

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

SECOND DIVISION

**ALEXANDER C. CRISOSTOMO,
as sole proprietor of BIOCARE
HEALTH RESOURCES,**

Petitioner,

CTA Case No. 8672

- versus -

Members:

**Castañeda, Jr., Chairperson
Casanova, and
Cotangco-Manalastas, JJ.**

**COMMISSIONER OF
INTERNAL REVENUE through
OIC REGIONAL DIRECTOR
JONAS AMORA,**

Respondent.

Promulgated:

AUG 18 2015

X- - - - - X
1 / 2:50 p.m.

D E C I S I O N

COTANGCO-MANALASTAS, J.:

This resolves the Petition for Review filed on July 15, 2013 by Alexander C. Crisostomo, as sole proprietor of Biocare Health Resources, praying that the assessment issued against him for deficiency value added tax (VAT) in the amount of ₱8,128,459.82 and deficiency income tax in the amount of ₱25,459,656.42, both for the year 2004, be cancelled and that a tax clearance be issued accordingly in his favor.

FACTS

Petitioner Alexander C. Crisostomo is the sole proprietor of Biocare Health Resources with address at Biocare's principal place of business at 64 Webjet Bldg., Quezon Avenue, Tatalon, Quezon City.¹ ✓

¹ Par. 2, Joint Stipulation of Facts (JSF), docket, p. 195.

On the other hand, respondent Commissioner of Internal Revenue (CIR) is an official of the Republic of the Philippines charged with the duty of, among others, collecting internal revenue taxes, with office address at the BIR National Office Building, BIR Road, Diliman, Quezon City.²

On December 12, 2007, a Preliminary Assessment Notice (PAN) was issued against petitioner assessing him of deficiency VAT in the amount of ₱8,020,480.32 and deficiency income tax in the amount of ₱25,107,229.56.³

On December 21, 2007, petitioner received from respondent the Formal Assessment Notice (FAN) dated December 4, 2007 together with the Formal Letter of Demand (FLD), assessing petitioner of the amounts of ₱8,128,459.82 as deficiency VAT and the amount of ₱25,459,656.42 as deficiency income tax, both for the year 2004.⁴

On March 7, 2008, petitioner applied for Tax Amnesty pursuant to Republic Act (RA) No. 9480.⁵

Petitioner received a letter on December 8, 2008 informing him that his availment of the tax amnesty did not extinguish his tax liability for the reason that the delinquent accounts are not covered by the amnesty, and that a demand is being made for the payment of full amount of the delinquent taxes for the year 2004.⁶

On January 3, 2013, petitioner sent a letter⁷ to Mr. Jonas Amor, OIC Regional Director (RD), Revenue Region No. 7, Quezon City, questioning the latter's memorandum dated November 21, 2012⁸ addressed to HREA Collection Division upholding the tax assessments.

Thereafter, the instant Petition for Review was filed before this Court on July 15, 2013. ✓

² Par. 3, JSF, docket, p. 195.

³ Par. 4, JSF, docket, p. 196.

⁴ Exhibits "P-3" and "P-4", docket, pp. 246-251; par. 7, *Petition for Review*, docket, p. 8.

⁵ Par. 5, JSF, docket, p. 196.

⁶ Par. 6, JSF, docket, p. 196; Exhibit "P-5", docket, p. 252.

⁷ Exhibit "P-19", docket, pp. 313-314 (same as Exhibit "P-10", docket, pp. 271-272)

⁸ A copy of the said memorandum mentioned in petitioner's letter was not presented in evidence.

Respondent filed her Answer⁹ on September 2, 2013, interposing the following special and affirmative defenses:

“11. All presumptions are in favor of the correctness of the Assessment. Assessments are prima facie presumed correct and made in good faith and that the taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed;

12. The Assessment/Demand Letter No. 39771 dated 21 December 2007 for the year 2004 against the petitioner was issued in compliance with the provisions of Section 228 of the National Internal Revenue Code and in accordance to existing Revenue Rules and Regulations relative to the right of the taxpayer/petitioner to be informed of the factual and legal bases upon which the assessment was made.

13. The herein Petitioner was fully appraised of the facts and the law on which the Final Assessment was issued. The Final Assessment Notice, Demand Letter and Details of Discrepancies which were all together sent at the same time to the Petitioner, contained, in detail, the manner of computation, the facts on which the assessment was based and the provisions of the law used in arriving at such deficiency assessment.

14. The subject assessment has already become final, executory and demandable by reason of the failure of the petitioner to timely file a protest against the same. The herein petitioner, instead of filing a protest against the assessment, has in fact applied for Tax Amnesty pursuant to Republic Act No. 9480 and offered to compromise its tax liability pursuant to Revenue Regulation No. 30-2002;

15. The failure of the petitioner to file a protest against the assessment in question is vital to cases of this nature, failing such the assessment becomes incontestable;

16. After post evaluation, the application for Tax Amnesty of the petitioner was denied pursuant to Revenue Memorandum Circular No. 90-2007. The liabilities of the petitioner are already delinquent; hence, he is not entitled to the benefits accorded by the said law;

17. The application for compromise of the petitioner was likewise denied by the National Evaluation Board as recommended by the Technical Working Group for lack of legal basis pursuant to the provisions of Section 3, par. 1 of Revenue Regulations No. 30-2002; ✓

⁹ Docket, pp. 55-59.

18. The Letter Notice issued against the petitioner is considered as a "notice of audit or investigation" under par. 3, Section 6(A) of the National Internal Revenue Code of 1997, as amended, which has the same effect as a Letter of Authority;

19. Computerized matching conducted by the Bureau of Internal Revenue on the purchases of the petitioner's customers against the sales declared in the petitioner's tax return discloses discrepancy, hence, the petitioner is assessed deficiency income tax and value added tax pursuant to Sections 31, 32, 106 and 108 of the Tax Code in relation to RMO No. 30-2003 and RMO No. 42-2003;

20. The 50% surcharge has been imposed pursuant to the provisions of Section 248(B) of the NIRC;

21. The 20% interest per annum has been imposed pursuant to the provisions of Section 249(B) of the NIRC;

22. The compromise penalty was imposed pursuant to the provisions of Section 225 of the Tax Code with reference to RMO No. 1-90."

The case was set for Pre-Trial Conference on October 24, 2013¹⁰ which was subsequently reset to December 5, 2013¹¹. Accordingly, the Pre-Trial Brief for the Respondent was filed on November 29, 2013,¹² while the Pre-Trial Brief (For the Petitioner) was filed on December 3, 2013¹³.

On January 13, 2014, the parties filed their Joint Stipulation of Facts¹⁴ which was noted in the Court's Order¹⁵ dated January 15, 2014.

On January 23, 2014, the Court issued a Pre-Trial Order setting forth, among others, the parties' stipulated facts, the evidence to be presented by both parties and the hearing dates and terminating the pre-trial stage.¹⁶

Trial proceeded, giving both parties the opportunity to present their respective documentary and testimonial evidence. ✓

¹⁰ Notice of Pre-Trial Conference issued on September 4, 2013, docket, p. 60.

¹¹ Resolution dated October 24, 2013, docket, p. 86.

¹² Docket, pp. 112-116.

¹³ Docket, pp. 123-129.

¹⁴ Docket, pp. 195-197.

¹⁵ Docket, p. 198.

¹⁶ Docket, pp. 201-205.

After presentation, marking and identification, Exhibits “P-2”, “P-3”, “P-4”, “P-5”, “P-6”, “P-10”, “P-12”, “P-13”, “P-14”, “P-16”, “P-17”, “P-18”, “P-19”, “P-20”, and “P-23”, were admitted as part of the evidence for petitioner, while exhibits “P-1”, “P-7”, “P-8”, “P-9”, “P-15” and “P-22” were denied admission.¹⁷ Also, considering petitioner’s filing of the compliant replacement judicial affidavits of Alexander C. Crisostomo and Estrella V. Martinez, the same were likewise admitted as their direct testimonies.¹⁸

On the other hand, respondent’s counsel manifested that respondent will not present evidence in this case. Thus, the Court ordered both parties to file their respective memoranda.¹⁹

Later on, the Memorandum (For Petitioner Alexander C. Crisostomo) was filed on July 17, 2014²⁰, while the Memorandum (For the Respondent) was filed on January 20, 2015²¹.

Thus, in a Resolution dated January 28, 2015, the case was submitted for decision.²²

ISSUES

The parties proposed the following issues in their Pre-Trial Briefs²³ for the resolution of the Court, *to wit*:

1. Whether the assessment has become final, executory and demandable by reason of the failure of the petitioner to timely file a protest against the same;

2. Whether the Court has jurisdiction over the case; ✓

¹⁷ Resolutions dated June 10, 2014 and November 14, 2014, docket, pp. 292-293 and pp. 429-430, respectively.

¹⁸ Resolution dated November 14, 2014, docket, p. 430.

¹⁹ Resolution dated June 10, 2014, docket, p. 293.

²⁰ Docket, pp. 340-352.

²¹ Docket, pp. 435-439.

²² Docket, p. 440.

²³ Pre-Trial Brief for the Respondent, docket, p. 114; Pre-Trial Brief (For the Petitioner), docket, p. 127.

3. Whether tax assessments base on a mere Letter Notice without a corresponding Letter of Authority are null and void;
4. Whether the deficiency assessment for the year 2004 must be condoned, closed and terminated because the delinquent taxes assessed from BIO CARE are now included in the taxes covered by the amnesty;
5. Whether Biocare services are VAT exempt under Section 109 of the Tax Code which exempts "medical, dental, hospital and veterinary services except those rendered by professionals".

DISCUSSION/RULING

The Court has no jurisdiction to determine the validity and correctness of the subject deficiency tax assessments as the same had already attained finality.

The National Internal Revenue Code (NIRC) of 1997 provides for the procedures in protesting an assessment, thus:

"SEC. 228. **Protesting of Assessment.** — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings; *Provided, however,* That a preassessment notice shall not be required in the following cases:

xxx

xxx

xxx

Such assessment may be **protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment** in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax /

Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the 180-day period; otherwise, the decision shall become final, executory and demandable." (*Emphasis supplied.*)

On the other hand, the pertinent portions of Section 3.1.5 of Revenue Regulations No. 12-99, implementing Section 228 of the NIRC of 1997, as amended, reads:

3.1.5 *Disputed Assessment.* — The taxpayer or his duly authorized representative may protest administratively against the aforesaid formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof....

xxx

xxx

xxx

If the taxpayer fails to file a valid protest against the formal letter of demand and assessment notice within thirty (30) days from date of receipt thereof, the assessment shall become final, executory and demandable. (*Emphasis supplied.*)

It is clear from the foregoing that the taxpayer may protest the assessment within a period of thirty (30) days from receipt thereof and that failure to contest the assessment within the 30-day period renders the assessment notice final, executory and demandable.

In this case, it is not disputed that petitioner received the FAN and FLD on December 21, 2007. However, petitioner did not file any protest against the aforementioned FAN and FLD. Thus, upon the expiration of the 30 day period to protest, the assessment became final, executory and unappealable on January 21, 2008.

On this matter, petitioner claims that he filed a protest on the FAN through a letter²⁴ dated January 2, 2013. The pertinent portions of the said letter are hereunder quoted:

"Subject: Letter Notice (LN) of BIOCARE SERVICES
(Alexander Crisostomo)
Attention: Atty. Jethro Sabarriaga
Assistant Regional Director

✓

²⁴ Exhibit "P-10", docket, pp. 271-272.

I will not tire questioning the BIR why you are not disseminating the information to the taxpayers that tax collection and assessment based on a mere LN are spurious imitation of the Letter of Authority as cited in Sony Phils. vs. CIR, 635 SCRA 23, Fort Bonifacio Development Corp. vs. CIR, CTA Case No. 7531, February 4, 2009, Collector of Internal Revenue vs. Benipayo 4 SCRA 182.

Your memorandum dated November 21, 2012 addressed to HREA Collection Service is bereft of any sound disposing factor as a basis for reversing all the action taken by the Chiefs of Office of the Legal, Assessment and Collection Division upholding the patent nullity of tax assessments based on a Letter Notice (LN) only.

I have been in the BIR for 32 years and this is a unique phenomenon in actual field investigation that a patriotic and efficient Regional Director will just reverse himself unceremoniously in his ATCA approval without any intelligent discussion as to his mind-boggling and unprecedented reversal of his lofty position.

Furthermore, Section 109 (g) of the Tax Code is very clear that BIO CARE services are VAT exempt transaction and the BIR did not give an iota of a learned opinion that it is exempted. Laws are not repealed by DISUSE, CUSTOM or PRACTICE to the CONTRARY, citing Veterans Federation of the Phils vs. Angelo Reyes, 483 SCRA 526. And the contrary is your inaction on the VAT exempt status of BIO CARE.

Your manner of footbaling the BIO CARE case to the Legal Service after your Chief, Legal Division has spoken that LN is illegal and surprisingly the Legal Service has remanded the case back to your Legal Division because there is no legal issue to resolve is anathema to a transparent and accountable good governance. It is high time that a new tax legislation will be passed regarding the legality of tax assessment/collection based on a mere Letter Notice (LN) only of which BIO CARE is unfortunately circumstanced.

For nation building through an intelligent revenue raising measures, without a Letter Notice (LN)."

Perusal of the contents of the letter, however, shows that it is not a protest on the FAN and FLD issued on December 21, 2007. There is nothing in the above quoted letter which would show that the said letter directly refers to the FAN and FLD issued against petitioner.

Also, it is clear from the allegations in the instant Petition for Review that the said letter was sent not to directly protest

the assessment contained in the FAN and FLD issued on December 21, 2007 but to question the memorandum dated November 21, 2012 of OIC RD Amora which allegedly reversed all the action taken by the Chiefs of Office of the Legal, Assessment and Collection Division upholding the patent nullity of the tax assessments based on a mere Letter Notice only.

It must be noted that any objection against the assessment should have been pursued following the avenue paved in Section 228 of the NIRC on protests on assessments of internal revenue taxes.²⁵

As provided in Section 228 of the NIRC of 1997, as amended, and Section 3.1.5 of Revenue Regulations No. 12-99, the failure of a taxpayer to file a timely protest against the FAN and FLD renders the assessment therein final, executory and demandable. Once the case had attained finality, petitioner is already precluded from disputing the correctness of the assessment.

In view of the foregoing, the Court finds that there was no valid protest filed before the respondent on the FAN and FLD issued on December 21, 2007. The assessment in the FAN and FLD already became final and executory and therefore, the Court is already precluded from determining the validity and correctness of the said assessment.

Furthermore, let it be stressed that the Court of Tax Appeals (CTA) exercises appellate jurisdiction to review by appeal decisions of the CIR in cases, among others, involving disputed assessments. In this regard, Section 7(a)(1) and (2) of RA No. 1125, as amended by RA No. 9282, provides:

“SEC. 7. *Jurisdiction.* – The CTA shall exercise:

(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:

(1) **Decisions of the Commissioner of Internal Revenue in cases involving disputed assessments,** refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under

²⁵ *Commissioner of Internal Revenue, vs. Gonzales, et al.*, G.R. No. 177279, October 13, 2010, citing *Marcos II, vs. Court of Appeals*, G.R. No. 120880, June 5, 1997.

the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue;

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, **where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be a denial.** (*Emphasis supplied.*)

In order to successfully invoke the jurisdiction of this Court in cases involving disputed assessments, a "decision of the Commissioner of Internal Revenue" on a disputed assessment is necessary except when the ground relied upon is the inaction of the CIR.

Relevantly, the inaction which shall be considered as a denial of the protest is an inaction where the NIRC provides a specific period for action, such as Section 228 of the NIRC of 1997.

Section 228 of the NIRC of 1997, as amended, provides a specific period of 180 days from submission of documents for the CIR to act on the protest and that if the protest is not acted upon within the said period, the taxpayer adversely affected by the inaction may appeal to the CTA within thirty (30) days from the lapse of the 180-day period.

Perusal of the Petition for Review shows that petitioner tried to invoke the above remedy, which is to appeal the inaction of the CIR on the protest of the assessment, in order to have the assessment issued against him cancelled and to obtain a tax clearance. However, petitioner failed to prove that he actually filed a protest on the FAN/FLD. Hence, the 180-day period cannot commence to run.

Therefore, there is no "inaction" which can be considered as a "denial of the protest" and consequently, there is no disputed assessment which should have been appealable before this Court. ✓

From the foregoing discussion, there is no doubt that the deficiency assessments for taxable year 2004 became final, executory and demandable, and therefore, unappealable. However, the Court noted that petitioner applied for Tax Amnesty under RA No. 9480²⁶.

Despite the Court having no jurisdiction over the determination of the validity and correctness of the tax assessment issued against petitioner, still, the Court finds that it may resolve the issue²⁷ concerning petitioner's availment of the tax amnesty program considering that the same is covered within the meaning of "other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue" provided in Section 7(a)(1) of RA No. 1125, as amended, quoted earlier.

The appellate jurisdiction of the CTA is not limited to cases which involve decisions of the CIR on matters relating to assessments or refunds. The second part of the provision [*i.e.*, Section 7(a)(1) of RA No. 1125, as amended] covers other cases arising under the NIRC or related laws administered by the Bureau of Internal Revenue.²⁸

A tax amnesty is a general pardon or the intentional overlooking by the State of its authority to impose penalties on persons otherwise guilty of violation of a tax law. It partakes of an absolute waiver by the government of its right to collect what is due it and to give tax evaders who wish to relent a chance to start with a clean slate. A tax amnesty, much like a tax exemption, is never favored nor presumed in law. The grant of a tax amnesty, similar to a tax exemption, must be construed strictly against the taxpayer and liberally in favor of the taxing authority.²⁹

Pursuant to Section 6 of RA No. 9480, those who availed themselves of the tax amnesty and have fully complied with all its conditions shall be "immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal

²⁶ An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed By the National Government for Taxable Year 2005 and Prior Years.

²⁷ See Issue no. 4 on page 6.

²⁸ *Philippine Journalists, Inc. vs. CIR*, G.R. No. 162852, December 16, 2004.

²⁹ *Philippine Banking Corporation (Now: Global Business Bank, Inc.) vs. CIR*, G.R. No. 170574, January 30, 2009.

Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years."

It is significant to note that in a letter dated December 8, 2008, the BIR informed petitioner that his availment of the tax amnesty did not extinguish his tax liability for the reason that the delinquent accounts are not covered by the amnesty pursuant to Q-47/A-47 of Revenue Memorandum Circular No. 69-2007³⁰, and that a demand is being made for the payment of full amount of the delinquent taxes for the year 2004.³¹

However, as held by the Court *En Banc* in *CIR vs. Philippine Aluminum Wheels, Inc.*³², the finality of an assessment does not disqualify the taxpayer from availment of amnesty under the Tax Amnesty Law of 2007, thus:

Section 8 of R.A. No. 9480 enumerates the grounds under which applications for tax amnesty are disqualified. Neither the finality of an assessment nor its classification as "Delinquent Accounts/Accounts Receivables considered as assets by the BIR/Government including self-assessed tax" is among the grounds enumerated. What are disqualified are "tax cases subject of final and executory judgment by the courts" (Section 8 [6]).

In *Philippine Banking Corporation vs. CIR*, the Supreme Court, in 2009, categorically rejected an attempt by the Department of Finance to expand the exclusions from the 2007 tax amnesty by adding to the statutory list "issues and cases which were ruled by any court (even without finality) in favor of the BIR prior to amnesty availment of the taxpayer." The DOF made this addition to the exclusions through Section 6 of its Department Order 29-07.

It is a settled rule, however, that implementing rules and regulations cannot amend an act of Congress. An administrative agency cannot amend an act of Congress. In case of discrepancy between the basic law and a rule or regulation issued to implement said law, the basic prevails because said rule or regulations cannot go beyond the terms and provisions of the basic law. Administrative regulation cannot extend the law and amend a legislative enactment. It is axiomatic that the clear letter of the law is controlling and /

³⁰ Clarification of Issues Concerning the Tax Amnesty Program Under Republic Act No. 9480 as Implemented by Department Order No. 29-07

³¹ Par. 6, JSF, docket, p. 196; Exhibit "P-5", docket, p. 252.

³² CTA EB Case No. 994, May 19, 2014.

cannot be amended by a mere administrative rule issued for its implementation.

In line with the above-cited principles of law, this Court cannot give its imprimatur to the CIR's inclusion of the finality of an assessment and/or that assessment's subsequent classification as "Delinquent Accounts/Accounts Receivables considered as assets by the BIR/Government including self-assessed tax" in the list of exclusions from the coverage of the Tax Amnesty Law of 2007. The Petitioner's denial of the tax amnesty application on the ground of the finality of its tax assessment is, perforce, deemed to be without legal basis.

Hence, the finality of the subject tax assessments do not bar petitioner from availment of amnesty under the Tax Amnesty Law of 2007.

To avail of the tax amnesty, the concerned taxpayer must submit the following documents, namely: a) Notice of Availment of Tax Amnesty; b) Statements of Assets, Liabilities and Networth (SALN); c) Tax Amnesty Return (BIR Form No. 2116); and d) Payment Form (BIR Form No. 0617). In addition thereto, it is required that the taxpayer must present proof of payment of tax amnesty. This is because payment of the amnesty tax and the submission of the pertinent forms shall be deemed full compliance with the provisions of RA No. 9480.³³

Unfortunately, the evidence presented by petitioner is insufficient for the Court to determine if petitioner has fully complied with the requirements of the Tax Amnesty Program under RA No. 9480, as implemented by Department of Finance Order No. 29-07, to be entitled to the immunities provided therein. Record reveals that only the Tax Amnesty Return³⁴ dated March 7, 2008 was formally offered in evidence.

WHEREFORE, the instant Petition for Review is **DISMISSED** for lack of jurisdiction. ✓

³³ *Technopeak Corporation vs. CIR*, CTA Case No. 7751, June 28, 2011 citing Section 6 of Department of Finance, Department Order No. 29-07, and Revenue Memorandum Circular No. 019-08, *Covanta Energy Philippine Holdings vs. CIR*, CTA Case Nos. 7338 and 7365, July 27, 2010 citing Sec. 6(3), Revenue Memorandum Circular No. 55-2007.

³⁴ Petitioner's Formal Offer of Documentary Evidence, docket, p. 235.

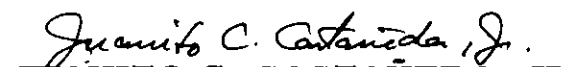
Even considering that the Court has jurisdiction over the issue of whether petitioner is entitled to the immunities provided in the Tax Amnesty Law, the instant Petition for Review should likewise be **DISMISSED** for insufficiency of evidence.

SO ORDERED.



AMELIA R. COTANGCO-MANALASTAS
Associate Justice

WE CONCUR:



JUANITO C. CASTAÑEDA, JR.
Associate Justice



CAESAR A. CASANOVA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



Associate Justice
Chairperson

CERTIFICATION

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



ROMAN G. DEL ROSARIO
Presiding Justice