

SECOND DIVISION

[G.R. NO. 159149, August 28, 2007]

**THE HONORABLE SECRETARY VINCENT S. PEREZ, IN HIS
CAPACITY AS THE SECRETARY OF THE DEPARTMENT OF ENERGY,
PETITIONER, VS. LPG REFILLERS ASSOCIATION OF THE
PHILIPPINES, INC., RESPONDENT.**

R E S O L U T I O N

QUISUMBING, J.:

In its Motion for Reconsideration,^[1] respondent LPG Refillers Association of the Philippines, Inc. seeks the reversal of this Court's Decision^[2] dated June 26, 2006, which upheld the validity of the assailed Department of Energy (DOE) Circular No. 2000-06-10.

In assailing the validity of the Circular, respondent argues that:

- I. Circular No. 2000-06-010 (the "assailed Circular") listed prohibited acts and punishable offenses which are brand-new or which were not provided for by B.P. Blg. 33, as amended; and that B.P. Blg. 33 enumerated and specifically defined the prohibited/punishable acts under the law and that the punishable offenses in the assailed Circular are not included in the law.
- II. The petitioner-appellant admitted that the assailed Circular listed prohibited acts and punishable offenses which are brand-new or which were not provided for by B.P. Blg. 33, as amended.
- III. B.P. Blg. 33, as amended, is in the form of a penal statute that should be construed strictly against the State.
- IV. The assailed Circular not only prescribed penalties for acts not prohibited/penalized under B.P. Blg. 33, as amended, but also prescribed penalties exceeding the ceiling prescribed by B.P. Blg. 33, as amended.
- V. The Honorable Court failed to consider that the imposition by the assailed Circular of penalty on per cylinder basis made the imposable penalty under the assailed Circular exceed the limits prescribed by B.P. Blg. 33, as amended.
- VI. The Honorable Court failed to rule on the position of the respondent-appellee that the amount of imposable fine prescribed under the assailed Circular is excessive to the extent of being confiscatory and thus offends the Bill of Rights of the 1987 Constitution.
- VII. The noble and laudable aim of the Government to protect the general consuming public against the nefarious practices of some [un]scrupulous