REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

SECOND DIVISION

DEUTSCHE BANK AG MANILA BRANCH,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 7344

Members:

CASTAÑEDA, JR., *Chairperson*
UY, *and*
PALANCA-ENRIQUEZ, *JJ.*

Promulgated:

AUG 2 9 2008
4:00 p.m.

x- -x

DECISION

UY, J.:

This is a Petition for Review praying for a tax refund or issuance of tax credit certificate in the amount of **TWENTY TWO MILLION FIVE HUNDRED SIXTY TWO THOUSAND EIGHT HUNDRED FIFTY ONE PESOS AND 17/100 (Php 22,562,851.17)**, representing petitioner's alleged excess Branch Profits Remittance Tax paid on its remitted branch profits to Deutsche Bank Germany in taxable year 2002 and prior years.

THE FACTS

Petitioner, Deutsche Bank AG Manila Branch, is the Philippine branch office of Deutsche Bank Germany, a company organized and existing under

418

the laws of Germany whose principal office is in Frankfurt, Germany.[1] It is duly registered with the Securities and Exchange Commission under S.E.C. Amended License No. F-1228 dated July 12, 1995, as a branch office with full banking authority in the Philippines.[2] It is likewise registered with the Bureau of Internal Revenue (BIR), with Tax Identification No. 000-449-586-000.[3]

Respondent is the duly appointed Commissioner of the Bureau 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. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On October 21, 2003, petitioner withheld and remitted to respondent the amount of Php67,688,553.51, representing a fifteen percent (15%) Branch Profit Remittance Tax (BPRT) on its 2002 and prior taxable years' Regular Banking Unit (RBU) Net Income due for remittance to Deutsche Bank Germany (DB Germany)[4] pursuant to Section 28(A)(5) of the National Internal Revenue Code (NIRC) of 1997, which states that:

> "**SEC. 28. Rates of Income Tax on Foreign Corporations. –**
>
> **(A) Tax on Resident Foreign Corporations. -**
>
> xxx xxx xxx
>
> **(5) Tax on Branch Profits Remittances.** – Any profit remitted by a branch to its head office shall be subject to a tax of fifteen percent (15%) which shall be based on the total profits applied or earmarked for remittance without any deduction for the tax component thereof (except those activities which are

[1] Exhibit "J", Docket, p. 277.
[2] Exhibit "B", Docket, p. 222.
[3] Par. 1, Stipulated Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 102.
[4] Exhibits "E" and "J", Docket, pp. 247 and 277, respectively.

419

> registered with the Philippine Economic Zone Authority). The tax shall be collected and paid in the same manner as provided in Sections 57 and 58 of this Code: Provided, That interests, dividends, rents, royalties, including remuneration for technical services, salaries, wages, premiums, annuities, emoluments or other fixed or determinable annual, periodic or casual gains, profits, income and capital gains received by a foreign corporation during each taxable year from all sources within the Philippines shall not be treated as branch profits unless the same are effectively connected with the conduct of its trade or business in the Philippines."

On the belief that it made an overpayment of BPRT to respondent, petitioner filed on October 4, 2005 an administrative claim for refund or issuance of tax credit certificate in the amount Php22,562,851.17 with the BIR Large Taxpayers Assessment and Investigation Division. On the same date, it requested confirmation of its entitlement to the preferential tax rate of 10% under the RP-Germany Tax Treaty with the International Tax Affairs Division.[5]

As there was no action on petitioner's administrative claim for refund, petitioner filed before this Court a Petition for Review on October 18, 2005 praying for the refund or issuance of tax credit certificate representing its alleged excess Branch Profits Remittance Tax paid on its remitted branch profits to Deutsche Bank Germany in taxable year 2002 and prior years likewise for the same total amount of twenty two million five hundred sixty two thousand eight hundred fifty one pesos and seventeen centavos (Php 22,562,851.17).

In support of its claim that the BPRT rate applicable to its remittance of its branch profits (as a Philippine branch of a resident of Germany) should only be ten percent (10%), petitioner invokes the provisions of Article 10

---

[5] Par. 4, Stipulated Facts, JSFI, Docket, pp. 103-104.

420

paragraph (6) of the "Agreement Between the Federal Republic of Germany and the Republic of the Philippines for the Avoidance of Double Taxation with Respect to Taxes on Income and Capital" (RP-Germany Tax Treaty). Said provision reads as follows:

> "**ARTICLE 10. DIVIDENDS**
>
> xxx xxx xxx
>
> 6. Where a resident of the Federal Republic of Germany has a branch in the Republic of the Philippines, this branch may be subject to a branch profits remittance tax withheld at source in accordance with Philippine law. However, the tax so charged shall not exceed 10 percent of the gross amount of the profits remitted by that branch to the head office."

In her Answer, respondent submits the following arguments, to wit:

> "4. Petitioner's alleged claim for refund is subject to administrative routinary investigation/examination by the Bureau of Internal Revenue (BIR);
>
> 5. The amount of Twenty Two Million Five Hundred Sixty Two Thousand Eight Hundred Fifty One and 17/100 Pesos (Php22,562,851.17) being claimed by petitioner allegedly representing overpayment of Branch Profits Remittance Tax (BPRT) was not properly documented;
>
> 6. In an action for refund, the burden of proof is on the taxpayer to establish its right to refund, and failure to sustain the burden is fatal to the claim for refund/credit;
>
> 7. Petitioner must prove that it is entitled to avail of the preferential tax treaty rate of 10% on its remittances of branch profits, based on the Philippines-Germany tax treaty;
>
> 8. Petitioner must prove that it actually paid BPRT to the BIR the amount of Sixty Seven Million Six Hundred Eighty Eight Thousand Five Hundred Fifty Three and 51/100 Pesos (Php67,688,553.51) on its branch profits remittance in the year 2003;

9. Petitioner must prove that it has complied with Sections 204(C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/credit;

10. Claims for refund are construed strictly against the claimant for the same partake of the nature of exemption from taxation (*Commissioner of Internal Revenue vs. Ledesma, 31 SCRA 95)* and as such, they are looked upon with disfavor (*Western Minolco Corp. vs. Commissioner of Internal Revenue, 124 SCRA 1211).*[6]

During trial, petitioner presented its documentary and testimonial evidence, while respondent submitted the case for decision without presenting any evidence.[7] As directed by the Court, petitioner and respondent filed their Memoranda on October 22, 2007 and November 5, 2007, respectively.[8] Subsequently, in the Resolution dated December 10, 2007[9], the Court granted petitioner's "Motion to Admit Supplemental Memorandum", admitted petitioner's Supplemental Memorandum attached thereto and considered the instant case submitted for decision.

Hence, this Decision.

THE ISSUES

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

"1. Whether or not Petitioner is entitled to avail of the preferential tax treaty rate of 10% under the RP-Germany Tax Treaty on its remittance of branch profits to DB Germany.

2. Whether or not Petitioner actually remitted to DB Germany in the year 2003 the amount of EUR5,174,847.38 (or P330,175,961.88 at P63.804:1EURO), net of the 15% BPRT, representing branch profits of the RBU for the year 2002.

[6] Answer, Docket, pp. 38-44, at pp. 40-41.
[7] Minutes of the hearing held on July 23, 2007, Docket, p. 334.
[8] Petitioner's Memorandum, Docket, pp. 351-376, Respondent's Memorandum, Docket, pp. 385-402.
[9] Docket, p. 416.

422

3. Whether or not Petitioner actually paid 15% BPRT on its 2002 RBU profits remitted to DB Germany, in the amount of Sixty Seven Million Six Hundred Eighty Eight Thousand Five Hundred Fifty Three and 51/100 Pesos (P67,688,553.51).

4. Whether or not Petitioner complied with the provisions of Sections 204(C) and 229 of the Tax Code on the prescriptive period for claiming tax refund/issuance of a tax credit certificate.

5. In general, whether Petitioner is entitled to the refund or issuance of a tax credit certificate in the amount of Twenty-Two Million Five Hundred Sixty-Two Thousand Eight Hundred Fifty One and 17/100 Pesos (P22,562,851.17), representing Petitioner's excess or overpaid BPRT in the year 2003 of year 2002 profits remitted to DB Germany."[10]

THE COURT'S RULING

The first and fifth issues pertain to petitioner's legal entitlement to its claim for refund or issuance of tax credit certificate. The second, third and fourth issues pertain to factual issues as regards the actual remittance of petitioner's branch profits and its payment of the 15% BPRT, and compliance with the prescriptive period to file the instant claim for refund or issuance of tax credit. The latter, being preliminary factual issues, shall first be resolved by the Court.

Based on the evidence presented, both documentary and testimonial, petitioner was able to establish the following facts:

a. That petitioner is a branch office in the Philippines of Deutsche Bank AG, a corporation organized and existing under the laws of the Federal Republic of Germany;[11]

b. That on October 21, 2003, it filed its Monthly Remittance Return of Final Income Taxes Withheld under BIR

[10] Stipulated Issues For Trial, Joint Stipulation of Facts and Issues, Docket, pp. 104-105.
[11] Exhibits "A", "B", and "C", Docket, pp. 166, 222, and 223, respectively.

423

Form No. 1601-F and remitted the amount of P67,688,553.51 as branch profits remittance tax with the BIR;[12] and

c. That on October 29, 2003, the *Bangko Sentral ng Pilipinas* having issued a clearance, petitioner remitted to Frankfurt Head Office the amount of EUR5,174,847.38 (or P330,175,961.88 at 63.804 Peso/Euro) representing its 2002 profits remittance.[13]

With the foregoing factual findings, the second and third issues are resolved in the affirmative. Thus, the Court finds that petitioner actually remitted to DB Germany in the year 2003 the amount of EUR5,174,847.38 (or Php330,175,961.88 at Php63.804:1EURO), net of the 15% BPRT, representing branch profits of the RBU for the year 2002 and that it actually paid 15% BPRT on its 2002 RBU profits remitted to DB Germany, in the amount of Sixty Seven Million Six Hundred Eighty Eight Thousand Five Hundred Fifty Three and 51/100 Pesos (Php67,688,553.51).

Anent the fourth issue on prescription, the applicable legal provisions are Sections 204 and 209 of the NIRC of 1997, to wit:

"**SEC. 204. Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.** - The Commissioner may –

xxx xxx xxx

(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 payment of the tax or penalty: *Provided, however,* That a return filed with an overpayment shall be considered a written claim for credit or refund.

[12] Exhibits "E" and "M", Docket, pp. 247 and 295, respectively.
[13] Exhibits "F" and "N", Docket, pp. 249 and 296, respectively.

xxx xxx xxx"

"**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 tax appears clearly to have been erroneously paid."

Section 204(C) speaks of the authority of the respondent Commissioner of Internal Revenue to credit or refund taxes erroneously or illegally received, or penalties imposed without authority, provided that the taxpayer filed a written claim for credit or refund within two (2) years after payment of the tax or penalty; provided further that a return filed with an overpayment shall be considered a written claim for credit or refund.

Section 229 provides that prior to the filing of a judicial suit or proceeding for the recovery of erroneously or illegally collected tax, it is required that the taxpayer must have duly filed with the respondent Commissioner a claim for refund or credit; that such suit or proceeding must be filed within two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment.

As the Branch Profits Remittance Tax was paid on October 21, 2003 and its Monthly Remittance Return of Final Income Taxes Withheld under BIR Form No. 1601-F was also filed on the same date, petitioner had two years therefrom, or until October 21, 2005, within which to file its administrative and judicial claims for refund or issuance of a tax credit for its alleged erroneous remittance of BPRT. The administrative claim for refund was filed on October 4, 2005 with the BIR Large Taxpayers Assessment and Investigation Division, while the instant petition for review was filed on October 18, 2005. Hence, both the administrative and judicial actions were filed before the expiration of the two (2) year prescriptive period.

The first and fifth issues shall now be resolved jointly.

As a general rule tax refunds, like tax exemptions, are construed strictly against the taxpayer, and the taxpayer has the burden of proof to establish the factual basis of the claim for tax credit or refund.[14]

In paying its branch profit remittance tax, petitioner followed the fifteen percent (15%) tax rate provided under Section 28(A)(5) of the NIRC of 1997. Thus, when it filed its Monthly Remittance Return of Final Income Taxes Withheld (BIR Form No. 1601-F) on October 21, 2003, it remitted the amount of Php67,688,553.51 as Branch Profits Remittance Tax to the BIR representing fifteen percent (15%) of its 2002 and prior years' Regular Banking Unit (RBU) Net Income due for remittance to Deutsche Bank (DB) Germany in the amount of four hundred fifty one million two hundred fifty

---

[14] *Paseo Realty & Development Corporation vs. Court of Appeals, Court of Tax Appeals, and the Commissioner of Internal Revenue*, G.R. No. 119286, October 13, 2004.

seven thousand twenty three pesos and thirty nine centavos (Php451,257,023.29).

Invoking coverage under the preferential tax rate of 10% provided under Section 10 of the RP-Germany Tax Treaty, petitioner claims that instead of paying the amount of Sixty Seven Million Six Hundred Eighty Eight Thousand Five Hundred Fifty Three and Fifty One Centavos (Php67,688,553.51) on its branch profit remittance in 2003, it should have paid only Forty Five Million One Hundred Twenty Five Thousand Seven Hundred Two Pesos and Thirty Four Centavos (Php45,125,702.34) equivalent to ten percent (10%). Thus, it filed an administrative claim before the BIR on October 4, 2005 and subsequently, the instant judicial claim on October 18, 2005, for the refund or credit of its alleged excess BPRT payment for taxable year 2002 and prior years.

The question to be resolved now is whether or not petitioner is entitled to its claimed refund or credit representing its excess or overpaid BPRT in the year 2003.

We rule for the respondent.

In **Mirant (Philippines) Operations Corporation (formerly: Southern Energy Asia-Pacific Operations [Phils.], Inc.) vs. Commissioner of Internal Revenue**[15], the Court *En Banc* ruled that a foreign corporation wishing to avail of the benefits of the tax treaty should invoke the provisions of the tax treaty and prove that indeed the provisions of the tax treaty applies to it, before the benefits may be extended to such corporation.

---

[15] C.T.A. EB No. 40 (CTA Case No. 6382), June 7, 2005; As affirmed by the Supreme Court in a Resolution dated February 18, 2008 in G.R. No. 168531.

427

Otherwise stated, a resident or non-resident foreign corporation shall be taxed according to the provisions of the National Internal Revenue Code, unless it is shown that the treaty provisions apply to the said corporation; and that, in the cases that the same are applicable, the option to avail of the tax benefits under the tax treaty has been successfully invoked. The Court *En Banc* further explained:

> "**Under Revenue Memorandum Order 01-2000 of the Bureau of Internal Revenue, it is provided that the availment of a tax treaty provision must be preceded by an application for a tax treaty relief with its International Affairs Division (ITAD).** This is to prevent any erroneous interpretation and/or application of the treaty provisions with which the Philippines is a signatory to. The implementation of the said Revenue Memorandum Order is in harmony with the objectives of the contracting state to ensure that the granting of the benefits under the tax treaties are enjoyed by the persons or corporations duly entitled to the same." (*Emphasis supplied*)

For clarity, We quote the pertinent provisions of Revenue Memorandum Order 01-2000 of the Bureau of Internal Revenue, as mentioned under Section III thereof, to wit:

> **REVENUE MEMORANDUM ORDER NO. 01-2000**
>
> SUBJECT: *Procedures for Processing Tax Treaty Relief Application*
>
> TO : *All Internal Revenue Officers and Others Concerned*
>
> xxx xxx xxx
>
> III. Policies:
>
> In order to achieve the above-mentioned objectives, the following policies shall be observed:
>
> 1. The processing for tax treaty relief shall be transferred from Law Division to the International Tax Affairs Division (ITAD) in accordance with the approved memorandum dated March 23, 1999.

428

2. Any availment of the tax treaty relief shall be preceded by an application by filing BIR Form No. 0901 (Application for Relief from Double Taxation) with ITAD at least 15 days before the transaction i.e. payment of dividends, royalties, etc., accompanied by supporting documents justifying the relief. Consequently, BIR Form Nos. TC 001 and TC 002 prescribed under RMO 10-92 are hereby declared obsolete.

3. Claims for tax credit/refund pertinent to the tax treaty relief requested filed with ITAD within the two (2) year period prescribed by Section 229 of the NIRC, as amended under RA 8424. *The Tax Credit Certificate shall be issued for the account of the 'non-resident taxpayer-recipient of the income'*."

As discussed earlier, petitioner filed its Monthly Remittance Return of Final Income Taxes Withheld under BIR Form No. 1601-F and remitted the amount of Php67,688,553.51 as branch profits remittance tax with the BIR on October 21, 2003. It secured its clearance from the *Bangko Sentral ng Pilipinas* on October 29, 2003 and remitted on the same day to Frankfurt Head Office, the amount of EUR5,174,847.38 (or Php330,175,961.88 at 63.804 Peso/Euro) representing its 2002 profits remittance.

However, it only requested for the confirmation of its entitlement to the preferential tax rate of ten percent (10%) under the RP-Germany Tax Treaty on October 3, 2005,[16] or almost a period of two (2) years from the transaction. Clearly therefore, petitioner's application for a tax treaty relief with the BIR International Tax Affairs Division (ITAD) was not filed prior to its payment of the BPRT and actual remittance of its branch profits to DB Germany. Neither was it done before its availment of the preferential rate of ten percent (10%)

---

[16] Exhibit "D", Docket, pp. 240-246.

429

under the RP-Germany Tax Treaty provision. Instead, the said request for confirmation was filed way beyond the fifteen (15) day period mandated under Section III paragraph (2) of Revenue Memorandum Order No. 01-2000.

This circumstance was pointed out by respondent's counsel, Atty. Claro B. Ortiz, during the presentation of petitioner's testimonial evidence on December 4, 2006, when Atty. Ortiz cross-examined petitioner's witness, Mary Jane F. Maningas. She partly testified as follows:

"ATTY. ORTIZ
Q. You also stated in your affidavit that as Tax Compliance Officer you are aware of the BIR requirements?

MS. MANINGAS
A. Yes.

ATTY. ORTIZ
Q. Regarding the application for tax remittance?

MS. MANINGAS
A. Yes.

ATTY. ORTIZ
Q. Do you know what particular revenue issuance?

MS. MANINGAS
A. As far as I know, there is a revenue memorandum issued, RMO No. 1-2000 stating that we have to file a request with the BIR.

ATTY. ORTIZ
Q. What specifically are the provisions in that RMO?

MS. MANINGAS
A. We are required to file fifteen (15) days from applying the duty rate, we are required to file request from BIR.

ATTY. ORTIZ
Q. Before you can avail of the tax treaty. You stated in your affidavit that the basis of your claim for refund is the RP-Germany Tax Treaty, is that correct?

MS. MANINGAS
A. Yes.

ATTY. ORTIZ
Q. So, before you can avail of the RP-Germany Tax Treaty, you have to file a request or an application form for tax treaty fifteen (15) days prior to the remittance?

MS. MANINGAS
A. No, not the remittance, fifteen (15) days prior to availment.

ATTY. ORTIZ
Q. Fifteen (15) days prior to availment?

MS. MANINGAS
A. Yes, availment of the tax treaty, but, we did not apply the treaty rate, that is why we are claiming a refund.

ATTY. ORTIZ
Q. Let me show you the pertinent provision of Revenue Memorandum Order No. 1-2001 and I quote in Paragraph 2, 'any availment on the tax treaty relief shall be preceded by an application by filing of BIR Form No. 0910 with ITAD or International Tax Affairs Division at least fifteen (15) days before the transaction.'?

MS. MANINGAS
A. Yes.

ATTY. ORTIZ
Q. That is payment of dividends, royalties?

MS. MANINGAS
A. Yes.

ATTY. ORTIZ
Q. Did you do that?

MS. MANINGAS
A. We did not use the fifteen percent (15%) for the remittance, so we did not claim within fifteen (15) days from remittance.

ATTY. ORTIZ
Q. But, did you file an application fifteen (15) days prior to the payment?

MS. MANINGAS
A. We did file the application together with the administrative claim for refund.

431

ATTY. ORTIZ
Q. No, fifteen (15) days prior to the payment for remittance, did you file any claim?

MS. MANINGAS
A. It is not before the remittance.

ATTY. ORTIZ
Q. Just answer yes or no?

MS. MANINGAS
A. No.[17]"

The Court notes that petitioner's witness admitted that petitioner did not file its application for entitlement to a preferential tax rate prior to its payment of the BPRT because it paid the regular fifteen percent (15%) rate, instead of the ten percent (10%) preferential rate. Stated otherwise, considering that petitioner paid the regular rate when it paid its BPRT with the BIR, there was no preferential rate to speak of at that time, since it did not yet invoke coverage under the RP-Germany Tax Treaty then.

Be that as it may however, petitioner's erroneous payment of the regular tax rate should not work in its favor so as to exempt it from filing the required application for entitlement, at least fifteen (15) days prior thereto, nor should it exculpate petitioner from its non-observance of the said reglementary period. Correspondingly, We find petitioner's non-compliance with the procedural requirements set forth under Section III of RMO 01-2000 fatal to its claim for refund.[18]

The Court is mindful that the presumption of legality and constitutionality to which statutes and administrative regulations are entitled

---

[17] TSN, December 4, 2006 hearing, pp. 14-18.
[18] *Mirant Sual Corporation (formerly Southern Energy Pangasinan, Inc.) vs. Commissioner of Internal Revenue*, C.T.A. Case No. 6388, August 22, 2005.

432

should be respected until such statute or regulation is repealed or amended, or until set aside in an appropriate case by a competent court.[19] Administrative issuances have the force and effect of law. They benefit from the same presumption of validity and constitutionality enjoyed by statutes. These two precepts place a heavy burden upon any party assailing governmental regulations. The burden of proving unconstitutionality rests on such party.[20] Clearly, compliance with the procedural requirements provided in any valid and constitutional administrative issuances, such as RMO 01-2000, is mandatory.

WHEREFORE all the foregoing considered, the instant Petition for Review is hereby **DISMISSED** for lack of merit.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

[19] *Fernandez vs. Torres*, 215 SCRA 489 (1992); *Garcia vs. The Executive Secretary, et al*, 211 SCRA 219 (1992); *Gonzales vs. Land Bank of the Philippines*, 183 SCRA 520 (1990); *Philippine Association of Service Exporters, Inc. vs. Drilon*, 163 SCRA 386 (1988); *Espanol vs. Chairman, Philippine Veterans Administration*, 137 SCRA 314 (1985); *Ermita-Malate Hotel and Motel Operators Association, Inc. vs. City Mayor of Manila*, 20 SCRA 849 (1967).
[20] *Mirasol et, al vs. DPWH*, G.R.No. 158793, June 8, 2006.

433

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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division 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.

ERNESTO D. ACOSTA
Presiding Justice