bar the appeal and deprive the Court of Tax Appeals of its jurisdiction to entertain and determine the appeal. Such period is not merely directory but mandatory and it is beyond the power of the courts to extend or shorten the same.

In the instant case, the administrative claim for the 1st quarter of the taxable year 2004 was filed on April 12, 2005. The CIR has until August10, 2005 to decide on the claim, yet after the lapse of 120 days, the CIR failed to do so. Hence, CE Luzon has 30 days or until September 9, 2005 to appeal to this Court. Unfortunately, the appeal by way of petition for review was filed only on December 29, 2005, way beyond the reglementary period.

As to the administrative claim for the 2nd to 4th quarter of the taxable year 2004, it was filed on December 14, 2005. The CIR has 120 days or until April 13, 2006 to determine the validity of the claim. However, CE Luzon filed an appeal by way of petition for review on December 29, 2005 or 15 days after the filing of the administrative claim. Obviously, CE Luzon did not wait for the decision of the CIR or the lapse of the 120-day period. For this reason, we find the filing of the judicial claim or appeal premature.

Well-settled is the rule that the right to appeal is not a natural right or a part of due process, as the same is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of the law. The party who seeks to avail of the same must comply with the requirements of the law. Failing to do so, leads to the loss of the right to appeal.[15]

In fine, the belated filing of the appeal by way of a petition for review for the 1st quarter and the premature filing of the petition for review for the 2nd to 4th quarter before this Court's Division warrants a dismissal inasmuch as no jurisdiction was acquired. Having discussed the lack of jurisdiction of this Court's former First Division, we deemed it not necessary to discuss the assignment of errors in CTA EB No. 606 due to the abovementioned discussion.

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15 Producers Bank of the Phil. vs. Court of Appeals, G.R. No. 126620, April 17, 2002, 381 SCRA 185.

WHEREFORE premises considered, the Petition for Review docketed as CTA EB No. 604 is **GRANTED** while the Petition for Review docketed as CTA EB No. 606 is **DENIED**. Accordingly, the Decision of the former First Division of this Court in CTA Case No. 7393, dated August 26, 2009 and its Amended Decision, dated March 2, 2010, are hereby **REVERSED** and **SET ASIDE.** CTA Case No. 7393 is hereby **DISMISSED** for lack of jurisdiction. No pronouncement as to costs.

SO ORDERED.

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

"I maintain my stand in the Decision and Amended Decision dated August 26, 2009 and March 2, 2010, respectively."

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
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 among the members of the Court En Banc before the case was assigned to the writer of the opinion of the Court En Banc.

ERNESTO D. ACOSTA
Presiding Justice