Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

CDCP MINING CORPORATION,
Petitioner,

- versus -

C.T.A. CASE NO. 3523

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
AUG 09 1994

x -- x

D E C I S I O N

Petitioner seeks to recover 25% of the specific taxes paid on various oils and fuels actually used in the exploitation and operation of its mining lease pursuant to the provision of Section 5 of Republic Act No. 1435 in relation to Sections 153 and 156 (formerly Sections 142 and 145, respectively) of the National Internal Revenue Code of 1977, as amended.

Petitioner is a domestic corporation duly licensed to engage in mining operations. It has a Mining Lease Contract duly entered into with the Ministry of Natural Resources.

In order to effectively operate its mining concession petitioner uses refined and manufactured mineral oils, motor fuels and diesel fuel oils in its mining operations. From July 1, 1980 to June 30, 1982, petitioner paid the corresponding specific taxes on its purchases of diesel fuel oils, motor fuels, manufactured mineral oils from Mobil Oil Philippines, Inc. and Caltex Philippines. (Exhibit D, for the petitioner) In view of the provision of Section 5 of Republic Act No. 1435 (An Act To Provide Means For Increasing The Highway Special Fund) and the decision of the Supreme Court in the case of *Insular Lumber Co. v. Court of Tax Appeals*, G.R. No. L-31057, May 29, 1981 (104 SCRA 710), petitioner claimed entitlement to the 25% partial refund on the specific taxes paid on manufactured mineral oils and fuels actually used in its forest operations.

Petitioner filed a claim for refund (Exhibit AH), dated September 1, 1982 with the respondent's office in the total amount of P9,962,299.71, computed as follows: (Exh. AH-1-a)

C D C P M i n i n g C o r p o r a t i o n

July 1980 - June 1982

	Volume Liters	Product Cost	Specific Tax	25% Refund
Diesel	13,473,134	P 37,213,419.77	P 2,357,798.45	P 589,449.61
Oil & Lubricants	46,279,650	96,439,892.16	37,023,720.42	9,255,930.10
Regular Gasoline	146,000	717,610.60	131,400.00	32,850.00
Extra Gasoline	300,000	1,484,860.80	300,000.00	75,000.00
Kerosene	72,000	202,660.20	5,040.00	1,260.00
Grease	62,480	313,273.80	31,240.00	7,810.00
		P 136,371,717.53	P 39,849,198.47	P 9,962,299.10

In order to support its claim for refund, petitioner presented the affidavits of its Senior Vice-President (Exh. AH-1), Purchasing Manager (Exh. AH-2), Comptroller (Exh. AH-3), and two other disinterested persons (Exhs. AH-4 and AH-5).

Without waiting for respondent's decision on the matter, petitioner filed a petition for review in order to stop the running of the two (2) year prescriptive period within which to judicially claim a refund under Section 230 (formerly 292) of the National Internal Revenue Code. Petitioner prayed for an order requiring respondent to pay 20% interest per annum, in addition to its claim for refund for his alleged arbitrary refusal to refund the instant claim. Petitioner likewise prayed for the costs of suit.

Section 5 of Republic Act No. 1435 provides:

> "Section 5. The proceeds of the additional tax on manufactured oils shall accrue to the road and bridge funds of the political subdivision for whose benefit the tax is collected: *Provided*, however, That whenever any oils mentioned above are used by miners and forest concessionaires in their operations, twenty-five per centum of the specific tax paid thereon shall be refunded by the Collector of Internal Revenue upon submission of proof of actual use of oils and under similar conditions enumerated in sub-paragraphs one and two of section one hereof, amending section one hundred forty-two of the Internal Revenue Code: *Provided*, further, That no new road shall be constructed unless the routes or location thereof shall have been approved by the Commissioner of Public Highways after a determination that such road can be made part of an integral and articulated route in the Philippine Highway System, as required in Section twenty six of the Philippine Highway Act of 1953."

In the cases of ***Insular Lumber Company v. Court of Tax Appeals and Commissioner of Internal***

Revenue, G.R. No, L-31057, May 29, 1981 and *Commissioner of Internal Revenue vs. Court of Tax Appeals and Insular Lumber Company,* G.R. No. L-31137, May 29, 1981, the Supreme Court held that the proviso of Section 5 of Republic Act No. 1435 is in effect a partial exemption from the imposed increased specific tax on manufactured oils. Furthermore, Section 5 does not deviate from the general subject of said law, that is to increase the Highway Special Fund.

On this account, petitioner claimed entitlement on the refund sought for based on the above mentioned decisions, as well as the provision of Section 5 of Republic Act No. 1435.

After an answer has been filed respondent rendered a final decision, dated January 2, 1984, denying petitioner's claim for refund (Exh. A1).

Petitioner presented and formally offered its evidence without any objection on the part of the respondent.

Respondent added that the law (R.A. 1435) relied upon by petitioner had been repealed by Presidential Decree No. 231, otherwise known as the Local Tax Code and Presidential Decree No. 426, amending Presidential Decree No. 231, and its implementing regulation specifically Local Tax Regulations No. 1-74.

Furthermore respondent argued that even before the repeal of Republic Act No. 1435 petitioner cannot avail the privilege under Section 5 thereof in the absence of any allegation regarding payment of the additional tax under a municipal or city ordinance as indicated in Section 4 of the same act. He pointed out that Section 4 must be read in relation to Section 5.

Sec. 4 of Republic Act No. 1435 insofar as pertinent provides:

> "**Section 4.** Municipal boards or councils may, notwithstanding the provisions of sections one hundred and forty-two and one hundred and forty-five of the National Internal Revenue Code, as herein above amended, levy an additional tax of not exceeding twenty-five per cent of the rates fixed in said sections, on manufactured oils sold or distributed within the limits of the city or municipalities: ***Provided,*** That municipal taxes heretofore levied by cities through city ordinances on gasoline, airplane fuel, lubricating oil and other fuels, are hereby ratified and declared valid. The method of collecting said additional tax shall be prescribed by the municipal board or council concerned.

Respondent further added that subsequent to the enactment of R.A. 1435, the rates of specific tax on oils were increased on several occasions because of the issuance of various presidential decrees and executive orders, in view of this the refund privilege are deemed revoked.

Respondent asserts that Sections 4 and 5 of Republic Act No. 1435 have been repealed by Section 343 of the National Internal Revenue Code of 1977 (Presidential Decree Nos. 1158 and 1158-A), which is as follows:

> "**Sec. 343.** Granting provinces, cities and municipalities share in the specific tax on certain petroleum products. - In addition to the internal revenue allotment under Section three hundred forty-four, provinces, cities and municipalities shall share in the specific taxes on the following petroleum product in such amounts as may be equivalent to the collections therefrom at the rates indicated hereunder:
>
> xxx xxx xxx
>
> The additional allotment is in lieu of local taxes imposed on petroleum products and for this purpose, Section twenty-four of Presidential Decree numbered 231, otherwise known as the Local Tax Code, has been repealed by Presidential Decree numbered 436 on March 30, 1974.
>
> xxx xxx xxx

Respondent further argued that petitioner's right to claim a partial refund of specific taxes paid prior to October 8, 1982 had already prescribed.

The issues brought before this Court are:

1.) Whether or not the privilege under Section 5 of R.A. 1435 had been repealed by P.D. No. 231 (Enactment of the Local Tax Code), as amended by P.D. No. 426, and by P.D. Nos. 1158 and 1158-A (Consolidating and codifying all Internal Revenue Laws) particularly Section 342 of the National Internal Revenue Code of 1977; and

2.) Granting arguendo that the privilege under Section 5 of R.A. 1435 has not been repealed, whether or not petitioner is entitled to the refund claimed absent any allegation of payment of the additional tax imposed by the municipal boards or councils as prescribed by Section 4 of R.A. 1435.

Going over the first issue, respondent contended that with the passage of various Presidential Decrees and Executive Orders, increasing the rate of specific taxes under the National Internal Revenue Code it impliedly revoked the partial refund privilege under Section 5 of R.A. 1435. Respondent maintained that the very purpose why the government increased the rates of specific taxes is to provide additional revenues to accelerate economic development in the country. In this regard, the grant of partial refund would therefore run counter to the very purpose for which the specific tax rates were increased.

The Court has this to say.

As enunciated in the case of ***Commissioner of Internal Revenue v. Atlas Consolidated Mining and Development Corporation,*** et. al., **G.R. No. 93631, November 12, 1990,** the Supreme Court said that "the purpose for the increase in the rate of tax cannot in anyway negate the policy behind the grant of partial refund. The Court sees no inconsistency between the increase in specific tax rates on the retention of the refund privilege. In fact, with the increased specific tax rates, the grant of partial refund to mining and lumber concessionaires is made more imperative considering that they seldom use the highways, the construction of which are financed by specific taxes."

Moving over to the second issue, respondent argued that petitioner is entitled to a refund only if the additional specific taxes imposed by the municipalities and cities concerned have been paid. On this account petitioner asserts that where there is no such ordinance imposing an additional specific tax to miners and forest concessionaires, no refund could be utilized as perceived from the reading of the provisions of Sections 4 and 5 of R.A. 1435 taken as a whole.

We find it imperative to pass upon the pronouncement of the Supreme Court in the case of Commissioner of Internal Revenue v. Atlas Consolidated Mining and Development Corp. et. al., *supra:*

> "A reading of the legislative proceedings leading to the enactment of R.A. 1435 shows that mining and lumber concessionaires were granted partial refund of specific taxes because the gasoline and fuel they consume is mostly used within their own compounds and roads. R.A. 1435 gave these concessionaires relief, in the form of a tax refund, since their trucks and vehicles seldom ply the national highways, the construction of which is funded by the specific tax collected by the national government. There is therefore no rationale in conditioning the grant of refund on the payment of these mining or lumber concessionaires of any additional local tax.
>
> Moreover, Section 5 states that the 25% specific tax shall be refunded by the Collector of Internal Revenue. Since it is the latter who collects the specific taxes due to the national government, then it follows that the refund refers to a refund of the specific taxes paid to the national government, not the specific taxes paid to the local government."

As cited in the case of Commissioner of Internal Revenue v. Rio Tuba Nickel Mining Corporation and the Court of Tax Appeals, G.R. Nos. 83583-84, September 30, 1991, (202 SCRA 137) it was held that "Section 5 of R.A. 1435 standing alone is enough basis for granting the refund. Section 5 does not make any reference to Section 4 which empowers municipalities and cities to impose the additional tax on oils sold or distributed within their territorial jurisdiction." What is clear therein is that the Revenue Commissioner shall refund 25% of the specific tax whenever any oils mentioned above are used by miners or forest concessionaires in their operations and the procedure for refund is complied with.

In view of its proper entitlement to the relief sought for, the only thing left to be determined by this Court is the amount of specific taxes to be refunded in favor of petitioner.

Petitioner claims that it is entitled to the 25% partial refund of specific taxes paid from its purchases of refined and manufactured fuel oils, diesel fuel oils and lubricating oils from July 1, 1980 to June 30, 1982.

In its Memorandum, petitioner presented the Table of its Summary of Oil products purchases and consumption from July 1980 to June 1983.

Respondent maintains that assuming for purposes of argument that the privilege of partial refund of specific tax still subsists, petitioner's claim for refund may be granted only up to the amount equivalent to 25% specific taxes paid from October 8, 1980 to June 1982 inclusive. Additionally, petitioner's right to file a judicial action for the refund of the specific taxes paid before October 8, 1980 has already prescribed pursuant to Sec. 243 of the NIRC as amended. Moreover, it's claim for refund of specific taxes paid after June of 1992 should likewise be denied as the same is not the subject matter of petitioner's written application for refund dated Sept. 1, 1982, nor is it the subject matter of the instant petition for review.

The Tax Code provides for the judicial remedy of filing a claim for refund within a period of two (2) years from the date of payment of the tax pursuant to the provision of Section 230 (formerly Section 292).

Section 135 of the Tax Code insofar as pertinent to the resolution of the case is herein quoted which provides "that specific taxes on locally manufactured petroleum products levied under Section 153, 155 and 156 of this title, except lubricating oil and grease, shall be paid within fifteen (15) days from the date of removal thereof from the place of production."

From this the manufacturer of petroleum products has up to 15 days within which to pay the specific taxes on locally manufactured petroleum products from the date of its removal. By way of exception, manufacturers of lubricating oils and grease have to pay the specific tax collected from the purchaser on the date of its removal from the place of production.

Petitioner purchased both manufactured petroleum products and lubricating oils. Thus, with respect to its purchases of lubricating oils, the specific taxes paid thereon are deemed paid at the date of its removal. The claim for refund of the 25% specific taxes paid on oils and lubricants purchased and delivered prior to October 8, 1980 had indeed prescribed.

Following the provision of Section 135 of the Tax Code, the specific taxes paid on the rest of the petroleum products purchased by petitioner falls due on the 15th day following the date of its removal. Therefore, all shipments of petroleum products, except oils and lubricants, paid by petitioner 15 days prior to October 8, 1980 or on September 23, 1980 are deemed paid on October 8, 1980 which is well within the two-year prescriptive period as prescribed under Section 230 of the National Internal Revenue Code. (Exhs. E-3 to E-22, K-1, K-4, L-5, L-6, L-9, L-10, M-16 to M-38, M-40 to M-50, M-52, M-53, O-459 to O-520, O-523 to O-525, P-4, P-5)

The specific taxes collected from petitioner on its purchases of petroleum products other than oils on September 23, 1980 shall be paid within 15 days from the date of its removal or on October 8, 1980. It follows that on October 8, 1980, all purchases of locally manufactured petroleum products, except oils, on September 23, 1980 are deemed paid. Thus, all purchases of fuels prior to September 23, 1980 have prescribed.

All claims not included in the claim for refund filed in the administrative level (BIR) cannot be the subject of the present appeal. Thus, purchases of petroleum products and lubricants made <u>after</u> June 30, 1982, not being included in the claim for refund filed with the respondent's office, cannot be considered by this Court for the same was not included to form part of its claim for refund with the BIR nor of this petition for review. The petition calls for the refund of 25% of the specific taxes paid on petitioner's purchases of manufactured oils and fuels from July 1, 1980 to June 30, 1982 and not purchases of fuels from July 1, 1980 to June 30, 1983, as prayed for in the Memorandum (Exhs. O-10 to O-453) As enunciated in the case of Commissioner of Internal Revenue v. Rio Tuba Nickel Mining Corporation and Court of Tax Appeals, supra. the Supreme Court granted Rio Tuba's motion for reconsideration of its decision dated September 30, 1991. The High Court in its Resolution dated March 25, 1992 arrived at the following conclusion, which is as follows:

> "Since the private respondent's claim for refund covers specific taxes paid from 1980 to July 1983 then we find that the private respondent is entitled to a refund. It should be made clear, however, that Rio Tuba is not entitled to the whole amount it claims as refund.

The specific taxes on oils which Rio Tuba paid for the aforesaid period were no longer based on the rates specified by Sections 1 and 2 of R.A. No. 1435 but on the increased rates mandated under Sections 153 and 156 of the National Internal Revenue Code of 1977. We note, however, that the latter law does not specifically provide for a refund to these mining and lumber companies of specific taxes paid on manufactured and diesel fuel oils.

In Insular Lumber Co. v. Court of Tax Appeals, (104 SCRA 710 [1981]), the Court held that the authorized partial refund under section 5 of R.A. No. 1435 partakes of the nature of a tax exemption and therefore cannot be allowed unless granted in the most explicit and categorical language. Since the grant of refund privilege must be strictly construed against the taxpayer, the basis for the refund shall be the amounts deemed paid under Sections 1 and 2 of R.A. No. 1435.

Accordingly, the decision in G.R. Nos. 83583-84 is hereby MODIFIED. The private respondent's claim for refund is granted, computed on the basis of the amounts deemed paid under Sections 1 and 2 of R.A. 1435, without interest.

So Ordered."

The above mentioned ruling was further discussed by the Supreme Court in reply to Rio Tuba's motion for clarification which is in fact a second motion for reconsideration. The Court in its resolution dated June 15, 1992 has the following comments to wit:

> Rio Tuba's contention that the refund should be based on the rates effective at the time the specific tax was paid is without merit. Section 1 of R.A. 1435 amended Section 142 of the National Internal Revenue Code providing for increased rates on specific taxes paid on manufactured oils which are used in agriculture and aviation Section 5 of R.A. 1435 amended Section 142 of the National Internal Revenue Code provided for a refund privilege on specific taxes on manufactured oils paid by <u>miners</u> or <u>forest concessionaires</u>. There is a difference in the refund privileges of those engaged in agriculture and aviation on one hand, and miners or forest concessionaires on the other. Since the refund privilege of the former is incorporated in Section 142, then upon any amendment of Section 142 increasing the tax rates, the basis for the refund will accordingly be adjusted.

Significantly, the refund privilege granted to miners or forest concessionaires is not incorporated in Section 142 but is found in Section 5 of R.A. 1435. There is thus an intent on the part of the legislature to use the specific tax rates provided in Section 1 as the sole basis for refund, notwithstanding future rate increases.

All the Sections of R.A. 1435 must be read as a whole. In the absence of any express provision of law, the refund privilege granted to miners and forest concessionaires in Section 5 must be construed as based on the specific tax rates provided in Section 1.

Regarding the Commissioner of Internal Revenue's (CIR's) contention in his motion for reconsideration that R.A. 1435 had become an anachronism way back in 1973 when the legislature provided for increased specific tax rates on manufactured oils, said position that a partial refund would be inconsistent with the purpose of the subsequent laws increasing specific tax rate is without merit.

The refund privilege is not inconsistent with the increase in specific tax rates since the refund is based only on the <u>original</u> rates provided in Section 1 of R.A. 1435. These subsequent laws did not, therefore expressly or impliedly, repeal the refund privilege.

xxx xxx xxx

The Court, after examining the invoices offered by petitioner as evidence, arrived at the following computation on the refundable 25% specific taxes paid on Diesel, Gasoline, Fuel, oils, kerosene from September 23, 1980 to June 30, 1983, and oils, lubricants and grease from October 8, 1980 to June 30, 1982 as follows:

Q U A N T I T Y   I N   L I T E R S

	Diesel	Oils and Lubricants	Extra Gasoline	Regular Gasoline	Fuel Oil	Grease	Kerosene
Folder #1	2,861,082	981,668	20,000	20,000	5,024,332		
Folder #2	3,886,919	533,965	116,000	22,000	16,196,251	420	10,000
Folder #3	1,406,640	429,640	104,000	32,000	7,351,991	10,250	42,000
Folder #4	2,929,695	194,510	52,000	22,000	5,031,652	3,570	10,000
TOTAL	11,084,336	2,139,783	292,000	96,000	33,604,226	14,240	62,000

The Resolution of the Supreme Court dated March 25, 1992 in the Rio Tuba case (supra) stated that the claim for refund of specific taxes should be computed on the basis of the amounts deemed paid under Sections 1 and 2 of R.A. No. 1435, without interest.

Sections 1 and 2 of R.A. 1435 insofar as pertinent provides:

> "Section 1. Section one hundred and forty-two of the National Internal Revenue Code, as amended, is further amended to read as follows:

> **Sec. 142. Specific Tax on manufactured oils and other fuels.** - on refined and manufactured mineral oils and motor fuels, there shall be collected the following taxes:
>
> (a) xxx xxx xxx
>
> (b) Lubricating oils, per liter of volume capacity, seven centavos;
>
> (c) Naptha, gasoline, and all other similar products of distillation, per liter of volume capacity, eight centavos; and
>
> (d) xxx xxx xxx
>
> "**Section 2.** Section one hundred and forty five of the National Internal Revenue Code, as amended, is further amended to read as follows:
>
> "**Sec. 145.** Specific Tax on Diesel Fuel Oil. - On fuel oil, commercially known as diesel fuel oil, and on all similar fuel oils, having more or less the same generating power, there shall be collected, per metric ton, one peso."

With respect to the amount refundable on purchases of diesel and industrial fuel, both parties agreed and arrived at a formula, in converting liters of diesel and industrial fuel to metric tons. The base for computing the amount refundable for specific taxes paid on diesel and industrial fuel should be that as prescribed in Section 2 of Republic Act No. 1435. The formula to convert liters to metric tons of diesel and industrial fuel as agreed upon by the parties is:

$$\frac{\text{No. of liters} \times \text{Specific Gravity}}{1,000} = \text{Metric Ton}$$

It was further agreed that the specific gravity of diesel is 0.8429. While the specific gravity of industrial fuel is 0.9439.

Thus, the total number of liters of diesel subject to refund is 12,863,111 equivalent to 10,842.32 metric tons, computed as follows:

$$\frac{11,084.336 \times 0.8429}{1,000} = 9,34.9868$$

While the total number of liters of fuel oil subject to refund is 40,396,128 equivalent to 38,348.04 metric tons, computed as follows:

$$\frac{34,552,294 \times 0.9439}{1,000} = 32,613.9103$$

After having converted the liters of diesel and fuel oils into metric tons, the Court can now compute the amount to which petitioner is entitled to be refunded on the specific taxes paid from the use of petroleum products purchased for the period covering September 23, 1980 to June 30, 1982. Petitioner is entitled to the amount of ₱38,461.86 computed by the Court, as follows:

Manufactured Oils	Quantity	Specific Tax Rate	Specific Tax Under Secs. 1 & 2, RA 1435
Diesel*	9,342.99 MT	₱ 1.00/MT	₱ 9,342.99
Oils and Lubricants	292,000 L	0.07/L	79,300.55
Extra Gasoline	96,000 L	0.08/L	23,360.00
Regular Gasoline	31,719 MT	1.00/MT	7,680.00
Fuel Oils*	14,240 L	0.07/L	32,613.91
Kerosene	62,000 L	0.025/L	1,550.00
TOTAL SPECIFIC TAX PAID			₱ 153,847.45
Multiply by percentage refundable under Sec. 5 of RA 1435			25%
TOTAL AMOUNT REFUNDABLE			₱ 38,461.86

Refundable Amount of 25% Specific Taxes Paid on Regular Gasoline, Oils and Lubricants, Diesel and Industrial Fuel Oil Purchased from Per Court's Computation based on Secs. 1 and 2 of R.A. 1435.

As regards the 20% interest per annum being claimed by petitioner, the rule is that no interest on refund of tax can be awarded unless authorized by law or the collection of the tax was attended by arbitrariness. [*Collector v. Prieto*, 112 Phil. 907; *Commissioner v. Asturias Sugar Central*, 2 SCRA 1140; *Commissioner of Internal Revenue v. American Rubber Co.*, 18 SCRA 842; *Atlas Fertilizer Corporation v. Commissioner of Internal Revenue*, 100 SCRA 556; *Shell Philippines, Inc. v. Central Bank of the Philippines,* 162 SCRA 628.] An action is not arbitrary when exercised honestly and upon due consideration where there is room for two opinions, however much it may be believed that an erroneous conclusion was reached. [*F.B. Moreno, Philippine Law Dictionary* (3rd ed.), p. 69, citing *Imperial Development Corporation v. Anover,* 08473-AP, August 23, 1979.] Arbitrariness presupposes inexcusable or obstinate disregard of legal provisions. [*Victorias Milling Co., Inc. v. Commissioner of Internal Revenue, et. al.* 19 SCRA 430.] None of the exceptions are present in the case at bar. Respondent's decision denying petitioner's claim for refund was based on an honest interpretation of law. We, therefore, see no reason why petitioner should be entitled to the payment of interest.

Moreover, the Supreme Court held in the Rio Tuba case that no interest shall be charged in computing the 25% refund on specific taxes paid. [See Supreme Court Resolution dated March 25, 1992.]

In the same manner, petitioner's prayer for cost of suit cannot be awarded. It is an elementary rule that the government shall not be liable for costs of suits unless otherwise provided by law. [*Section 1, Rule 142, Revised Rules of Court; Collector of Internal Revenue v. Convention of Philippine Baptist Churches and the Court of Tax Appeals*, 2 SCRA 10.]

WHEREFORE, the respondent, Commissioner of Internal Revenue is hereby ordered to REFUND in favor of petitioner CDCP Mining Corporation, the sum of ₱38,461.86 without interest, equivalent to 25% partial refund of specific taxes paid on its purchases of gasoline, oils and lubricants, diesel, fuel oils, and kerosene pursuant to the provision of Section 5 of Republic Act No. 1435, in relation to Section 142 (b) and (c) of the National Internal Revenue Code and Section 145 as prescribed under Sections 1 and 2 of R.A. 1435.

No pronouncement as to costs.

SO ORDERED.

Quezon City, Metro Manila.

MANUEL K. GRUBA
Associate Judge

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Judge

RAMON O. DE VEYRA
Associate Judge

CERTIFICATION

I hereby certify that this decision was reached after due consultation among the members of the Court of Tax Appeals in accordance with Section 13 Article VII of the **Constitution.**

ERNESTO D. ACOSTA
Presiding Judge
Court of Tax Appeals