

REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

Special Second Division

NIPPON EXPRESS
PHILIPPINES
CORPORATION,

Petitioner,

- versus -

COMMISSIONER OF
INTERNAL REVENUE,

Respondent.

x

x

CTA CASE NO. 11111

Members:

RINGPIS-LIBAN, P.J., *Chairperson,*
MODESTO-SAN PEDRO, *and*
FERRER-FLORES, *II.*

Promulgated:

2:37 PM

AMENDED DECISION

RINGPIS-LIBAN, P.J.:

Before this Court is petitioner's **Motion for Reconsideration and/or New Trial** filed on March 5, 2026, with respondent's **Comment/Opposition (Re: Motion for Reconsideration and/or New Trial dated 04 March 2026)** filed on April 27, 2026.

On February 5, 2026, the Court promulgated a Decision denying petitioner's claim for refund of unutilized input value-added tax (VAT) attributable to its zero-rated sale of services for the period October 1, 2020 to December 31, 2020, in the amount of ₱12,797,188.46, the dispositive portion of which reads as follows:

“**ACCORDINGLY**, in light of the foregoing considerations, the present *Petition for Review* is **DENIED** for lack of merit.

SO ORDERED.”

In its Motion, petitioner argues that the Court erred in finding that petitioner has no excess valid input taxes left to claim for refund—as the output tax due exceeds the valid input taxes—which resulted in the denial of its claim for

refund. Petitioner assails the disallowances made by the Court, contending that its sales are, in fact, supported by the required certifications and/or contemporaneous transaction documents. For this reason, petitioner implores the Court that the disallowed amounts be re-evaluated and reinstated as properly substantiated zero-rated sales.

Petitioner also asserts that it has complied with the minimum statutory requirements provided under Section 112(A) of the National Internal Revenue Code (NIRC) of 1997, as amended. According to petitioner, by allocating the valid input taxes to either zero-rated or effectively zero-rated sales and taxable or exempt sales, petitioner has established a presumption that its input taxes are attributable to its zero-rated or effectively zero-rated sales. This presumption has the effect of shifting the burden of proof to the party who would be disadvantaged by the finding of the said presumed fact. In this aspect, petitioner avers that respondent failed to present any evidence to dispute the presumption that its input VAT are not attributable to zero-rated or effectively zero-rated sales.

Petitioner likewise insists that charging a portion of input taxes attributable to zero-rated sales to the output taxes is not a requirement for entitlement to a refund of unused or unutilized input VAT from zero-rated sales. Thus, not being a requirement, petitioner is not required to charge a portion of input taxes attributable to zero-rated sale to the output taxes. Furthermore, petitioner also points out that the court-commissioned Independent Certified Public Accountant (ICPA) recommended the partial granting of its claim for refund in the amount of ₱6,458,316.16. As such, petitioner prays for the reconsideration of the Decision, and for the issuance of an Order, granting its claim for refund based on the recommendation of the ICPA.

In any case, petitioner submits that it honestly believed that the Philippine Economic Zone Authority (PEZA) Certifications and the Offsetting Agreement which it provided were captured, considered, and attached by the ICPA in his Report that was submitted to the Court. Petitioner explains that the omission was not willful, not intended to suppress evidence, and was not a reckless disregard of procedure, as it was merely the result of a good-faith misappreciation and inadvertent non-inclusion of specific, identified documents in the ICPA's submission—despite petitioner's diligent prosecution of the case. For petitioner, this constitutes "mistake" and/or "excusable negligence" within the contemplation of Rule 37, Section 1(a) of the Revised Rules of Court. As such, petitioner also prays that, in the alternative, the case be reopened and it be allowed to present the documents enumerated therein for the limited purpose of filling the precise evidentiary gaps identified by the Court.

On the other hand, in his Comment, respondent agrees with the Court's ruling that after considering all pieces of evidence submitted by petitioner, it found that the latter does not have any excess input tax to refund; and, instead,



it even has output tax still due. Respondent avers that the Court's Decision is consistent with his observations when it denied petitioner's administrative claim for refund for the following reasons: (1) failure to submit complete documents; (2) violation of invoicing requirements; and (3) input tax discrepancy in petitioner's returns and submitted schedules. Respondent reiterates that 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 its claim.

Moreover, respondent also argues that petitioner did not raise any compelling reason that would justify the presentation of additional evidence, and that the same must be considered as "forgotten evidence." Respondent insists that it can be inferred from the ICPA's testimony that all documents relative to petitioner's claim for refund were reviewed by the ICPA, as shown by the fact that the latter submitted an Interim, a Final, and an Amended ICPA Report. As such, respondent submits that there was gross negligence on the part of petitioner when it did not review the ICPA Report or the Judicial Affidavit of the ICPA before they were presented and, thus, petitioner is already estopped from correcting the ICPA Report on the ground of laches.

Lastly, respondent points out no judicial affidavit was submitted by the ICPA stating that he made a mistake in his Report. He assails the Affidavit of Merit attached by petitioner in its Motion since it was executed by petitioner's Finance Manager. Respondent expounds that the party that made the mistake should have been the one to execute the said Affidavit of Merit explaining the nature of the mistake and the reasons thereof.

After due consideration, the Court finds partial merit in petitioner's Motion for Reconsideration.

To recall, the Court found that out of petitioner's declared zero-rated sales of ₱797,143,319.03, only ₱79,930,865.11 was deemed valid:¹

Total zero-rated sales per Quarterly VAT Return	₱ 797,143,319.03
Less: Disallowances per ICPA	7,142,149.78
Valid zero-rated sales per ICPA findings	₱ 790,001,169.25
Less: Additional disallowances per Court findings:	
Sales to entities without certifications from government agencies and/or Certificate of Foreign Incorporation	90,429,669.59
Sales to NRFCs not denominated in foreign currency	228,924,808.80
Sales supported by ORs with no nature of services indicated	390,715,825.75
Valid and properly substantiated zero-rated sales	<u>₱79,930,865.11</u>

Petitioner now argues that a portion of the disallowed sales are supported by the required certifications and/or contemporaneous transaction documents.

¹ Decision, Docket – Vol. II, p. 667.

After an assiduous review and a second hard look at the records of this case, the Court is constrained to reconsider its initial findings considering that the enumerated sales below are indeed supported by PEZA certifications and, correspondingly, should be allowed:

Exhibit No.	Customer	Amount
"P-60-345"	Nippon Micrometal Corp Phils	₱ 23,500.00
"P-60-641"	Nippon Super Precision Phils Corp	47,000.00
"P-60-696"	Nippon Micrometal Corp Phils	41,760.00
"P-60-1117"	Nippon Micrometal Corp Phils	11,536.96
"P-60-1275"	Nippon Micrometal Corp Phils	30,751.32
"P-62-21"	Dyson Electronics PTE LTD	1,400.00
"P-62-119"	Dyson Electronics PTE LTD	1,400.00
"P-62-299"	F Tech S and F Philippines Inc	3,804.50
"P-62-327"	Dyson Electronics PTE LTD	1,400.00
	TOTAL	₱162,552.78

However, although shown to have been supported with PEZA certifications, the following official receipts (ORs) are still disallowed for the reasons stated below:

Exhibit No.	Customer	Amount
<i>1. Failure to indicate the nature of service provided; only "various invoices" which are not specified</i>		
"P-60-321"	Nippon Micrometal Corp Phils	₱ 81,473.49
"P-60-431"	Nippon Micrometal Corp Phils	86,158.77
"P-60-590"	Nippon Micrometal Corp Phils	52,474.75
"P-60-712"	Nippon Micrometal Corp Phils	65,145.10
"P-62-338"	Eaton Industries Philippines	54,090.15
"P-62-338"	Eaton Industries Philippines	129,968.21
"P-72-18"	STMicroelectronics Inc	139,540.54
	Subtotal	₱608,851.01
<i>2. Failure to attach the sales invoices indicated in the OR</i>		
"P-62-248"	Dyson Electronics PTE LTD	₱ 1,400.00
"P-62-360"	Dyson Electronics PTE LTD	1,400.00
"P-62-361"	Dyson Electronics PTE LTD	1,400.00
"P-62-425"	Dyson Electronics PTE LTD	1,400.00
"P-62-490"	Dyson Electronics PTE LTD	1,400.00
	Subtotal	₱ 7,000.00
<i>3. Sales invoices attached to the OR are incomplete</i>		
"P-60-795"	Nippon Micrometal Corp Phils	₱ 63,060.00
"P-60-1353"	Nippon Super Precision Phils Corp	81,000.00
	Subtotal	₱144,060.00
<i>4. Name of customer in OR is different from name in PEZA certification</i>		
"P-62-9"	Tokai Electronics Philippines Inc	₱ 20,413.37
"P-54-18"	[Tokai Medical Products Philippines Inc]	
"P-62-51"	Wu Kong Singapore PTE Ltd	4,886.90
"P-54-68"	[Wu Kong Singapore PTE Ltd (Phil Branch)]	

“P-62-84” “P-54-176”	Alibata Limited Manila Branch [F-Tech S&F Philippines Inc]	3,830.50
“P-62-433” “P-54-68”	Wu Kong Singapore PTE Ltd [Wu Kong Singapore PTE Ltd (Phil Branch)]	8,862.00
“P-63-10” “P-54-18”	Tokai Electronics Philippines Inc [Tokai Medical Products Philippines Inc]	6,435.52
“P-70-7” “P-54-18”	Tokai Electronics Philippines Inc [Tokai Medical Products Philippines Inc]	46,260.87
“P-72-2” “P-54-149”	STMicroelectronics PTE Ltd [STMICROELECTRONICS, INC.]	24,369.16
	Subtotal	₱115,058.32
	TOTAL	₱874,969.33

As for petitioner’s sales to non-resident foreign corporations (NRFs), the following ORs assailed by petitioner should still remain disallowed based on the grounds stated below:

Exhibit No.	Customer	Amount
<i>1. Name of customer in OR is different from name in SEC Certificate of Non-Registration</i>		
“P-60-942”	Nippon Express China Co Ltd Qingdao Br	₱ 16,975.69
“P-60-1088”	Nippon Express China Co Ltd Qingdao Br	4,219.38
“P-60-1241”	Nippon Express China Co Ltd Qingdao Br	7,553.96
	Subtotal	₱ 28,749.03
<i>2. Sale not paid for in acceptable foreign currency evidenced by ORs denominated in Philippine pesos</i>		
“P-60-955”	Nippon Express Co Ltd Air Fre	₱ 65,747.17
“P-60-956”	Nippon Express Co Ltd Kobe	2,738.39
“P-60-1101”	Nippon Express Co Ltd Air Fre	35,746.87
“P-60-1255”	Nippon Express Co Ltd Air Fre	63,116.26
	Subtotal	₱ 167,348.69
<i>3. Without proof of incorporation outside the Philippines</i>		
“P-64-22”	Nippon Express de Mexico SA De	₱ 667,774.45
	Subtotal	₱ 667,774.45
<i>4. Nature of service indicated in OR is general and not specific</i>		
“P-72-31”	Nippon Express China Co Ltd	₱ 1,904,073.17
“P-72-44”	Nippon Express China Co Ltd	2,009,363.80
	Subtotal	₱3,913,436.97
	TOTAL	₱4,777,309.14

With regard to the disallowed zero-rated sales for failure to indicate the nature of service rendered as required by Section 113(B) of the NIRC of 1997, as amended, the Court finds no reason to reconsider the same, since the said law categorically states that “the date of transaction, quantity, unit cost and description of the goods or properties or nature of the service”, among others, “shall be indicated in the VAT invoice or VAT official receipt”.

Additionally, since petitioner’s primary purpose in its Amended Articles of Incorporation is to “engage in the business of forwarder for the combined

transportation by air, sea or land from one point of receipt to a point of destination; to operate container depot, warehousing, storage, hauling and packing facilities; to engage in the business of international air and sea freight and cargo forwarders, hauling, carrying, handling, distributing, loading and unloading of general cargoes and all classes of goods, wares and merchandise and to receive and collect fees for such services; and to engage in the operation of a Non-Vessel Operating Common Carrier,²² it can be reasonably concluded that the petitioner provides more than one type of service to its customers. Hence, indicating merely “services for the month of...” or “various invoices” does not comply with the invoicing requirement of the law, which calls for the need to indicate the nature of service rendered.

In the same vein, the Court also initially found that there are ORs with specific invoice numbers indicated, but the attached invoice(s) do not match, or no invoice is attached at all. Perforce, without the presentation of all the invoices indicated in the OR, the Court cannot ascertain whether or not the amounts per attached invoices form part of the total amount reflected in the OR.

Accordingly, petitioner’s valid zero-rated sales amount to ₱80,093,417.89, computed as follows:

Total zero-rated sales per Quarterly VAT Return	₱797,143,319.03
Less: Disallowances per ICPA	7,142,149.78
Valid zero-rated sales per ICPA findings	₱790,001,169.25
Less: Additional disallowances per Court findings:	
Sales to entities without certifications from government agencies and/or Certificate of Foreign Incorporation	90,429,669.59
Less: Zero-rated sales with PEZA certifications	(162,552.78)
Sales to NRFCs not denominated in foreign currency	228,924,808.80
Sales supported by ORs with no nature of services indicated	390,715,825.75
Valid and properly substantiated zero-rated sales	<u>₱80,093,417.89</u>

On the other hand, a review of petitioner’s claimed input taxes reveals that the aggregate amount of ₱421,989.12 should be disallowed for the reasons stated hereafter, to wit:

EXHIBIT NO.	REGISTERED NAME OF SUPPLIER	O.R. NO./ COLLECTI ON RECEIPT	DATE OF O.R.	INPUT TAX
<i>1. Nature of the service is not indicated, no sales invoice attached</i>				
“P-73-574”	NEP LOGISTICS INC	11076	10 29 2020	₱ 11,727.14
“P-73-575”	NEP LOGISTICS INC	11109	11 25 2020	11,688.55
“P-73-576”	NEP LOGISTICS INC	11155	12 23 2020	11,674.08

²² Exhibit “P-2-1”, Docket – Vol. I, p. 481.

"P-73-588"	NICHIYU ASIALIFT PHILIPPINES INC	7850	11 20 2020	6,964.29
"P-73-606"	Nori Jun Cargo Delivery Services	42	10 15 2020	840.00
"P-73-607"	Nori Jun Cargo Delivery Services	43	11 16 2020	984.00
"P-73-661"	PRIME MOVER TRUCKING SERVICES	576	10 02 2020	10,152.00
"P-73-697"	Republic Courier Services, Inc.	17671	12 01 2020	499.20
"P-73-699"	Republic Courier Services, Inc.	40694	12 18 2020	2,548.68
"P-73-731"	SECURITY&SYSTEMS MONITORING	29312	10 20 2020	304.82
"P-73-732"	SECURITY&SYSTEMS MONITORING	29944	12 29 2020	835.71
"P-73-742"	Stratec Industrial Sales & General Services Inc.,	418	10 31 2020	4,553.57
"P-73-860"	WestPac Solutions Factory, Inc.,	OR# 0001643	10 16 2020	600.00
"P-73-965"	Schenker Philippines, Inc.	OR# 0156438	11 09 2020	145.41
"P-73-966"	TELLTRANS INCORPORATED	8424	10 09 2020	1,320.00
"P-73-967"	TESORO'S PRINTING PRESS	425	10 02 2020	867.86
"P-74-274"	GENCONMECHANICAL&ELECTRICAL	000137	10 05 2020	514.28
	Subtotal			P 66,219.59
<i>2. Amount of VAT claimed exceeds the amount per supporting documents</i>				
"P-73-189"	EXPLORER FREIGHT CORPORATION	6920	11 13 2020	P 660.00
"P-73-655"	PREMIER MGT.& JANITORIAL SOLUTIONS	2587	12 23 2020	270.72
"P-73-659"	PREMIER MGT.& JANITORIAL SOLUTIONS	3979	10 09 2020	8,768.34
"P-73-751"	Sublime-Elite Transport	124	11 27 2020	12,151.20
"P-73-818"	TRANS ONE PORT SOLUTION	3654	11 13 2020	660.00
"P-73-826"	Transglobal Consolidators Inc.,	14405	10 23 2020	5,243.64
"P-73-837"	TRANSMODAL INTERNATIONAL, INC.	8347	11 13 2020	2,943.00
"P-74-39"	ALL NATION SECURITY AND	023644	11 27 2020	7,316.66
"P-74-83"	ASIAN STAR EXPRESS CARGO FRWDR	3532	11 06 2020	2,185.71
"P-74-174"	CKR TRUCKING SERVICES	0036	12 15 2020	11,040.00
"P-74-289"	J.P. Marzan Project Venture Inc.,	759	12 15 2020	3,514.53
"P-74-510"	TRANSCOM CY, INC.	08283	11 27 2020	3,875.73
"P-74-563"	Decker Cargo Logistics Corp.	2546	11 16 2020	297,140.00
	Subtotal			P355,769.53
	TOTAL			P421,989.12

The foregoing ORs failed to comply with the invoicing requirement of indicating the nature of the service provided. While the Court considered those with specific invoice numbers, the supporting documents must be complete and attached to the corresponding OR. Otherwise, the unsupported input tax is disallowed.

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Correspondingly, petitioner’s valid input taxes amount to ₱101,152,493.32, computed as follows:

Current Transactions:			
Input taxes from domestic purchases of goods	₱	3,027,833.97	
Input taxes from domestic purchases of services		103,490,112.20	
Total input taxes from current transactions	₱	106,517,946.17	
Less: Disallowances by the ICPA		5,317,631.57	
Difference between VAT Returns and total amount verified by the ICPA (₱106,517,946.17 less ₱106,517,945.93)		0.24	₱ 101,200,314.36
Input taxes from domestic purchase of capital goods exceeding P1 million:	₱	1,560,665.10	
Deferred input taxes on capital goods exceeding P1 million from previous quarter		5,994,094.39	
Input taxes on capital goods exceeding P1 million deferred to succeeding quarter		(6,616,771.42)	
Total input taxes from domestic purchase of capital goods exceeding P1 million	₱	937,988.07	
Less: Disallowances by the ICPA		563,819.98	
Difference between VAT Returns and total amount verified by the ICPA (₱937,988.07 less ₱937,988.06)		0.01	374,168.08
Additional disallowance found by the Court			(421,989.12)
Valid and properly substantiated input taxes			<u>₱101,152,493.32</u>

Accordingly, petitioner’s valid input taxes of ₱101,152,493.32 shall be allocated to its declared sales per quarterly VAT return for the period October 1, 2020 to December 31, 2020,³ to wit:

	Amount	Percentage	Valid Input Tax Allocation
Total zero-rated sales	₱ 797,143,319.03	50.2623145319296%	₱ 50,841,584.35
Total VATable sales	788,822,879.41	49.7376854680704%	50,310,908.97
Total Sales	₱1,585,966,198.44	100.00%	₱101,152,493.32

But since petitioner has an output tax liability for the same period in the amount of ₱94,658,745.53, the same shall be offset against its valid input taxes to arrive at the excess/unutilized input taxes claimed for refund:

Output tax	₱ 94,658,745.53
Valid input tax attributable to VATable sales	50,310,908.97
Output tax still due	₱ 44,347,836.56
Valid input tax attributable to zero-rated sales	50,841,584.35
Excess/unutilized input taxes	<u>₱6,493,747.79</u>

³ Exhibit “P-17-1”, Docket – Vol. I, pp. 152 to 153.

However, only a portion of the excess/unutilized input taxes can be deemed refundable according to the ratio of petitioner’s valid zero-rated sales to the total declared zero-rated sales, computed below as follows:

	Amount	Percentage
Valid zero-rated sales	₱ 80,093,417.89	10.0477311893504%
Invalid zero-rated sales	717,049,901.14	89.9522688106496%
Total declared zero-rated sales	₱797,143,319.03	100.00%

In sum, only ₱652,474.32 of the substantiated input taxes attributable to petitioner’s valid zero-rated sales can be refundable, as computed below:

Excess/unutilized input taxes	₱ 6,493,747.79
Multiply by the ratio of valid zero-rated sales	10.0477311893504%
Refundable excess/unutilized input taxes	₱ 652,474.32

Moreover, with regard to petitioner’s insistence that the ICPA has recommended the partial granting of petitioner’s claim for refund amounting to ₱6,458,316.16,⁴ suffice to state that this Court is not bound by the findings of the ICPA, as the findings and conclusions of the latter may be challenged by the parties, and are still subject to the final evaluation of the Court.⁵ Consequently, this Court is free to adopt or reject the findings of the ICPA, as confirmed by the Supreme Court in the case of *Tullet Prebon (Philippines), Inc. v. Commissioner of Internal Revenue*.⁶

That having been settled, the Court shall now proceed to determine the merit of petitioner’s Motion for New Trial.

Petitioner contends that it believed that the documents it provided were considered, and consequently submitted to the Court, by the ICPA, Mr. Neil U. Sison. However, it turned out that the ICPA did not include and/or consider certain documents that are material to the refund claim, particularly, PEZA Certifications covering specific zero-rated sales and the parties’ offsetting arrangement. As such, petitioner insists that such omission constitutes “mistake” and/or “excusable negligence” within the meaning of Section 1(a), Rule 37 of the Revised Rules of Court.

Unfortunately, the Court is not convinced.

For one, apart from the being a bare allegation, petitioner did not adduce evidence to corroborate its claim that the ICPA committed a mistake in not

⁴ Exhibit “P-133”, Docket – Vol. I, p. 409.
⁵ Rule 13, Sec. 3, Revised Rules of the Court of Tax Appeals (RRCTA).
⁶ G.R. No. 257219, July 15, 2024.

considering all documents presented by petitioner in preparing his Report. As correctly pointed out by respondent, petitioner only attached the Affidavit of Merit of its Finance Manager, Ms. Elizabeth D. Quingquing, instead of the ICPA himself, who purportedly committed the mistake; as such, there was no confirmation made by the ICPA on the said matter. Standing alone, petitioner's self-serving claim does not merit this Court's consideration. It is basic in the rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. In short, mere allegations are not evidence.⁷

Also, jurisprudence is clear that excusable negligence is "one which ordinary diligence and prudence could not have guarded against," and these circumstances should be properly alleged and proved.⁸ In this case, had the petitioner exercised reasonable diligence by carefully reviewing the ICPA's Report and Judicial Affidavit of the ICPA, it could have discovered sooner the alleged omission or mistake committed by the ICPA even prior to the issuance of the assailed Decision. Thus, the Court agrees with the respondent's position that there was negligence or oversight on the part of petitioner, and such negligence cannot support petitioner's claim for relief from judgment.

At this juncture, it bears stressing that a liberal application of the rules of procedure to suit the petitioner's purpose would clearly pave the way for injustice, as it would be rewarding an act of negligence with undeserved tolerance.⁹ For this reason, a denial of petitioner's plea for new trial is in order.

WHEREFORE, premises considered, petitioner's Motion for Partial Reconsideration and/or New Trial is **PARTIALLY GRANTED**. Accordingly, the dispositive portion of the Decision dated February 5, 2025, is hereby amended to read as follows:

"WHEREFORE, premises considered, the present *Petition for Review* is **PARTIALLY GRANTED**. Accordingly, the assailed Decision dated February 5, 2025, is **REVERSED** and **SET ASIDE**.

Accordingly, respondent is **ORDERED TO REFUND** petitioner the amount of **₱652,474.32**, representing unutilized input taxes for the period October 1, 2020 to December 31, 2020."

SO ORDERED."



⁷ *Real vs. Belo*, G.R. No. 146224, January 6, 2007.

⁸ *Far East Fuel Corp. v. Airtropolis Consolidators Philippines, Inc.*, G.R. No. 254267, February 1, 2023, citing *Lui Enterprises, Inc. v. Zuellig Pharma Corporation*, 729 Phil. 440, 442 (2014).

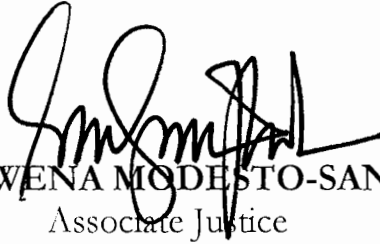
⁹ *Commissioner of Internal Revenue vs. A. Soriano, Corp., Court of Tax Appeals and Court of Appeals*, G.R. No. 113703, January 31, 1997.

SO ORDERED.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

(On Leave)

CORAZON G. FERRER-FLORES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



MA. BELEN M. RINGPIS-LIBAN
Presiding Justice