REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE, *Petitioner,*	**C.T.A. EB NO. 244 (C.T.A CASE NOS. 7079, 7085, 7111 & 7272)**
	Present:
-versus-	ACOSTA, Presiding Justice CASTAÑEDA, JR., BAUTISTA, UY, CASANOVA, and PALANCA-ENRIQUEZ, JJ.
SM PRIME HOLDINGS, INC. and FIRST ASIA REALTY DEVELOPMENT CORPORATION, ***Respondents.***	**Promulgated:** APR 30 2008

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DECISION

PALANCA-ENRIQUEZ, J.:

Whether gross receipts derived by operators/proprietors of cinema houses from admission tickets are subject to 10% VAT?

THE CASE

This is the issue raised in this Petition for Review filed by the Commissioner of Internal Revenue (hereafter "CIR") under *Section 2,* *Rule 4 of the Revised Rules of the Court of Tax Appeals,* in relation to *Rule 43 of the Revised Rules of Civil Procedure, as amended,* which seeks the reversal of the Decision dated September 22, 2006 and Resolution dated December 14, 2006 rendered by the First Division of this Court in C.T.A. Case Nos. 7079, 7085, 7111 and 7272, the respective dispositive portions of which read as follows:

> "**IN VIEW OF ALL THE FOREGOING,** this Court hereby **GRANTS** the Petitions for Review. Respondent's Decisions denying petitioner's protests against deficiency value-added taxes are hereby REVERSED. Accordingly, Assessment Notice Nos. VT-00-000098, VT-99-000057, VT-00-000122, 003-03 and 008-02 are **ORDERED** cancelled and set aside.
>
> **SO ORDERED.**"
>
> "**WHEREFORE**, finding no cogent reason to modify or reverse the September 22, 2006 Decision, respondent's Motion for Reconsideration is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS

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

Petitioner CIR is the duly appointed Commissioner of Internal Revenue, who holds office at the 5th Floor, BIR National Office Building, BIR Road, Diliman, Quezon City. gal

Respondent SM Prime Holdings, Inc. (hereafter "SM Prime") is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines, with principal office address at SM Corporate Offices, Bldg. A, 1000 Bay Blvd., SM Central Business Park, Bay City, Pasay City.

Respondent First Asia Realty Development Corporation (hereafter "First Asia") is a domestic corporation duly organized and existing under the laws of the Republic of the Philippines with principal office address at SM Megamall Bldg. A., EDSA, cor. J. Vargas Avenue, Mandaluyong City.

C.T.A. Case No. 7079

On September 26, 2003, then BIR Deputy Commissioner Estelita C. Aguirre sent SM Prime Holdings, Inc. a Preliminary Assessment Notice (hereafter "PAN") for a value added tax (hereafter "VAT") deficiency on cinema ticket sales in the amount of P119,276,047.40 for taxable year 2000.

On December 15, 2003, SM Prime filed its protest letter on the PAN.

Thereafter, on December 12, 2003, a Formal Letter of Demand for the alleged VAT deficiency was sent by the BIR to SM Prime, to which the latter protested in a Letter dated January 14, 2004.

On September 16, 2004, SM Prime received the BIR's Decision dated September 6, 2004 denying its protest against Assessment Notice No. VT-00-000098 for the amount of P124,035,874.12 for VAT deficiency.

This prompted SM Prime to file a Petition for Review before this Court on October 15, 2004, docketed as C.T.A. Case No. 7079.

C.T.A. Case No. 7085

On May 15, 2002, then BIR Assistant Commissioner for Large Taxpayers Service Edwin R. Abella sent to First Asia a PAN for deficiency VAT on cinema ticket sales for taxable year 1999 in the total amount of P35,823,680.93 for failure to declare in its VAT returns and pay the corresponding tax on the gross receipts it derived from cinema ticket sales.

In a Letter dated July 9, 2002, First Asia protested the said PAN.

On November 14, 2002, First Asia received a Formal Letter of Demand for the alleged deficiency VAT for taxable year 1999, to which First Asia protested in a Letter dated December 12, 2002.

On September 6, 2004, the BIR rendered a Decision, copy of which was received by First Asia on September 20, 2004, denying its protest on Assessment Notice No. VT-99-000057 for deficiency VAT in the amount of P35,823,680.93 for taxable year 1999.

On October 20, 2004, First Asia filed its Petition for Review before this Court, docketed as C.T.A. Case No. 7085.

C.T.A. Case No. 7111

On April 16, 2004, then BIR Deputy Commissioner Estelita C. Aguirre sent a PAN to First Asia for deficiency VAT on cinema ticket sales for taxable year 2000 in the amount of P35,840,895.78 for failure to declare in its VAT returns and pay the corresponding tax on the gross receipts it derived from cinema ticket sales.

On April 22, 2004, First Asia protested the said PAN.

On June 17, 2004, a Formal Letter of Demand for alleged deficiency VAT was sent to First Asia, to which it protested in a Letter dated July 9, 2004.

The BIR rendered a Decision denying the protest on Assessment Notice No. VT-00-000122 for deficiency VAT in the amount of P35,840,895.78 for taxable year 2000.

On December 16, 2004, First Asia filed a Petition for Review before this Court, docketed as CTA Case No. 7111.

C.T.A. Case No. 7272

Re: Assessment Notice No. 008-02

On October 29, 2004, First Asia received a PAN for deficiency VAT for taxable year 2002 in the total amount of P32,802,912.21 from then BIR Commissioner Guillermo Parayno, Jr. for failure to declare in its VAT returns and pay the corresponding tax on the gross receipts it derived from cinema ticket sales.

In a Letter dated November 11, 2004, First Asia protested said PAN.

On November 23, 2004, a Formal Letter of Demand was sent to First Asia demanding the payment of the deficiency VAT. First Asia then protested on December 14, 2004.

On May 11, 2005, the BIR rendered a Decision, copy of which was received by First Asia on May 23, 2005, denying the protest against Assessment Notice No. 008-02 for deficiency VAT in the amount of P33,610,202.91 for taxable year 2002.

Re: Assessment Notice No. 003-03

On September 8, 2004, First Asia received a PAN for deficiency VAT for taxable year 2003 in the total amount of P28,196,376.46 from then BIR Commissioner Guillermo Parayno, Jr. for failure to declare in its VAT returns and pay the corresponding tax on the gross receipts it derived from cinema ticket sales.

In a Letter dated September 23, 2004, First Asia protested the said PAN.

On October 29, 2004, a Formal Letter of Demand was sent to First Asia demanding the payment of the deficiency VAT.

On November 11, 2004, First Asia filed its protest.

On May 11, 2005, the BIR rendered a Decision, copy of which was received by First Asia on May 23, 2005, denying the protest against Assessment Notice No. 003-03 for deficiency VAT in the amount of P28,590,826.50 for taxable year 2003.

On June 22, 2005, First Asia filed its Petition for Review before this Court, docketed as C.T.A. Case No. 7085.

Consolidated Petitions

On July 1, 2005, SM Prime filed with the Second Division of this Court a "Motion to Consolidate C.T.A. Case Nos. 7085, 7111 and 7272 with C.T.A. Case No. 7079 as the issues raised therein are identical and SM Prime is also a majority shareholder of First Asia, the petitioner in C.T.A. Case Nos. 7085, 7111 and 7272. In a Resolution dated August 25, 2005, the motion was granted by the Second Division. Accordingly, C.T.A. Case Nos. . 7085, 7111 and 7272 were consolidated with C.T.A. Case No. 7079, the case bearing the lowest docket number.

After trial on the merits, on September 22, 2006, the First Division rendered the assailed Decision granting the Petition for Review, thereby canceling the disputed assessments.

On October 17, 2006, petitioner filed a Motion For Reconsideration, which was denied in a Resolution dated December 14, 2006.

On January 19, 2007, petitioner filed the instant Petition For Review.

On May 18, 2007, We ordered the respondents to file their comment on the petition, within ten (10) days from notice.

On June 18, 2007, respondents SM prime Holdings, Inc. and First Asia Realty Development Corporation filed their Comment.

Hence, the petition is now deemed submitted for decision.

ISSUE

The sole issue raised by petitioner CIR for this Court's consideration is:

> WHETHER THE GROSS RECEIPTS DERIVED BY OPERATORS/PROPRIETORS OF CINEMA HOUSES FROM ADMISSION TICKETS ARE SUBJECT TO THE 10% VAT.

THE COURT *EN BANC'S* RULING

The petition is not meritorious.

Petitioner CIR's Arguments

Petitioner contends that the exhibition of movies by cinema operators/proprietors to the paying public is a kind of service and does not fall within the concept of amusement; that aside from exhibiting the movie, the service includes providing a secure and acoustically appropriate venue, providing comfortable seating, cool environment, quality video and audio system and ready access to snack bar, all to service the needs of customers who want to have a pleasurable experience in watching a movie; that pursuant to *Section 108 of the NIRC of 1997*, all sales of goods, property or service are subject to VAT, unless expressly exempted; said provision, being clear and plain, should not be subjected to statutory construction; thus, any claim of exception from the coverage of the provision must be clearly shown and based on the express intent of the law.

Respondents SM Prime and First Asia's Counter-arguments

On the other hand, respondents contend that a plain reading of the provisions of *Section 108 of the NIRC of 1997* would readily lead to the indisputable conclusion that the gross receipts of proprietors or operators of cinemas/theaters derived from public admission are not subject to VAT, as it is not among the services expressly stated in the enumeration of services, which are subject to VAT. The absence of gross receipts from cinema/theater admission tickets from the list of services which are subject to the national amusement tax under *Section 125 of the NIRC of 1997*, only proves that the legislature did not intend that the amusement taxes on cinema and theater operators are to be levied by the national government, but only by the local government units concerned. That *RMC No. 28-2001*, as correctly held by the First Division, is not valid for lack of notice and publication.

After a careful examination of the arguments raised by both parties, and the applicable laws and jurisprudence, We rule for the respondents.

Section 108 of the NIRC of 1997, as Amended, Does Not Subject to VAT the

Gross Receipts Derived By Cinema Operators or Proprietors From Admission Tickets on Motion Pictures/Film/Movies Exhibitions or Showing

Section 108 of the NIRC of 1997, as amended, provides:

"SEC. 108. Value-added Tax on Sale of Services and Use or Lease of Properties. —

(A) Rate and Base of Tax. — There shall be levied, assessed and collected, a value-added tax equivalent to ten percent (10%) of gross receipts derived from the sale or exchange of services, including the use or lease of properties.

The phrase 'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking goods for others; proprietors, operators or keepers of hotels, motels, rest houses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; transportation contractors on their transport of goods or cargoes, including persons who transport goods or cargoes for hire and other domestic common carriers by land, air and water relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 119 of this Code; services of banks, non-bank financial

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intermediaries and finance companies; and non-life insurance companies (except their crop insurances), including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:

(1) The lease or the use of or the right or privilege to use any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

(2) The lease or the use of, or the right to use of any industrial, commercial or scientific equipment;

(3) The supply of scientific, technical, industrial or commercial knowledge or information;

(4) The supply of any assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyment of any such property, or right as is mentioned in subparagraph (2) or any such knowledge or information as is mentioned in subparagraph (3);

(5) The supply of services by a nonresident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery or other apparatus purchased from such nonresident person;

(6) The supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

(7) The lease of motion picture films, films, tapes and discs; and

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(8) The lease or the use of or the right to use radio, television, satellite transmission and cable television time."

A plain reading of the above-quoted provision shows that while it is making use of the phrase "all kinds of services" to define what "sale or exchange of services" is subject to VAT, *Section 108* actually sets forth an exhaustive enumeration of what services are intended to be subject to VAT. Clearly, the showing or exhibition of motion pictures, films or movies by cinema operators or proprietors is not among the enumerated activities contemplated in the phrase "sale or exchange of services" subject to VAT. The only provision relating to films or motion pictures in said Section is the lease of motion picture films, films, tapes and discs. It bears stressing that the act of showing or exhibiting movies, motion pictures or films and the act of leasing movies, motion pictures or films are two different and distinct activities. "Exhibition" in Black's Law Dictionary is defined as "To show or display. xxx. To produce anything in public so that it may be taken into possession" *(6th ed., p 573)*. While the word "lease" is defined as "a contract by which one owning such property grants to another the right to possess, use and enjoy it on specified period of time in exchange for periodic payment of a stipulated price, referred to as rent *(Black's Law Dictionary, 6th ed., p. 889)*. The law in

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specifically providing that the lease of motion picture films, films, tapes and discs as "sale or exchange of service" subject to VAT clearly intended not to include the showing of motion picture/films by cinema and theaters operators or proprietors. The same cannot be negated since film showing is a widely known activity too significant to be omitted in the enumeration, if it was intended to be subject to VAT.

The same holds true notwithstanding the fact that the phrase "sale or exchange of services" is qualified at the end of the enumeration with the phrase "and other similar services". Under the principle of *ejusdem generis*, where general words follow an enumeration of persons or things by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned *(Republic of the Philippines vs. Sandiganbayan, et al., 407 SCRA 42)*. Its purpose is to give effect to both the particular and general words, by treating the particular words as indicating the class and the general words as including all that is embraced in said class, although not specifically named by the particular words. This is justified on the ground that if the lawmaking body intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms *(National Power Corporation vs. Zain B. Agnas, 208 SCRA 547).* In our jurisdiction, the tax laws, past and present, did not include the showing of films in public by the owners, operators or proprietors of cinematographs or theaters as "sale or exchange of services" subject to VAT.

Considering that film showing is not one of the enumerated activities contemplated as "sale or exchange of service" subject to VAT under *Section 108 of the NIRC of 1997, as amended,* it cannot be considered by petitioner CIR as one subject to VAT. In the case of *Commissioner of Internal Revenue vs. American Accident Insurance Company, Inc. 453 SCRA 680,* the Supreme Court ruled:

> "The rule that tax exemptions should be construed strictly against the taxpayer presupposes that the taxpayer is clearly subject to the tax being levied against him. Unless a statute imposes a tax clearly, expressly and unambiguously, what applies is the equally well-settled rule that the imposition of a tax cannot be presumed. Where there is doubt, tax laws must be construed strictly against the government and in favor of the taxpayer. This is because taxes are burdens on the taxpayer, and should not be unduly imposed or presumed beyond what the statutes expressly and clearly import.

<u>Motion Picture/Film/Movie Exhibition or Showing is an Amusement Activity Subject to Amusement Tax</u>

It must be emphasized that motion picture/film/movie exhibition or showing is an amusement activity subject to amusement tax. Under *RA 7160*, otherwise known as *("An Act Providing for A Local Government Code of 1991")*, "Amusement" is defined as a "pleasurable diversion and entertainment. It is synonymous to relaxation, avocation, pastime, or fun" *(Section 131 (b), RA 7160)*. While, "Amusement Places" "include theaters, cinemas, concert halls, circuses and other places of amusement where one seeks admission to entertain oneself by seeing or viewing the show or performances" *(Section 131 (c), RA 7160)*.

Specifically, *Section 140 of the RA 7160* imposes amusement tax to proprietors, lessees, or operators of theaters and cinemas, to wit:

> "SEC. 140. Amusement Tax. — (a) The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses, boxing stadia, and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees.
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> (b) In the case of theaters or cinemas, the tax shall first be deducted and withheld by their proprietors, lessees, or operators and paid to the provincial treasurer before the gross receipts are divided between said proprietors, lessees, or operators and the distributors of the cinematographic films.
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> (c) The holding of operas, concerts, dramas, recitals, painting and art exhibitions, flower shows, musical programs, literary and oratorical presentations, except pop,

rock, or similar concerts shall be exempt from the payment of the tax hereon imposed.

(d) The sangguniang panlalawigan may prescribe the time, manner, terms and conditions for the payment of tax. In case of fraud or failure to pay the tax, the sangguniang panlalawigan may impose such surcharges, interest and penalties as it may deem appropriate.

(e) The proceeds from the amusement tax shall be shared equally by the province and the municipality where such amusement places are located".

Pursuant to the foregoing provisions of *RA 7160*, it is clear that the activity of showing motion pictures, films or movies by the proprietors, lessees, or operators of theaters or cinemas is considered an "amusement activity" subject to amusement tax. It is not considered a "sale or exchange of service" subject to VAT.

It must be noted that *Section 109 (j) of the NIRC of 1997, as amended*, exempt from VAT those services that are subject to percentage tax under *Title V of the same Code*. One of the percentage taxes provided in *Title V of the NIRC of 1997, as amended,* are amusement taxes under *Section 125 of the same Code.*

Although *Section 125 of the NIRC of 1997* does not include the activity of showing motion pictures, films or movies as subject to percentage tax imposed by the National Government, the fact remains that such activity is an amusement activity, subject to amusement tax; only that it is being levied by the local government units, pursuant to *Section 140 of RA 7160.*

Accordingly, the gross receipts derived by respondents SM Prime and First Asia from admission tickets in showing motion pictures, films or movies are not subject to VAT under *Section 108 of the NIRC of 1997, as amended*, but only to amusement tax under *RA 7160.* As aptly ruled by the First Division of this Court:

> "The activity of showing cinematographic films, by tradition and under Our laws, is considered not as service covered by value-added tax; but, as an amusement subject to amusement tax. Section 195 (previously Section 260) of Commonwealth Act No. 466, the first codification of the National Internal Revenue Code, as amended, provided that there shall be collected amusement taxes from the gross receipts received by the proprietor, lessee, or operator of theaters, cinematographs, concert halls, circuses, and other places of amusement. Upon the issuance of P.D. No. 231 (otherwise known as the 'Local Tax Code'), which took effect on July 1, 1975, the collection from the proprietors, lessees, or operators of theaters, cinemas, concert halls, circuses and other places of amusement of the amusement tax on paid admissions was transferred to the local government units. In the subsequent revision of the National Internal Revenue Code, starting with the 1977 Tax Code, such provision imposing amusement tax on 'proprietor, lessee, or operator of theaters or cinematographs' under C.A. No. 466 could no longer be found.
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> At present, the clear expression of legislative intent is found in the Local Government Code (R.A. No. 7160),

which authorizes the local government units to levy and collect from proprietors/operators of theaters and cinemas, amusement tax on the gross receipts from admission ticket. Section 140 of R.A. No. 7160 reads:

xxx xxx.

In relation to the above-quoted section, Section 131(c) of the same Code defines 'amusement places' to include theaters, cinemas, concert halls, circuses and other places of amusement where one seeks admission to entertain oneself by seeing or viewing the show or performances. Thus, the amusement tax is to be imposed only on the admission fee charged for entering the amusement place.'

Section 11 of the P.D. No. 231 ('The Local Tax Code'), which transferred, among others, the levy and collection of amusement taxes by the national government to the provincial government, to the exclusion of both the national and municipal governments, has been removed. Now, Section 17 of R.A. No. 7160 only provides that local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them.

While the phrase 'to the exclusion of both the national or municipal government' is no longer found in R.A. 7160, it does not mean that the national government is now empowered or authorized to levy and collect tax on the gross receipts from admission fees collected by the operators/proprietors of theaters, cinemas and other amusement places without the Congress enacting a statute enabling the national government to do so. When the legislature enacts a provision, it is understood that it is aware of previous statutes relating to the same subject matter and that in the absence of any express repeal or amendment therein, the new provision should be deemed enacted pursuant to the legislative policy embodied in the prior statutes.

This is the reason why Section 125 of the present National Internal Revenue Code imposes amusement tax on proprietor, lessee or operator of cockpits, cabarets, night or day clubs, boxing exhibitions, professional basketball games, Jai-Alai and racetracks. It excludes proprietors/operators of theaters or cinemas. It reads:

xxx xxx.

Gross receipts from the admission tickets collected by the owners, proprietors or operators of movie theaters or cinema houses are not mentioned expressly in the abovequoted section of the National Internal Revenue Code. Thus, the legislature clearly intends that there will be only one form of tax to be imposed on proprietors/operators of theaters or cinemas and, that is, amusement tax as found in the Local Government Code. Well-settled is the rule that 'a statute will not be construed as imposing a tax unless it does so clearly, expressly and unambiguously. A tax cannot be imposed without clear and express words for that purpose. Accordingly, the general rule of requiring adherence to the letter in construing statutes applies with particular strictness to tax laws and provisions of a taxing act are not to be extended by implication.

From E.O. No. 272 to R.A. No. 9238, the value-added tax on sales of services remained unchanged. There shall be levied, assessed and collected, a value-added tax on the gross receipts derived from the sale or exchange of services. As defined by the past and present laws on value-added tax, the 'sale or exchange of services' means the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration.

Among other 'sales or exchange of services' relating to films, which was subjected to value-added tax, includes 'lessors or distributors of cinematographic films'; and, starting in 1994 under R.A. No. 7716, 'lease of motion picture films, films, tapes and discs.' Note that the services being referred to under the provision of the National Internal Revenue Code, includes lease and distribution only. The word 'including' is the participial form of the verb 'include,' which in the Webster's Dictionary is defined in its primary sense to mean to confine within, to hold, to contain, to shut up, to enclose; by the Century Dictionary, to comprise as a part. The word has also been defined as having an accumulative sense and as classing that which follows with that which has gone before.

The VAT laws proceeded to define 'sale or exchange of services' to mean the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration and enumerated the kinds of services covered. Please take note that since the introduction of VAT law in 1986 under E.O. 273, and the subject amendments thereto by R.A. Nos. 7716, 8424 and 9238 and even R.A. No 9337, the phrase 'sale or exchange of services' is qualified at the end of the enumerations with the phrase 'and other similar services.' Under the principle of *ejusdem generis*, where general words follow an enumeration of persons or things, by words of a particular and specific meaning, such general words are not to be construed in their widest extent, but are to be held as applying only to persons or things of the same kind or class as those specifically mentioned. For, if the legislature intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms. Our tax laws, past and present, did not adopt more specific terms in defining 'sale or exchange of services' to include the showing of films in public by the owners, operators or proprietors of movie/cinema houses or theaters as subject to value-added tax."

Lastly, as regards the issue on the validity of *RMC No. 28-2001*, We agree with the findings of the First Division of this Court that the same cannot be given force and effect, as the same failed to comply with the procedural due process for tax issuances, as prescribed under *RMC No. 20-86*, to wit: due notice, hearing and publication.

Finding no reversible error, We see no reason to reverse or modify the assailed Decision dated September 22, 2006 and Resolution dated December 14, 2006 of the First Division of this Court.

WHEREFORE, premises considered, the present Petition for Review is hereby **DENIED DUE COURSE,** and accordingly **DISMISSED,** for lack of merit.

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

LOVELL R. BAUTISTA
Associate Justice

(On Official Business)
ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
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