REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**C.T.A. EB NO. 623 (C.T.A. CASE NO. 6961)**
-versus-	
TOLEDO POWER COMPANY, *Respondent.*	

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TOLEDO POWER COMPANY, *Petitioner,*	**C.T.A. EB NO. 629 (C.T.A. CASE NO. 6961)**
-versus-	Present:
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	ACOSTA, Presiding Justice, CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, PALANCA-ENRIQUEZ, FABON-VICTORINO, MINDARO-GRULLA, and COTANGCO-MANALASTAS, JJ.
	Promulgated: NOV 2 2 2010

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DECISION

PALANCA-ENRIQUEZ, J.:

A taxpayer is entitled to a refund either by authority of a statute expressly granting such right, privilege, or incentive in his favor, or under the principle of *solutio indebiti* requiring the return of taxes erroneously or illegally collected. In both cases, a taxpayer must prove not only his entitlement to a refund, but also his compliance with the procedural due process as non-observance of the prescriptive periods within which to file the administrative and judicial claims would result in the denial of his claim *(CIR vs. Aichi Forging Company Asia, Inc., G.R. No. 184823, October 6, 2010).*

THE CASE

Before the Court *En Banc* are consolidated Petitions for Review separately filed by the Commissioner of Internal Revenue (hereafter "CIR") and Toledo Power Company (hereafter "TPC"), which seek the review of the Decision dated November 11, 2009 of the former First Division of this Court in C.T.A. Case No. 6961 entitled "Toledo Power Company vs. Commissioner of Internal Revenue", partially granting the Petition for Review filed by TPC, and the Resolution dated April 13, 2010, denying both TPC's "Motion for Partial Reconsideration" and CIR's "Motion for Partial Reconsideration". The respective dispositive portions of the Decision and Resolution read, as follows:

> "**WHEREFORE**, premises considered, the instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, respondent is hereby **ORDERED TO REFUND**

> or **TO ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner the amount of **SEVEN MILLION FIVE HUNDRED NINETY EIGHT THOUSAND TWO HUNDRED SEVENTY NINE PESOS AND 29/100 (P7,598,279.29)**, representing its unutilized input taxes attributable to zero-rated sales for taxable year 2002.
>
> **SO ORDERED.**"
>
> "**WHEREFORE,** both Motions for Partial Reconsideration are hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE PARTIES

TPC is a general partnership duly organized and existing under Philippine laws, with principal office at Sangi, Toledo City, Cebu. TPC is principally engaged in the business of power generation and subsequent sale thereof to the National Power Corporation (NPC), Cebu Electric Cooperative III (CEBECO), Atlas Consolidated Mining and Development Corporation, and Atlas Fertilizer Corporation. It is registered with the Bureau of Internal Revenue (BIR) as a VAT taxpayer, in accordance with *Section 236 of the NIRC*, with TIN 003-883-626 and BIR Certificate of Registration bearing RDO Control No. 94-083-000300.

[initials]

CIR, on the other hand, is the duly appointed Commissioner of Internal Revenue empowered to perform the duties of said office including, among others, the power to decide, approve, and grant refunds or tax credits of erroneously or excessively paid taxes, with office at the BIR National Office Building, located at Agham Road, Diliman, Quezon City.

THE FACTS

The facts, as culled from the records, are as follows:

On December 22, 2003, TPC filed with BIR RDO No. 83 an administrative claim for refund or issuance of TCC for its unutilized input VAT in the total amount of P14,254,013.27, for the four quarters of 2002.

On April 22, 2004, TPC filed a Petition for Review with the former First Division of this Court, docketed as C.T.A. Case No. 6961.

On July 9, 2004, the CIR filed her Answer, and alleged by way of special and affirmative defenses that TPC's alleged claim for refund is subject to administrative routinary investigation/examination by the BIR; that TPC utterly failed to demonstrate that the total amount of P14,254,013.27 claimed as refundable VAT input taxes, was erroneously or illegally collected, and that the same is properly documented; that taxes paid and collected are presumed to have been made in accordance with law; hence, not refundable; in an action for tax refund, the burden is on the taxpayer to establish its right to refund and failure to sustain the burden is fatal to the claim for refund; it is incumbent upon the petitioner to show that it has complied with the provisions of *Section 204*, in relation to *Section 229 of the Tax Code*; and well-settled is the rule that claims for refund/tax credit are construed in *strictissimi juris* against the taxpayer, as they partake of the nature of exemption from tax.

After trial on the merits, the former First Division rendered the assailed Decision partly granting the Petition for Review.

On December 3, 2009, TPC filed its "Motion for Partial Reconsideration". Despite notice, the CIR failed to file her comment thereto.

On the other hand, on December 8, 2009, the CIR filed her "Motion for Partial Reconsideration", to which TPC filed its "Comment (To the Motion for Partial Reconsideration dated 7 December 2009)" on December 28, 2009.

In a Resolution dated April 13, 2010, the former First Division denied both TPC's "Motion for Partial Reconsideration" and CIR's "Motion for Partial Reconsideration".

Not satisfied, both CIR and TPC filed separate Petitions for Review before the Court *En Banc,* docketed as C.T.A. EB No. 623 and C.T.A. EB No. 629, respectively.

In a Resolution dated May 19, 2010, the Court *En Banc* ordered the consolidation of C.T.A. EB No. 629 with C.T.A. EB No. 623, the case bearing the lower docket number, pursuant to *Section 3, Rule IV* of the *Internal Rules of the CTA*. On May 31, 2010, both parties were ordered to file their respective comment, within ten (10) days from notice. On June 17, 2010, TPC filed its "Comment". On the other hand, per Report of the Judicial Records Division dated July 5, 2010, the CIR failed to file her comment to the Petition for Review in C.T.A. EB No. 629.

On July 9, 2010, we gave due course to the Petitions for Review, and ordered both parties to file their simultaneous memoranda, within thirty (30) days from notice. Only TPC filed its "Memorandum" on August 16, 2010.

On September 1, 2010, the consolidated petitions were deemed submitted for decision.

CIR's Assigned Error

THE HONORABLE FIRST DIVISION ERRED IN PARTIALLY GRANTING TOLEDO POWER COMPANY'S CLAIM FOR REFUND IN THE AMOUNT OF P7,598,279.29, REPRESENTING ITS UNUTILIZED INPUT TAXES ATTRIBUTABLE TO ZERO-RATED SALES FOR TAXABLE YEAR 2002.

TPC 's Assigned Error

WHETHER IT IS NECESSARY FOR TOLEDO POWER COMPANY TO PROVE THAT IT WAS ISSUED A CERTIFICATE OF COMPLIANCE BY THE ERC.

THE COURT *EN BANC'S* RULING

Both petitions are devoid of merit.

C.T.A. EB No. 623

Petitioner CIR contends that TPC's judicial claim for refund of its unutilized input VAT for the first quarter of taxable year 2002 was filed late, pursuant to *Section 112 (A) of the 1997 NIRC, as amended*; that TPC failed to comply with the two (2) year prescriptive period in filing its judicial claim for refund, pursuant to the case of *CIR vs. Mirant (565 SCRA 154);* and that TPC did not comply with the rule of exhaustion of administrative remedies since it failed to submit complete documents

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necessary to ascertain the correctness of the returns and the amounts to be refunded.

Respondent TPC counters that its judicial claim was timely filed based on the law in force at the time of its filing and pursuant to *Atlas Consolidated Mining and Development Corp. vs. CIR (524 SCRA 73)*, which provides that the two (2) year prescriptive period is reckoned from the date of filing of the corresponding VAT quarterly returns; and that it properly filed its administrative claim for input VAT refund; that *RMO 53-98* which provides for a checklist of documents to be submitted by the taxpayer applies only to tax audit; it complied with the requirement to submit supporting documents for its administrative claim for refund; that CIR's defense of failure to comply with the rule on exhaustion of administrative remedies is considered waived, as it was not raised in her Answer or in a Motion to Dismiss, hence, it cannot be raised for the first time on appeal before the Court *En Banc*; and lastly, the issue of whether TPC has properly filed its administrative claim for refund was not included in the parties' Joint Stipulation of Facts and Issues; thus, it is barred for consideration during trial and even on appeal.

C.T.A. EB No. 629

Petitioner TPC contends that it is not necessary to prove that it was issued a Certificate of Compliance (COC) by the Energy Regulatory Commission (ERC) because this is subject to mandatory judicial notice; the fact that TPC is a generation company was stipulated by the parties in their "Joint Stipulation of Facts and Issues"; and the Court should have taken judicial notice of the fact that TPC was issued a COC.

C.T.A. EB No. 623

A careful study of the applicable law and jurisprudence shows that TPC's judicial claim for refund of its unutilized input VAT was filed within the prescribed period to appeal.

Although we agree with the former First Division's partial grant of TPC's claim, the Supreme Court had already settled in the case of *CIR vs. Mirant Pagbilao Corporation, 565 SCRA 154*, that the two (2) year prescriptive period to apply for a refund of unutilized input VAT must be reckoned from the close of the taxable quarter when the relevant sales were made, and not from the date of filing of the corresponding quarterly VAT returns. Taxpayers cannot avail of the provisions of either *Sections 204(c) or 229 of the NIRC of 1997, as amended*, as regards the refund of any unutilized creditable input VAT. Both provisions apply only to instances of erroneous payment or illegal collection of internal revenue taxes.

In the recent case of *CIR vs. Aichi Forging Company of Asia, Inc.*, *supra*, the Supreme Court ruled "*that Section 112 of the NIRC is the pertinent provision for the refund of input VAT*".

In this case, records show that TPC applied for a claim for refund of its unutilized input VAT for the four quarters of 2002 on December 22, 2003. Clearly, TPC's administrative claim was timely filed.

The CIR, however, argues that TPC did not comply with the two (2) year prescriptive period in filing its judicial claim for refund for the first quarter of taxable year 2002.

We do not agree.

The crux of the controversy was finally laid to rest by the Supreme Court in the aforesaid case of *CIR vs. Aichi Forging Company of Asia, Inc.*, *supra,* thus:

> "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." *(CIR vs. Aichi Forging Company of Asia, Inc. Ibid)*

Pursuant to the above-ruling, the two (2) year prescriptive period should not be applied to the judicial remedy of claiming for refund of unutilized input VAT, but only to the administrative remedy. As to the judicial remedy, the provision of *Section 112 (C) of the NIRC of 1997, as amended,* applies. Thus, applying *Section 112(C)* (previously Section 112 (D)) *of the NIRC of 1997, as amended),* the CIR has 120 days or until April 20, 2004 to decide the claim for refund for the four quarters of 2002. Within thirty (30) days from the lapse of the 120-day period, the taxpayer should have elevated its claim for refund to this Court. Records show that TPC filed its Petition for Review with this Court on April 22, 2004, which is clearly within the 30-day period to appeal from the lapse of the 120-day period for the CIR to decide the claim.

As regards CIR's contention that TPC's administrative claim was merely pro forma as it did not attach complete documents in support of its claim, we rule for TPC. As aptly ruled by the former First Division:

"The Court has ruled that although the submission of the complete supporting documents is necessary for the granting of refund or tax credit certificate, the non-submission of the same with the respondent does not make the administrative claim for refund or tax credit certificate invalid or pro forma, the effect of which makes the judicial appeal dismissible for lack of jurisdiction. What is clearly required is that the taxpayer elevates its claim before this Court within 30 days from receipt of the denial of its claim for refund/tax credit or after the expiration of the 120-day period granted to respondent to decide, which must all be done within two years from payment of the tax or penalty.

In the same vein, R.M.O. No. 53-98 refers to the requirements for refund or tax credit in the administrative level for purposes of establishing the authenticity of the taxpayer's claim. However, in the judicial level or when the case is elevated to the Court, The Rules of Court governs. Thus, respondent's non-compliance with the requirements listed under R.M.O. No. 53-98 is not fatal."

C.T.A. EB No. 629

Petitioner TPC claims that its sales of electricity, as a generation company, to other companies, other than the NPC, qualify for VAT zero-rating in accordance with *paragraph 5, Section 6* of *RA 9136 (EPIRA Law)*, which provides:

"SEC. 6. *Generation Sector.* xxx

xxx xxx

Pursuant to the objective of lowering electricity rates to end-users, sales of generated power by generation companies shall be value added tax zero-rated.

xxx xxx."

To qualify for VAT zero-rating under the EPIRA law, TPC must be able to establish that: 1) it is a generation company and 2) it derived sales from power generation.

<u>Generation company</u>

Section 4 of *RA 9136* provides:

"SEC. 4. Definition of Terms. –

xxx xxx

> (w) "Generation Company" refers to any person or entity ***authorized by the ERC*** to operate facilities used in the generation of electricity;" *(Emphasis supplied)*

As regards the first requisite, TPC failed to establish that it is a generation company during the period of its claim in accordance with *RA 9136*. As correctly found by the former First Division, TPC did not present any proof that it was registered with the ERC, pursuant to *Section 4 of RA 9136*, in relation to *Section 6 (b), Rule 5 of the Implementing Rules and Regulations of the EPIRA.*

Moreover, although TPC attached a photocopy of a COC duly issued by the ERC in its Motion for Reconsideration with the former First Division, marked as Annex "A", the same is not sufficient to prove that it is a generation company during the period of its claim. A careful scrutiny of said COC shows that the same is a mere photocopy and was issued only on June 23, 2004 *(Orig. Docket C.T.A. Case No. 6961, p.718)*, however, TPC's instant claim for refund covers taxable year 2002. Thus, TPC is not yet entitled to all the rights of a generation company, pursuant to *RA 9136* prior to the issuance of the aforesaid COC. Nowhere in the said COC shows that the rights of the generation company, pursuant to said document, has a retroactive effect; hence, TPC cannot qualify for VAT zero-rating under *RA 9136* for its sale of power generation for taxable year 2002.

TPC's contention that the fact that it is a generation company was already stipulated by the parties in their "Joint Stipulations of Facts and Issues", is baseless. A careful reading of the parties' "Joint Stipulations of Facts and Issues" shows that the parties merely stipulated on the fact that TPC applied with the ERC for the issuance of a COC on June 20, 2002, thus:

"<u>JOINTLY STIPULATED FACTS</u>

xxx xxx

2. On 20 June 2002, petitioner filed an application with the Energy Regulatory Commission (ERC) for the issuance of a Certificate of Compliance pursuant to the Implementing Rules and Regulations of the EPIRA."

Clearly, there is no admission as to the existence of the COC. As aptly found by the former First Division, TPC failed to present the COC duly issued by the ERC to prove that TPC's application was approved.

Furthermore, the summary of admitted facts in the same "Joint Stipulations of Facts and Issues" reads:

> "**ADMITTED FACTS**
>
> xxx xxx
>
> 3. Effective 26 June 2001, sales of generated power by generation companies became VAT zero-rated by virtue of Section 4(x) in relation to Section 6 of the EPIRA and Rule 5, Section 6 of the Rules and Regulations to Implement the EPIRA."

The same cannot also be used as a basis to prove that TPC is a generation company, as the parties merely admitted on the effectivity date of the EPIRA and the effect of said law to sales of generated power by generation companies. There is no clear indication, much more an admission, of the fact that TPC is a generation company pursuant to *RA 9136* during the period of its claim.

Finding no reversible error, we affirm the assailed Decision dated November 11, 2009 and Resolution dated April 13, 2010.

WHEREFORE, premises considered, the above-captioned petitions are hereby **DISMISSED.** The assailed Decision dated November 11, 2009 and Resolution dated April 13, 2010 rendered by the former First Division in C.T.A. Case No. 6961 are hereby **AFFIRMED**.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

w/ separate opinion
LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ERNESTO D. ACOSTA
Presiding Justice

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

-versus-

TOLEDO POWER COMPANY,
Respondent.

CTA EB NO. 623
(CTA Case No. 6961)

x---x

TOLEDO POWER COMPANY,
Petitioner,

-versus-

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA EB NO. 629
(CTA Case No. 6961)

Present:

Acosta, P.J.
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Palanca-Enriquez,
Fabon-Victorino,
Mindaro-Grulla, and
Cotangco-Manalastas, JJ.

Promulgated:

NOV 2 2 2010 ArsApolinario 8:45 p.m.

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SEPARATE OPINION

BAUTISTA, J.:

While I agree with the Court *En Banc* in dismissing the consolidated Petitions for Review, and thereby affirming the Decision dated November 11, 2009, which partially granted the refund or the issuance of tax credit certificate representing Toledo Power Company's unutilized input taxes attributable to zero-rated sales for the taxable year 2002 in the amount of P7,598,279.29; and the Resolution dated April 13, 2010, which denied the Motions for Partial Reconsideration filed by both Toledo Power Company and the Commissioner of Internal Revenue, I cannot, however, subscribe to the outright application of the case of *Commissioner of Internal Revenue v. Mirant Pagbilao Corporation (formerly Southern Energy Quezon, Inc.)*[1] ("*Mirant Case*") considering that the present case involves the refund/tax credit of taxes for the taxable year 2002 – a time prior to the promulgation of the said *Mirant Case*.

Before the Supreme Court construed the reckoning of the two (2) year prescriptive period under Section 112 of the 1997 National Internal Revenue Code ("NIRC") in the *Mirant Case*, the Court has consistently and invariably ruled, citing as basis the case of *Atlas Consolidated Mining and Development Corporation v. Commissioner of Internal Revenue*[2] ("*Atlas Case*"), that the reckoning of the 2-year prescriptive period is from the date of filing of the VAT return, not from the close of the pertinent quarter.

While it is true that judicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect, the same is nonetheless subject to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not

[1] G.R. No. 172129, September 12, 2008, 565 SCRA 154.
[2] G.R. Nos. 141104 & 148763, June 8, 2007, 524 SCRA 73.

apply to parties who relied on the old doctrine and acted in good faith. To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication.[3] This principle has been advocated in the oft-cited case of *Chicot County Drainage District v. Baxter States Bank*,[4] to quote:

> The actual existence of a statute, prior to such a determination, is an operative fact and may have consequences which cannot justly be ignored. The past cannot always be erased by a new judicial declaration. The effect of the subsequent ruling as to invalidity may have to be considered in various aspects — with respect to particular conduct, private and official. Questions of rights claimed to have become vested, of status, of prior determinations deemed to have finality and acted upon accordingly, of public policy in the light of the nature both of the statute and of its previous application, demand examination. These questions are among the most difficult of those who have engaged the attention of courts, state and federal, and it is manifest from numerous decisions that an all-inclusive statement of a principle of absolute retroactive invalidity cannot be justified.[5]

Thereupon that I hold to my opinion that the period prescribed under the *Mirant Case* should apply to claims filed after its promulgation, thus, on September 12, 2008. With this, the then prevailing doctrine set forth in law and jurisprudence, *i.e.*, the *Atlas Case* should apply in the case at bench.

In addition, this Court cannot expect a taxpayer-claimant to observe a prescriptive period that has yet to be enunciated by the Supreme Court at the time the taxpayer-claimant filed its claim before the administrative and judicial fora. It would be the height of injustice to impose a ruling that was yet in effect at the time the said claims were filed.

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[3] Columbia Pictures, Inc., *et al. v.* Court of Appeals, *et al.*, G.R. No. 110318, August 28, 1996, 261 SCRA 144.
[4] 308 US 371, 374 [1940].
[5] Albino S. Co *v.* Court of Appeals, *et al.*, G.R. No. 100776, October 28, 1993, 277 SCRA 444, *citing Chicot County Drainage District v. Baxter States Bank, Supra note 4.*

Likewise, I stand by my view that the judicial recourse to this Court by a taxpayer-claimant within thirty (30) days, either from the lapse of the one hundred twenty (120)-day period within which the Commissioner of Internal Revenue shall decide on the claim, or after the receipt of the decision denying the same, pursuant to Section 112(C)[6] of the 1997 NIRC, as amended, is directory and permissive, and not mandatory nor jurisdictional, as long as it is made within the two (2)-year prescriptive period prescribed under Sections 112 and 229 of the same Code.[7]

What is clearly required is the filing of the administrative and judicial claims, which must both be done within 2 years from payment of the tax or penalty.[8] Therefore, there is no need to wait for the denial of the claim by the Commissioner of Internal Revenue or even the inaction after the expiration of the 120-day period before the taxpayer can lodge its appeal with this Court,[9] for beyond the 2-year period, the taxpayer can no longer appeal to this Court.[10]

Accordingly, I vote for the dismissal of the Petitions for Review.

LOVELL R. BAUTISTA
Associate Justice

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[6] As amended by Republic Act No. 9337.
[7] Commissioner of Internal Revenue *v.* Aichi Forging Company of Asia, Inc., CTA EB No. 416, February 4, 2009.
[8] Commissioner of Internal Revenue *v.* CE Cebu Geothermal Power Company, Inc., CTA EB No. 435 (CTA Case Nos. 7181 & 7278), May 5, 2009, *citing CE Cebu Geothermal Power Company, Inc. v. Commissioner of Internal Revenue, CTA Case Nos. 6791 and 6836, October 6, 2008.*
[9] Commissioner of Internal Revenue *v.* CE Cebu Geothermal Power Company, Inc., CTA EB No. 426, May 29, 2009.
[10] Commissioner of Internal Revenue *v.* Accenture, Inc., CTA EB No. 410 (CTA Case No. 7387), March 18, 2009.