

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SPECIAL FIRST DIVISION

**CE CEBU GEOTHERMAL POWER
COMPANY, INC.,**

Petitioner,

- versus -

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

C.T.A. CASE NO. 7560

Members:

**ACOSTA, Chairperson
BAUTISTA, and
CASANOVA, JJ.**

Promulgated:

FEB 24 2010, 2:30 p.m.

X

X

DECISION

BAUTISTA, J.:

This case involves a claim for refund or issuance of tax credit certificate in the amount of P15,289,096.47, allegedly representing unutilized input value-added tax (VAT) from domestic purchases of non-capital goods and services, services rendered by non-residents, and importation of non-capital goods for the four quarters of taxable year 2005.

Petitioner CE Cebu Geothermal Power Company, Inc. is a corporation duly organized and existing under Philippine laws, with principal office at 24/F 6750 Bldg., Ayala Avenue, Makati City¹. It is registered with the Bureau of Internal Revenue (BIR),

¹ Par. 1, Stipulated Facts, Joint Stipulation of Facts and Issues (JSFI), docket, p. 229

as a VAT taxpayer in accordance with Section 236 of the National Internal Revenue Code (NIRC) of 1997, with Taxpayer Identification No. (TIN) 003-459-879-000.²

Petitioner's primary purpose as stated in its Articles of Incorporation is to "design, develop, construct, erect, assemble, commission and operate geothermal power plants and related facilities for the conversion into electricity of steam and brine provided by and under contract with the Philippine Government, or any subdivision, instrumentality or agency thereof, or any government-owned or controlled corporation, or other entity engaged in the development, supply or distribution of energy; provided that, in no event shall the corporation itself engage in the general supply or distribution of electricity, in retail trade or in the business of a public utility, or furnish electricity to end-users or consumers, or provide a public service or engage in industries or activities reserved by the Constitution or by law to corporations wholly or partially owned by Filipino citizens."³

Petitioner had been accredited and certified by the Department of Energy (DOE) as owner and operator of the CE Cebu Geothermal Power Plant Project under a build-operate-transfer agreement with the Philippine National Oil Company–Energy Development Corporation (PNOC-EDC), as evidenced by its DOE Certificate of Accreditation (OSAC 94-06) issued on April 6, 1994.⁴

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

² Exhibit "B"

³ Exhibit "A"

⁴ Exhibit "C"



For the four quarters of taxable year 2005, petitioner filed with the BIR its Quarterly VAT Returns (BIR Form No. 2550Q), including the amendments thereto on the following dates:

Period Covered (2005)	Original Return Filed On	Exhibit	Amended Return Filed On	Exhibit
1st Quarter	April 25, 2005	J	June 1, 2005	K
			November 27, 2005	L
2nd Quarter	July 25, 2005	M	November 27, 2005	N
3rd Quarter	October 25, 2005	O	November 27, 2005	P
4th Quarter	January 25, 2006	Q	January 30, 2006	R
			April 10, 2006	S

In its final amended Quarterly VAT Returns for the four quarters of taxable year 2005, petitioner reflected, among others, zero-rated sales in the amount of P2,299,428,511.11 and unutilized input VAT in the amount of P15,289,096.47 on its domestic purchases of non-capital goods and services, services rendered by non-residents, and importation of non-capital goods, detailed as follows:

	1st Quarter (Exh. L)	2nd Quarter (Exh. N)	3rd Quarter (Exh. P)
Zero-Rated Sales	P399,660,562.90	P678,520,113.93	P617,526,973.12
Output Tax	-	-	-
Less: Input Tax			
Input Carried Over from Previous Quarter	42,269,095.94	42,801,021.89	26,910,071.81
Domestic Purchases-Goods Other than Capital Goods	440,526.32	358,484.40	746,735.36
Domestic Purchases – Services	4,501,198.12	1,666,522.46	1,134,363.07
Services rendered by Non-Resident	-	30,471.40	415,924.51
Importations-Goods other than Capital Goods	556,117.00	733,744.99	204,480.00
Total Available Input Tax	P 47,766,937.38	P 45,590,245.14	P 29,411,574.75
Less: Deduction from Input Tax			
Any VAT Refund	18,680,173.33	18,680,173.33	
Net Creditable Input Tax	42,801,021.89	26,910,071.81	29,411,574.75
VAT Payable (Excess Input Tax)	P(42,801,021.89)	P(26,910,071.81)	P(29,411,574.75)

	4th Quarter (Exh. S)	Total
Zero-Rated Sales	P603,720,861.16	P 2,299,428,511.11
Output Tax	-	-
Less: Input Tax		
Input Carried Over from Previous Quarter	29,411,574.75	42,269,095.94
Domestic Purchases-Goods Other than Capital Goods	873,625.75	2,419,371.83
Domestic Purchases – Services	435,895.00	7,737,978.65
Services rendered by Non- Resident	2,354,334.81	2,800,730.72
Importations-Goods other than Capital Goods	836,673.28	2,331,015.27
Total Available Input Tax	P 33,912,103.59	P 57,558,192.41
Less: Deduction from Input Tax		
Any VAT Refund	18,623,007.12	42,269,095.94
Net Creditable Input Tax	15,289,096.47	15,289,096.47
VAT Payable/(Excess Input Tax)	P(15,289,096.47)	P (15,289,096.47)

On November 30, 2006, petitioner filed an administrative claim for refund or issuance of tax credit certificate corresponding to the unutilized input VAT reported in its 2005 Quarterly VAT Returns in the amount of P15,289,096.47.⁵ Petitioner alleged that such input VAT arose from its sale of generated power, which under Republic Act (R.A.) No. 9136, otherwise known as the "Electric Power Industry Reform Act of 2001 (EPIRA)", became VAT zero-rated beginning June 26, 2001 and remained to be VAT zero-rated under Section 108(B)(7) of the NIRC, as amended by R.A. No. 9337.

Due to respondent's inaction and in order to suspend the running of the two-year prescriptive period within which to file a judicial claim for refund/issuance of tax credit certificate, petitioner filed with this Court a Petition for Review on January 3, 2007.

Respondent interposed the following Special and Affirmative Defenses in his Answer⁶ to the Petition for Review:

"11. The Court of Tax Appeals has no jurisdiction to entertain the instant petition for review for failure on the part of the petitioner to comply with the provision of Section 112 (D) of the 1997 National Internal Revenue Code which provides, thus:

⁵ Par. 10, Stipulated Facts, JSFI, docket, p. 233; Petition for Review, Annex "M"

⁶ Docket, pp. 203-204



'Section 112. *Refunds or Tax credits of Input Tax* –

xxx

xxx

xxx

(D). *Period within which refund or Tax Credit of Input Taxes shall be Made* – In proper cases, the Commissioner shall grant a refund or issue the tax credit certificate for creditable input taxes within one hundred twenty (120) days from the date of submission of complete documents in support of the application filed in accordance with Subsections (A) and (B) hereof.

In case of full or partial denial for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the one hundred twenty day-period, appeal the decision or the unacted claim with the Court of Tax Appeals.

12. As mentioned in the petition, petitioner filed the administrative claim for refund with the Bureau of Internal Revenue on November 30, 2006. Subsequently, on January 3, 2007, the instant petition was filed. Obviously the 120 days given to the Commissioner to decide on the claim has not yet lapsed when the petition was filed. The petition was prematurely filed, hence it must be dismissed for lack of jurisdiction."

During trial, only petitioner presented its evidence and the Court submitted the case for decision on February 12, 2009, taking into consideration the Memoranda filed by the parties on February 9, 2009.⁷

The following are the parties' jointly stipulated issues⁸, submitted for this Court's resolution:

"1. Whether or not the unutilized input VAT of the Petitioner for the first to fourth quarters of 2005 amounting to P15,289,096.47 is substantiated by documentary evidence in the form of invoices and official receipts.

2. Whether or not the said unutilized input VAT credits of the Petitioner for the first to fourth quarters of 2005 in the total amount of P15,289,096.47 was applied against any output tax of the Petitioner in the subsequent quarters.

⁷ Docket, p. 441

⁸ Stipulated Issues for Trial, JSFI, docket, p. 233



3. Whether or not the Petitioner is entitled to a refund and/or issuance of tax credit certificate in the total amount of P15,289,096.47, representing its unutilized input VAT from purchases of taxable goods and services and importation of goods for the first to fourth quarters of 2005."

Petitioner anchors its claim on Section 112(A) of the NIRC of 1997, as amended, which reads as follows:

"SEC. 112. Refunds or Tax Credits of Input Tax. –

(A) Zero-rated or Effectively Zero-rated Sales. – Any VAT-registered person, whose sales are zero-rated or effectively zero-rated may, within two (2) years after the close of the taxable quarter when the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 106(A)(2)(a)(1), (2) and (B) and Section 108(B)(1) and (2), the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the rules and regulations of the Bangko Sentral ng Pilipinas (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales."

Based on the foregoing, in order to be entitled to a refund or tax credit of input tax due or paid attributable to zero-rated or effectively zero-rated sales, the following requisites must be satisfied:

1. that there must be zero-rated or effectively zero-rated sales;
2. that input taxes were incurred or paid;
3. that such input taxes are attributable to zero-rated or effectively zero-rated sales;
4. that the input taxes were not applied against any output VAT liability; and
5. that the claim for refund was filed within the two-year prescriptive period.

As correctly pointed out by petitioner, the law explicitly states that sales of generated power by generation companies are VAT zero-rated beginning June 26, 2001; the date of effectivity of R.A. No. 9136. Section 6 of R.A. No. 9136 provides that:

"SEC. 6. *Generation Sector* — Generation of electric power, a business affected with public interest shall be competitive and open.

Upon the effectivity of this Act, any new generation company shall, before it operates, secure from the Energy Regulatory Commission (ERC) a certificate of compliance pursuant to the standards set forth in this Act, as well as health, safety and environmental clearances from the appropriate government agencies under existing laws.

Any law to the contrary notwithstanding, power generation shall not be considered a public utility operation. For this purpose, any person or entity engaged or which shall engage in power generation and supply of electricity shall not be required to secure a national franchise.

Upon the implementation of retail competition and open access, the prices charged by a generation company for the supply of electricity shall not be subject to regulation by the ERC except as otherwise provided in this Act.

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

The ERC shall, in determining the existence of market power abuse or anti-competitive behavior, require from generation companies the submission of their financial statements." (*Emphasis supplied*)

Section 6 of Rule 5 of the Implementing Rules and Regulations of R.A. No. 9136 provides a similar pronouncement, to wit:

**"RULE 5
Generation Sector**

xxx

xxx

xxx

SECTION 6. *Generation Charges and VAT.* —

xxx

xxx

xxx

(b) Pursuant to the policy of reducing electricity rates to End-users, sales of generated power by a Generation Company shall, from the effectivity of the Act, be zero-rated for the purpose of imposition of value-added tax. Towards this end, the imposition of zero percent (0%) VAT shall apply to the sale of generated power by a Generation Company through all stages of sale until it reaches the End-user. The DOF, through the BIR, shall issue the necessary revenue regulation within sixty (60) calendar days from effectivity of these rules." (*Emphasis supplied*)



Petitioner presented its Certificate of Accreditation⁹ issued by the DOE, showing that it is indeed engaged in the sale of power generation services to the PNOC-EDC by virtue of the Energy Conversion Agreement¹⁰ entered into between PNOC-EDC and Ormat, Inc., petitioner's predecessor-in-interest. Based on the invoices¹¹ and official receipts¹² issued by petitioner to PNOC-EDC, its sole customer, petitioner's gross receipts from sales of power generation services for the period covering January 1, 2005 to December 31, 2005 amounted to P2,299,428,511.11.¹³ Such gross receipts qualify for VAT zero-rating under Section 6 of R.A. No. 9136.

With the amendments introduced by R.A. No. 9337 on EVAT provisions, upon its effectivity on July 1, 2005, the zero-VAT rate imposed on the sales of generated power by generation companies under R.A. No. 9136 was repealed. Notwithstanding the said repeal, petitioner's sale of generated power derived from *geothermal* power continued to be VAT zero-rated under Section 108(B)(7) of the NIRC of 1997, as amended, to wit:

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

XXX

XXX

XXX

(B) Transactions Subject to Zero Percent (0%) Rate. — The following services performed in the Philippines by VAT-registered persons shall be subject to zero percent (0%) rate:

XXX

XXX

XXX

(7) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero percent (0%) rate." (Emphasis supplied)

⁹ Exhibit "C"

¹⁰ Exhibit "D"

¹¹ Exhibit "HH", inclusive of sub-markings as summarized in Exhibit "GG", inclusive of sub-markings

¹² Exhibit "JJ", inclusive of sub-markings as summarized in Exhibit "II", inclusive of sub-markings

¹³ Exhibits "L", "N", "P", and "S"



Since petitioner's gross receipts from power generation services for the period from January 1, 2005 to December 31, 2005, in the amount of P2,299,428,511.11, qualify for zero percent (0%) VAT, the alleged unutilized input VAT attributable thereto in the amount of P15,289,096.47 may be the proper subject of a claim for refund or issuance of tax credit certificate under Section 112(A) of the NIRC of 1997, as amended.

After a thorough examination of petitioner's supporting documents¹⁴ and the Report¹⁵ of the Court-commissioned Independent Certified Public Accountant (CPA), this Court finds however that out of the total input VAT claim of P15,289,096.47, only the amount of P9,078,444.26 is duly substantiated by the required evidence under Sections 110(A) and 113(A) of the NIRC of 1997, as amended, in relation to Sections 4.104-1, 4.104-5, and 4.108-1 of Revenue Regulations No. 7-95 and Section 4.110-7 of Revenue Regulations No. 16-05. The remaining amount of P6,210,652.21 shall be denied due to the following reasons:

FINDINGS		Exhibit FF	Input VAT Claim
1.	Domestic purchase of goods supported by a VAT invoice issued in the petitioner's name but without petitioner's TIN and/or address or with TIN and/or address changed/added on the support but without countersign	Annexes C-1Q-A13, C-2Q-A13, C-3Q-A13 & C-4Q-A13	P 54,088.97
2.	Domestic purchase of services supported by a VAT OR issued in the petitioner's name but without petitioner's TIN and/or address or with TIN and/or address changed/added on the support but without countersign	Annexes C-1Q-B13, C-2Q-B13, C-3Q-B13 & C-4Q-B13	2,959,368.93
3.	Domestic purchase of goods supported by a VAT invoice not issued in the name of the petitioner (i.e. issued in employee's name)	Annex C-1Q-A4	108.80
4.	Domestic purchase of goods supported by a VAT invoice issued in the name of Calenergy/CE Luzon/ VGPC (whichever is applicable)	Annexes C-1Q-A5, C-2Q-A5, C-3Q-A5 & C-4Q-A5	7,923.60
5.	Domestic purchases of services supported by a VAT OR issued in the name of Calenergy/ CE Luzon/ VGPC (whichever is applicable)	Annex C-1Q-B5	6,209.09

¹⁴ Exhibits "KK" and "LL", inclusive of sub-markings

¹⁵ Exhibit "FF"



6.	Domestic purchase of goods supported by a VAT invoice with changes in the name of the petitioner	Annexes C-1Q-A15, C-2Q-A15 & C-4Q-A15	6,922.34
7.	Domestic purchases of services supported by a VAT OR with changes in the name of the petitioner	Annex C-2Q-B15	1,871.82
8.	Importation of goods with supporting documents not issued in the name of the petitioner (i.e. issued in employee's name)	Annexes C-2Q-C4, C-3Q-C4 & C-4Q-C4	41,530.00
9.	Domestic purchases of services supported by a VAT OR not issued in the name of the company (i.e. issued in employee's name)	Annex C-1Q-B4	154.55
10.	Domestic purchase of goods supported by TIN-V invoice	Annexes C-1Q-A12, C-2Q-A12, C-3Q-A12 & C-4Q-A12	13,619.64
11.	Domestic purchase of services supported by TIN-V OR	Annexes C-1Q-B12, C-2Q-B12, C-3Q-B12 & C-4Q-B12	252,803.58
12.	Domestic purchase of goods supported by documents other than a VAT invoice	Annexes C-1Q-A1, C-2Q-A1, C-3Q-A1 & C-4Q-A1	24,633.93
13.	Domestic purchases of services supported by documents other than a VAT official receipt (OR)	Annexes C-1Q-B1, C-2Q-B1, C-3Q-B1 & C-4Q-B1	35,109.93
14.	Domestic purchase of goods supported by TIN # only; TIN-NV/NON VAT invoice; stamped/handwritten TIN-V/VAT	Annexes C-1Q-A7 & C-4Q-A7	15,253.36
15.	Domestic purchases of goods supported by a TIN # only; TAN-V; TAN VAT; TIN-NV/ Non VAT stamped/handwritten TIN-V/VAT tape receipt	Annex C-4Q-A16	345.04
16.	Domestic purchases of services supported by a TIN# only; TAN-V; TAN VAT; TIN-NV/ Non VAT stamped/handwritten TIN-V/VAT tape receipt	Annex C-3Q-B16	109.09
17.	Domestic purchases of services supported by TIN # only; TIN-NV/ NON VAT OR; stamped/handwritten TIN-V/VAT	Annex C-4Q-B7	4,764.41
18.	Domestic purchases of services supported by a VAT OR not dated within the VAT taxable year	Annexes C-1Q-B14 & C-4Q-B14	40,715.43
19.	Domestic purchase of goods supported by a VAT invoice but without invoice date	Annex C-3Q-A10	27.23
20.	Domestic purchases of services supported by a VAT OR but without OR date	Annex C-2Q-B10	176.68
21.	Domestic purchases of goods supported by a VAT invoice not dated within the VAT-taxable year	Annexes C-1Q-A14, C-2Q-A14, C-3Q-A14 & C-4Q-A14	107,867.26
22.	Importation of goods supported by an original IEIRD and BOC OR not dated within the year	Annexes C-1Q-C3, C-2Q-C3, C-3Q-C3	809,616.99
23.	Domestic purchase of goods supported only by a certified true copy of VAT Invoice	Annex C-3Q-A18	10,464.20

24.	Domestic purchase of services supported by a certified true copy VAT OR	Annex C-1Q-B18	153,524.27
25.	Domestic purchases of services supported by a VAT OR but not an original copy	Annexes C-1Q-B3, C-3Q-B3 & C-4Q-B3	16,989.63
26.	Domestic purchase of goods supported by a VAT invoice but not an original copy	Annexes C-1Q-A3, C-2Q-A3, C-3Q-A3 & C-4Q-A3	25,273.09
27.	Input tax on payments to travel agencies for airfare, security fee, terminal fee and other charges	Annex C-3Q-G2	1,758.46
28.	Input tax on purchase of petroleum products (diesel, gasoline)	Annex C-1Q-G4	15.27
29.	Input taxes on payments to insurance companies wherein the petitioner claimed VAT on gross receipt and not on premium only	Annex C-4Q-G5	21.82
30.	Input tax on DST and local taxes included in payments to purchase of services	Annex C-1Q-G7	0.90
31.	Domestic purchase of goods supported by a "zero-rated" VAT invoice	Annexes C-2Q-A11 & C-4Q-A11	4,092.77
32.	Domestic purchases of goods supported by VAT invoices but is not BIR registered	Annexes C-2Q-A17, C-3Q-A17 & C-4Q-A17	10,143.38
33.	Input tax on brokerage/service fees not supported by the broker's OR.	Annex C-4Q-D1	558.86
34.	Overclaimed input tax on domestic purchases of goods/services due to erroneous computation (i.e. arithmetical error)	Annexes C-1Q-E1, C-2Q-E1, C-3Q-E1 & C-4Q-E1	185.76
35.	Effect of forex on foreign currency denominated purchases of goods and services – overstatement	Annexes C-1Q-J1 & C-2Q-J1	5,073.43
36.	supporting documents not available	Annexes C-1Q-F, C-2Q-F, C-3Q-F & C-4Q-F	316,260.51
37.	Claimed input tax on services rendered by non-residents supported by BIR Form 1600 filed through the BIR's EFPS but without corresponding EFPS Payment Transaction Receipt or Payment Confirmation Receipt		
	Exhibit C-2Q-06458		30,471.40
	Exhibit C-3Q-0795		40,027.04
	Exhibit C-3Q-0795		375,897.47
	Exhibit C-4Q-0815		411,397.08
	Exhibit C-4Q-0817		110,013.60
	Exhibit C-4Q-0817		272,658.05
	Exhibit C-4Q-0819		30,056.20
	Exhibit C-4Q-0819		12,548.35
		Total	P 6,210,652.21

Regarding the issue of whether or not the substantiated input VAT of P9,078,444.26 was applied against any output VAT, petitioner's Quarterly VAT Returns¹⁶ for the subject period of claim showed that petitioner's sales were all zero-rated and it had no output VAT against which the subject claim may be credited or applied. Although petitioner carried over the said input VAT in the succeeding four quarters of 2006,¹⁷ the same remained unutilized until it was fully deducted as "VAT Refund/TCC claimed" in the fourth quarter of 2006.¹⁸ Thus, the input tax of P7,827,610.98¹⁹ as of the end of the fourth quarter of 2006, which was to be carried over to the succeeding first quarter of 2007, no longer included the claimed input VAT.

Finally, as to the timeliness of the filing of the instant claim, it has been held that the two-year prescriptive period for the filing of VAT refund claims is reckoned from the date of filing of the corresponding Quarterly VAT Returns.²⁰ The earliest quarter covered by the instant Petition is the first quarter of 2005, for which petitioner originally filed its Quarterly VAT Return on April 25, 2005²¹. Counting from this date, both the administrative claim filed on November 30, 2006 and the Petition for Review filed on January 3, 2007 fall within the two-year prescriptive period.

In fine, this Court finds petitioner to have sufficiently proven its entitlement to the issuance of tax credit certificate or refund of the amount of P9,078,444.26, representing unutilized input VAT attributable to zero-rated sales for the four quarters of 2005, computed as follows:

¹⁶ Exhibits "L", "N", "P", and "S"

¹⁷ Exhibits "OO", "PP", "QQ", and "NN"

¹⁸ Exhibit "NN", line 23D

¹⁹ Exhibit "NN", line 29

²⁰ Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue, G.R. Nos. 141104 and 148763, June 7, 2007

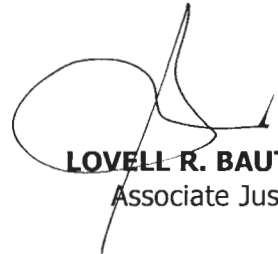
²¹ Exhibit "J"



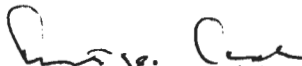
Amount of Input VAT Claim	P 15,289,096.47
Less: Disallowances	6,210,652.21
Refundable Input VAT	P 9,078,444.26

WHEREFORE, the instant Petition for Review is hereby **PARTIALLY GRANTED.** Accordingly, respondent Commissioner of Internal Revenue is hereby **ORDERED TO REFUND,** or in the alternative, **ISSUE A TAX CREDIT CERTIFICATE** in the amount of **NINE MILLION SEVENTY EIGHT THOUSAND FOUR HUNDRED FORTY FOUR PESOS AND 26/100 (P9,078,444.26)** in favor of petitioner, representing unutilized input VAT attributable to zero-rated sales for the four quarters of 2005.

SO ORDERED.


LOVELL R. BAUTISTA
Associate Justice

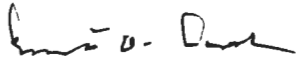
WE CONCUR:


(With Concurring and Dissenting Opinion)
ERNESTO D. ACOSTA
Presiding Justice


CAESAR A. CASANOVA
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's Division.


ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division