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life.[18] The absence of any motive on the part of the complainant together with her convincing testimony, is certainly fatal to the defense in the instant case.

IN VIEW HEREOF, the judgment of the trial court, finding accused-appellant guilty beyond reasonable doubt of the crime of Rape is AFFIRMED, *in toto*, with costs against accused-appellant.

SO ORDERED.

Padilla, Bellosillo, Vitug, and *Hermosisima, Jr., JJ.*, concur.

FIRST DIVISION

[G.R. No. 114711. February 13, 1997]

GARMENTS and TEXTILE EXPORT BOARD (GTEB), *petitioner, vs.* **COURT OF APPEALS and AMERICAN INTER-FASHION CORPORATION,** *respondents.*

[G.R. No. 115889. February 13, 1997]

AMERICAN INTER-FASHION CORPORATION, *petitioner, vs.* **GLORIOUS SUN FASHION GARMENTS MANUFACTURING (PHILS.), INC. and GARMENTS and TEXTILE EXPORT BOARD (GTEB),** *respondents.*

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[18] The act complained of was committed with the use of a deadly weapon. The alternative circumstance of relationship, alleged in the complaint aggravates the crime. Under Article 335 of the Revised Penal Code as amended by R.A. 7659, the proper penalty would be Death. However, the crime was committed before the death penalty was imposed. Assuming the crime was committed after the re-imposition of the death penalty for certain heinous crimes (R.A. 7659) only the lesser penalty of *reclusion perpetua* could be imposed on the accused who is over seventy years of age.

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SYLLABUS

1. **COMMERCIAL LAW; CORPORATION; SECURITIES AND EXCHANGE COMMISSION; CERTIFICATE OF REGISTRATION ONCE REVOKED SHALL NOT CONFER THE SAME LEGAL PERSONALITY UPON "RE-REGISTRATION"; CASE AT BAR.**— It appears that subsequent to the revocation of AIFC's certificate of registration, or on October 14, 1993, AIFC registered anew with the SEC, this time under SEC Reg. No. AS093-008101-A under the name and style: AIFC International Fashion Corporation. Evidently then, the AIFC which filed the petition in G.R. No. 115889 is the AIFC which was *"re-registered"* on the above date, the *original* AIFC's certificate of registration having been revoked with finality by virtue of our resolutions referred to in our above-quoted 11 August 1993 Resolution. In the same manner, the AIFC which the GTEB refers to in its petition in G.R. No. 114711 could not have been any one other than this same *"re-registered"* AIFC, said petition having been subsequent to the revocation of the original AIFC's certificate of registration. It is obvious that the *"re-registered"* AIFC does not possess the legal personality necessary for it to prosecute these petitions. In view of the May 20, 1990 Order of the SEC, "the certificate of registration issued to American Inter-Fashion Corporation on October 14, 1993 under SEC Reg. No AS093-008101-A" was revoked. For all legal intents and purposes, AIFC no longer exists, and it may no longer claim to be entitled to the export allocations subject of these petitions. After all, it stands to reason that where there is no claimant, there can be no claim. The AIFC International is a personality separate and distinct from AIFC. For this reason, we cannot grant to *AIFC International Fashion Corporation* the personality to pursue the petition in G.R. No. 114711. It has not applied for and is thus equally devoid of any personality to lay claim on the export allocations subject of said petition.

2. **ID.; GARMENT AND TEXTILE EXPORT BOARD (GTEB); POWERS GRANTED BY EXECUTIVE ORDER NO. 537 (AS AMENDED BY E.O. NO. 952).**— Semantics notwithstanding, it cannot be denied that GTEB Case No. 92-50 was instituted by Glorious Sun for the purpose of securing the cancellation of EQs then alleged by it as being illegally held by AIFC. This being the case, it likewise cannot be denied

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that, as Glorious Sun correctly observes, such a proceeding is clearly within the ambit of the GTEB's powers, more specifically, the power granted to it by Section 3, subparagraph (h) of Executive Order No. 537 (as amended by E.O. No. 952) to "cancel or suspend quota allocations, export authorizations and licenses for the operations of bonded garment manufacturing warehouses or disqualify the firm and/or its principal stockholders and officers from engaging in garment exports and from doing business with the Board," in case of violations of its rules and regulations.

3. **ID.; ID.; AS AN AGENCY ATTACHED TO THE MINISTRY OF TRADE AND INDUSTRY HAS IN ITS FAVOR THE PRESUMPTION THAT IT HAS REGULARLY PERFORMED ITS OFFICIAL DUTIES.**— It is apparent from the rule cited by AIFC (Rule IV, Sec. 1, GTEB Procedural Rules) that the same was aimed primarily at ensuring that if any action is to be filed against a respondent, the same must have sufficient basis in fact. Consequently, for so long as this goal is achieved, albeit through some other means, no undue prejudice can be caused by the non-issuance of a show-cause order. In fact, as correctly pointed out by Glorious Sun, the GTEB, as a bureau, office or agency attached to the Ministry of Trade and Industry, may even *motu propio* charge violators of "Trade and Industry Laws," and thereafter proceed with a formal investigation, (Section 5 of Article III, Executive Order No. 913). Anent AIFC's claim that it was not afforded the opportunity to present evidence in GTEB Case No. 92-50, we find such claim unworthy of belief. The GTEB, as an administrative agency, has in its favor the presumption that it has regularly performed its official duties, including those which are quasi-judicial in nature. In the absence of clear facts to rebut the same, said presumption of regularity must be upheld. This is also but in keeping with the doctrine of primary jurisdiction.

4. **REMEDIAL LAW; JURISDICTION; MAY NOT BE INVOKED AT ONE TIME AND REJECT AT ANOTHER IN THE SAME CONTROVERSY.**— Most recently, in *St. Luke's Medical Center, Inc. vs. Torres*, 223 SCRA 779 [June 29, 1993], we reiterated that: "It is a settled rule that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and after failing to obtain such

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relief, repudiate or question that same jurisdiction. A party cannot invoke jurisdiction at one time and reject it at another in the same controversy to suit its interests and convenience. The court frowns upon and does not tolerate the undesirable practice of some litigants who submit voluntarily a cause and then accepting the judgment when favorable to them and attacking it for lack of jurisdiction when adverse (*Tajonera vs. Lamaroza,* 110 SCRA 447, citing *Tijam vs. Sibonghanoy,* 23 SCRA 35)."

5. **ID.; ID.; THE COURTS HAVE NO SUPERVISORY POWER OVER PROCEEDINGS AND ACTIONS OF THE ADMINISTRATIVE DEPARTMENTS.**— "Courts of justice should not generally interfere with purely administrative and discretionary functions; that courts have no supervisory power over the proceedings and actions of the administrative departments of the government involving the exercise of judgment and findings of fact, because by reason of their special knowledge and expertise over matters falling under their jurisdiction, the latter are in a better position to pass judgment on such matters and their findings of facts in that regard are generally accorded respect, if not finality, by the courts. (*Ateneo de Manila vs. CA,* 145 SCRA 105)"

APPEARANCES OF COUNSEL

The Legal Division GTEB for petitioner in G.R. No. 114711.

Sycip Salazar Hernandez & Gatmaitan for American Inter-Fashion Corporation.

Tañada Vivo & Tan, Benjamin C. Santos & Ofelia Calcetas-Santos Law Office and *Santos Parungao Aquino & Santos Law Offices* for Glorious Sun Fashion Garments Manufacturing (Phils.), Inc.

DECISION

HERMOSISIMA, JR., *J.*:

The doctrine of "primary jurisdiction" of Government administrative agencies has herein come into play. Should courts

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of justice interfere with their purely administrative and discretionary functions and have supervisory powers over their proceedings and actions involving the exercise of judgment and findings of fact? Verily, over matters falling under their jurisdiction, we have repeatedly held that administrative agencies are in a better position to pass judgment thereon and their findings of fact in that regard are generally accorded respect, if not finality, by the courts.[1]

In this connection, the Garments and Textile Export Board (GTEB) filed the herein petition for *Certiorari* from the January 21, 1994 Decision and the March 22, 1994 Resolution of the Court of Appeals in CA-G.R. SP No. 31596 (G.R. No. 114711). Up for our resolution likewise is the petition for *Certiorari* filed by the American Inter-Fashion Corporation (AIFC) against the GTEB Resolution of June 21, 1994 (G.R. No. 115889). These petitions, being interrelated, were ordered consolidated.

Antecedent facts to set us on a proper perspective are those lucidly set out by the Court of Appeals:

"Petitioner American Inter-Fashion Corporation (AIFC) was a corporation organized under Philippine Laws engaged in the business of manufacturing and exporting garments. Prior to its incorporation, the original incorporators of AIFC were awarded the initial export quota (EQ) allocation by virtue of the resolution of the Garments & Export Textile Board (GTEB) dated July 30, 1984.

Before AIFC's incorporation, Glorious Sun, a corporation organized under Philippine Laws sometime in 1977, was a recipient of a substantial number of EQ allocations from the GTEB. On April 27, 1984, Glorious Sun was charged before the GTEB in OSC No. 84-B-1 with, and was found guilty of, misdeclaration of values of its imported raw materials resulting in dollar salting, and other related frauds, in connection with its importations in 1983. As a result, the EQs of Glorious Sun as well as its license to operate a bonded manufacturing warehouse were cancelled and its stockholders and

[1] Sebuguero *v.* National Labor Relations Commission, 248 SCRA 532 [1995]; Inter-Orient Maritime Enterprises *v.* National Labor Relations Commission, 235 SCRA 268 [1994]; Association of Marine Officers and Seamen of Reyes and Lim Co. *v.* Laguesma, 239 SCRA 460 [1994]; Maya Farms Employees Organization *v.* National Labor Relations Commission, 239 SCRA 508 [1994].

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officers were disqualified from engaging in garment exports. Its export quotas were thereafter given to two newly-formed corporations — the De Soleil Apparel Manufacturing Corporation (De Soleil) and the herein petitioner American Inter-Fashion Corporation (AIFC). These corporations were joint ventures of Hongkong investors and majority stockholders of Glorious Sun on one hand and, allegedly, one member of the family and one crony of President Marcos on the other (American Inter-Fashion Corp. *vs.* Office of the President, 197 SCRA 409, 413 & 414 [1991]). The cancelled EQs of Glorious Sun which were given to AIFC pertains to those under Cat 347/8 equivalent to 113,341-3 dozens which are the subject of dispute between GTEB and petitioner. Glorious Sun continues to claim its rights over the aforementioned EQ.

In the meantime, AIFC was able to maintain its EQ from 1984 up to the time of the filing of this petition (except for a brief period between 1986 and 1989 when AIFC was placed under sequestration) by continuously exporting or shipping out at least 95% of its current allocation as required by the rules and regulations of the GTEB. This fact was not denied by the respondents.

With the establishment of a new government in 1986, Glorious Sun, on September 7, 1989, filed an appeal with the Office of the President, which, in turn, set aside the GTEB decision adverse to Glorious Sun and remanded the case for genuine hearings where due process would be accorded both parties (*supra*). This decision was upheld by the Supreme Court in a petition docketed as G.R. No. 92422 and entitled American Inter-Fashion Corporation *vs.* Office of the President, GTEB and Glorious Sun. On May 23, 1991 and July 2, 1991, the Supreme Court, after finding that 'x x x American Inter-Fashion x x x was created obviously to be the recipient of export quotas arbitrarily removed from the rightful owner [Glorious Sun],' affirmed the decision of the Office of the President remanding the case for further proceedings to the GTEB (*supra*, p. 426).

Pending its appeal to the Office of the President, Glorious Sun filed before the Securities and Exchange Commission (SEC) a Petition to Declare the Forfeiture of the Registration of AIFC on June 16, 1987. This was docketed as SEC-AC No. 319. On May 24, 1990, the PED ordered the revocation of AIFC's registration on the ground of 'fraud.' AIFC thereafter appealed to the SEC *en banc*, but the latter upheld the revocation on May 22, 1992. The subsequent Motion for Reconsideration of AIFC was also denied by the SEC on September 16, 1992.

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On September 30, 1992, the Petition for Review filed by AIFC before this Court docketed as CA-G.R. No. 29017 was denied for having been filed beyond the reglementary period. This denial was upheld by the Supreme Court (3rd Division) in a Petition for Review docketed as G.R. No. 107742. AIFC's subsequent Motion for Reconsideration was likewise denied on February 17, 1993 and on July 1, 1993, the Supreme Court, *en banc*, upheld the cancellation of petitioner's certificate of registration with *finality*.

Meanwhile, on August 20, 1992, after further proceedings were conducted in OSC No. 84-B-1 concerning Glorious Sun's alleged violations and frauds, the GTEB adopted a resolution which reads as follows:

'NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved:

1. The instant case is hereby terminated with prejudice;

2. The disqualification of Glorious Sun and its principal stockholders and officers from engaging in the garments export business is hereby lifted;

3. The bonded manufacturing warehouse license of Glorious Sun shall be restored subject to the condition that it shall within a reasonable period of time, comply with the requirements for the operation of a BMW, and

4. *The Board hereby awards to Glorious Sun the cancelled EQs of De Soleil Apparel Manufacturing Corporation as follows:*

1.1 *US Cat 347/348* = *63,839 dozens*
1.2 *Cat 2 Canada* = *123,587 pieces*

5. *The Board, under existing rules, regulations and policies, is not in a position to restore the balance of the cancelled quotas.*

(NOTE): Because:

1.1 Subject quota is currently being performed by AIF;

1.2 AIF vigorously contests Glorious Sun's claim for restoration, on the ground that AIF has already acquired vested rights over the quota;

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1.3 The pending case with SEC (SEC-AC319) filed by Glorious Sun for cancellation of AIFC's corporate registration;

1.4 May 22, 1992-SEC, *en banc* Resolution cancelling AIFC's registration;

1.5 Pendency of AIFC's appeal with the Court of Appeals filed on September 25, 1992.' (Comments, *Rollo*, p. 78).

Incidentally, Glorious Sun also filed on September 21, 1992, GTEB Case No. 92-50 for the cancellation of the subject quotas allotted to AIFC and for restoration of the same to Glorious Sun. This case has not yet been resolved by GTEB.

AIFC, on the other hand, prior to the Supreme Court denial of its petition for review of the cancellation of its registration, requested the GTEB to release its EQ allocation for 1993. This request was, however, refused by the GTEB in a resolution dated January 11, 1993, for the following reasons:

'x x x relative to the request of American Inter-Fashion Corp. for the release of its 1993 Initial EQ/CEA entitlements under Cat. 347/8:

After a thorough discussion on the matter and, upon motion duly made and seconded, it was —

RESOLVED, That pending final decision/resolution of the Supreme Court in the case of American Inter-Fashion Corp. (AIFC) *vs.* SEC, the request of AIFC for release of its 1993 Initial EQ/CEA entitlements under Cat. 347/8, be, as it is hereby DEFERRED, pending study by the Committee created under GTEB Office Order No. 92-1, dated September 11, 1992, and superseded by Office Order No. 92-2, dated November 7, 1992, to study and attend to the request of AIFC pertaining to the release of its export quotas which shall submit its findings/comments and recommendation on the matter to the Board in its next meeting. However, with regard to subject firm's goods ready for shipment, it can participate in the EQ allocation (flexibility) when the same is offered to enable them to fulfill their commitments.'

The above-quoted resolution was the subject of the petition filed by AIFC before the respondent Judge after GTEB refused to lift

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said order. This case which was docketed as Special Civil Action Case No. 93-1173 for *Certiorari*, prayed for the annulment of GTEB's aforementioned order, for the issuance of a temporary injunction restraining the implementation of said order, and for the immediate release of the regular EQ of AIFC for 1993. A temporary restraining order (Annex D) was thereafter issued by respondent Judge on April 13, 1993, enjoining GTEB from implementing its questioned order and from otherwise delaying the release of AIFC's EQ entitlement for 1993.

On April 20, 1993, GTEB filed a Motion to Dismiss and also moved to quash the above-mentioned temporary restraining order. Thereafter, on May 3, 1993, the respondent Judge issued one of the Orders herein questioned which reads as follows:

> 'For resolution is the petitioner's prayer for the issuance of a writ of a preliminary prohibitory injunction x x x enjoining the GTEB and all persons acting under them from implementing the resolution of the respondent GTEB, suspending the petitioner's export quota entitlement for 1993 and, a writ of preliminary mandatory injunction commanding the GTEB to release the petitioner's 1993 initial export quotas.
>
> xxx xxx xxx
>
> It is clear from the express terms of the questioned Resolution of the respondent Garments & Textile Export Board that the petitioner's export quota has not been 'suspended' as claimed by the petitioner but was merely 'deferred' pending a study of certain matters by the committee created by GTEB. Said resolution further made provisions for the petitioner's goods which are ready for shipment by stating in the questioned resolution that 'with regard to subject firm's goods ready for shipment, it can participate in the REA flexibility when the same is offered to enable them to fulfill their commitments.
>
> Thus it is clear that the respondent GTEB has not as of this time, suspended or cancelled the petitioner's Export Quota but merely deferred its release to the petitioner pending the resolution of certain matters. As a further indication that the GTEB has not suspended the petitioner's export quota, is the fact that it has provided for temporary measures which allows the petitioner to ship its products which are ready for shipment in order not to unduly cause damage to the petitioner.

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> WHEREFORE, in view of all the foregoing, the petitioner's prayer for writs of preliminary prohibitory and mandatory injunctions are hereby DENIED.' (Annex A; *Rollo*, pp. 23-24)

AIFC's subsequent motion for reconsideration was likewise denied (Annex D). Hence, the instant petition.

Despite the Supreme Court's final decision upholding the cancellation of AIFC's certificate of registration, the latter, on July 13, 1993, filed another Petition for *Certiorari* before the Supreme Court docketed as SC-G.R. No. 110771, against SEC and Glorious Sun, assailing the SEC decision dated May 22, 1992 which ordered the revocation of AIFC's certificate of registration, and seeking to stop the cancellation of its certificate of registration. This petition (G.R. No. 110771) was denied by the Supreme Court on August 11, 1992 on the ground that the questioned decision of the SEC 'is the same decision assailed in a petition for review on *certiorari* filed with [the Supreme Court] on 23 November 1992 under Rule 45 of the Rules of Court, docketed as G.R. No. 107742. Records show that the petition (in G.R. No. 107742) was *denied* and a motion for reconsideration of said denial was *denied with finality* in the resolution of the Court *en banc*, dated 01 July 1993' (Annex A to Respondent's Memorandum; *Rollo*, p. 326). Petitioner's Motion for Reconsideration in G.R. No. 110771 is still pending resolution by the Supreme Court.

In the meantime, AIFC was awarded by the GTEB a REA-Flexibility quota of exactly the same category and amount as that which is the subject of this petition the release of which was deferred by the GTEB. This was done by the GTEB allegedly so as not to prejudice AIFC's export commitments pending any action on its request for the release of its 1993 EQs. AIFC had allegedly performed on the REA-Flex quota since January 1993 up to the present (Annex B to Respondent's Memorandum). The GTEB also allowed AIFC to continue importing raw materials 'to service the balance of its REA-Flex quota' (Annex C; Respondents' Memorandum, p. 17). Incidentally, the difference between the REA-Flex quota and the regular quota entitlement, is that the latter may be subject to restoration for the next quota year depending on performance of and compliance while the former is only good for one-time use and may not be carried over to the next quota year (Respondent's Memorandum, p. 16; *Rollo*, p. 326).

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On September 10, 1993, this Court in the instant petition and through the former Seventeenth Division, required petitioner to amend its petition to include AIFC-International Fashion Corporation (hereinafter, AIFC-International) as co-petitioner considering AIFC's manifestation that it underwent a business reorganization which resulted in the establishment of AIFC-International as its wholly-owned subsidiary and *the transfer to the latter of AIFC's regular export allocation with the* GTEB (p. 167, *Rollo*).

Respondent GTEB objected to AIFC's motion to join AIFC-International as co-petitioner because the latter allegedly does not have any interest in the case at bar. *Furthermore, the SEC had issued a restraining order on August 31, 1993 enjoining AIFC or any of its agents from transferring and conveying its assets to AIFC-International or any other subsidiary of AIFC* (Annex A; p. 220, *Rollo*). The restraining order was issued in connection with SEC Case No. 08-93-4546 filed by Yeung Chun Kam, Yeung Chun Ho, and Archie Chan *vs.* American Inter-Fashion Crop. (Annex B, p. 221, *Rollo*).

It seems that Yeung Chun Kam, Yeung Chun Ho and Archie Chan are among the stockholders of petitioner AIFC known as the 'Hongkong Investors' who allegedly own an aggregate thirty-three percent (33%) of the total subscription of AIFC's capital stock of P2.5 Million. They alleged in their petition that they *voted against* the resolution adopted by AIFC which increased the corporation's capital stock from P2 Million to P60 Million, which resolved that the authorized capital stock be paid-up with the advances of the Campa Group representing 63% of the subscription of the capital stock of AIFC, and which also resolved that the corporation's creditors-stockholders would be given the right to subscribe to the authorized capital stocks by converting their advances to the Corporation into equity.

The Hongkong group allegedly disagreed with and voted against the resolution since they wanted the additional paid-up capital to be entirely in cash with all the stockholders infusing new money. The resolution was allegedly not implemented, instead, the Hongkong group claims to have discovered that without their knowledge the Campa group organized and registered a partnership called American Inter-fashion Ltd., Co., as well as another subsidiary, the AIFC-International. Claiming that these acts of establishing the two business entities violated their rights as minority stockholders of AIFC, Yeung Chun Ho, Yeung Chun Kam and Archie Chan filed SEC Case No.

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08-93-4546 seeking to restrain the transfer and conveyance of AIFC's assets to AIFC-International and American Inter-Fashion Ltd., Co.; to cause the appointment of trustees for the purpose of the liquidation of AIFC under Sec. 122 of the Corporation Code; and to order AIFC to provide Yeung Chun Kam and company copies of its financial statements from 1989 to 1993 and to render an accounting of its operations during the said years (*Rollo*, pp. 222 to 235). This case is still pending before the SEC."[2]

As can be seen, there were triggered by the controversy of the parties herein innumerable pleadings and interminable complaints:

On April 7, 1993, AIFC filed a petition for *certiorari*, prohibition and *mandamus* under Rule 65 against the GTEB with the Regional Trial Court of Makati, Branch 138, entitled "American Inter-Fashion Corporation, Petitioner, *v.* Garments and Textile Export Board, Respondent" docketed as Civil Case No. 93-1173 (Annex "D" of GTEB's petition).

In the said petition AIFC sought to annul, on the alleged ground of lack of jurisdiction or grave abuse of discretion, the GTEB's Resolution dated January 11, 1993 deferring AIFC's request for the release of its 1993 EQs (Initial EQ/CEA entitlements under Cat. 347/8) for the reasons therein stated. Said Resolution provided in part:

"RESOLVED, that pending final decision/resolution of the Supreme Court on the case of American Inter-Fashion Corp. (AIFC) *vs.* SEC, the request of AIFC for release of its 1993 Initial EQ/CEA entitlements under Cat. 347/8, be, as it is hereby DEFERRED pending study by the Committee created under GTEB Office Order No. 92-1, dated September 11, 1992, and superseded by Office Order No. 92-2, dated November 17, 1992, to study and attend to the request of AIFC pertaining to the release of its export quotas which shall submit its findings/comments and recommendation on the matter to the Board in its next meeting. However, with regard to subject firm's goods ready for shipment, it can participate in the REA flexibility when the same is offered to enable them to fulfill their commitments."

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[2] *Rollo*, pp. 93-100.

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On April 13, 1993, the trial court issued a temporary restraining order against GTEB pending hearing on AIFC's application for the issuance of a writ of preliminary prohibitory injunction.

On April 24, 1993, GTEB filed its "1. Motion to Dismiss the Instant Petition and 2. Motion to Quash or Recall the Temporary Restraining Order."[3]

On April 29, 1993, GTEB filed its "Motion to Resolve Motion to Dismiss Prior to Hearing of the Petition for Injunction."[4]

On or about 19 April 1993, Glorious Sun Fashion Garments Manufacturing (Phils.), Inc. (Glorious Sun) filed an "Urgent 1) Motion for Leave to Intervene and File Answer as Respondent-Intervenor and 2) Motion to Quash or Recall Temporary Restraining Order." This motion was opposed by AIFC.

In its Order dated May 3, 1993, the trial court denied AIFC's application for the issuance of the writs of preliminary prohibitory and mandatory injunction. The pertinent portions of the May 3, 1993 Order[5] state:

"It is clear from the express terms of the questioned Resolution of the respondent Garments and Textile Export Board that the petitioner's export quota has not been 'suspended' as claimed by the petitioner but was only 'Deferred' pending a study of certain matters by the committee created by GTEB. Said resolution further made provisions for the petitioner's goods which are ready for shipment by stating in the questioned resolution that 'with regard to subject firm's goods ready for shipment, it can participate in the REA flexibility when the same is offered to enable them to fulfill their commitments.'

Thus, it is clear that the respondent GTEB has not as of this time, suspended or cancelled the petitioner's Export Quota but merely deferred its release to the petitioner pending the resolution of certain matters. As a further indication that the GTEB has not suspended the petitioner's export quota, is the fact that it has provided for

[3] Annex "E" of GTEB's petition.

[4] Annex "F" of GTEB's petition.

[5] Annex "G" of GTEB's petition.

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temporary measures which allows the petitioner to ship its products which are ready for shipment in order not to unduly cause damage to the petitioner.

WHEREFORE, in view of all the foregoing, the petitioner's prayer for writs of preliminary prohibitory and mandatory injunctions are hereby DENIED."

Through its Order dated May 25, 1993,[6] the trial court denied AIFC's motion for reconsideration of the May 3, 1993 Order. As a result thereof, AIFC filed with the Court of Appeals a petition for *certiorari* and *mandamus* from the aforementioned Orders of the trial court in Civil Case No. 93-1173 (docketed as CA-G.R. SP No. 31596) where it prayed that the May 3, 1993 and May 25, 1993 Orders be set aside and a writ of *mandamus* be issued directing the GTEB to release AIFC's EQs for 1993.

Thereafter, AIFC filed a "Manifestation" where it alleged that in July 1993, it underwent a business reorganization which resulted in the establishment of a wholly-owned subsidiary, the AIFC International Fashion Corporation. AIFC further alleged that its regular export quota allocation with the GTEB was transferred to the aforesaid subsidiary, for which reason, the said subsidiary may be joined as a co-petitioner in CA-G.R. SP No. 31596.

After the GTEB filed its "Comments" on the petition in CA-G.R. SP No. 31596 on August 1, 1993,[7] AIFC filed a "Motion"[8] where it prayed that AIFC International Fashion Corporation be joined as a co-petitioner. Thereafter, on or about August 26, 1993, AIFC (and AIFC International) filed a "Reply" to the Comments of GTEB.[9]

Subsequent to the above, on September 14, 1993, upon being directed by the Court of Appeals to amend its petition to include

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[6] Annex "H" of GTEB's petition.

[7] Annex "I" of GTEB's petition.

[8] Annex "J" of GTEB's petition.

[9] Annex "K" of GTEB's petition.

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"AIFC International Fashion Corporation" as co-petitioner, AIFC filed an amended petition.[10]

After hearing the oral arguments of the GTEB and AIFC, and after receiving their respective memoranda,[11] as well as other additional pleadings (including an "Addendum To Respondent's Memorandum"[12] filed by the GTEB for purposes of informing the Court of Appeals of this Court's September 22, 1993 Resolution issued in G.R. No. 110771 denying with finality AIFC's motion for reconsideration of the August 11, 1993 Resolution dismissing the said petition, and affirmed the revocation of AIFC's certificate of corporate registration), or on January 21, 1994, the Court of Appeals rendered the Decision subject of GTEB's petition in G.R. No. 114711 in favor of AIFC and AIFC International,[13] annulling the trial court's Orders of May 3, 1993 and May 25, 1993 in this wise:

"WHEREFORE, the instant petition is GRANTED and the Orders of the respondent Judge dated May 3, 1993 and May 25, 1993 are hereby annuled and set aside with no pronouncement as to costs."

On February 11, 1994, the GTEB filed a "Motion For Reconsideration"[14] of the 21 January 1994 Decision.

Shortly thereafter, motions to intervene as well as motions for reconsideration of the said Decision were filed by Glorious Sun Fashion Garments Manufacturing Co., (Phils.) Inc. and by the minority stockholders of AIFC (Yeung Chun Kam, Yeung Chun Ho and Archie Chan).

On or about January 31, 1994, on the ground that the Court of Appeals in its January 21, 1994 Decision had granted the petition, AIFC and AIFC International filed a "Motion For Issuance Of Writ Of *Mandamus*"[15] asking that a writ of

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[10] Annex "L" of GTEB's petition.

[11] Annexes "M" and "N" of GTEB's petition.

[12] Annex "O" of GTEB's petition.

[13] Annex "A" of GTEB's petition.

[14] Annex "Q" of GTEB's petition.

[15] Annex "R" of GTEB's petition.

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mandamus be issued to compel the GTEB to release EQs for 1993 to AIFC.

On February 15, 1994, the GTEB filed its "Opposition To Petitioners' Motion for Issuance of Writ of *Mandamus*.[16]

On March 22, 1994, the Court of Appeals issued its Resolution[17] denying (1) AIFC and AIFC International's motion for the issuance of a writ of *mandamus*, (2) the motions for intervention filed by Glorious Sun, and Yeung Chun Kam, et al., and (3) GTEB's motion for reconsideration. The more pertinent portions of said Resolution read:

"It bears stressing that the subject matter of the petition as well as of the decision sought to be reconsidered was only the 1993 allocation. Our decision herein did not concern itself with, nor was it called upon to rule upon, any future allocations the grant or release of which is the prerogative of the GTEB in accordance with law.

We never ordered the GTEB to release the 1993 allocation to AIFC, since the lapse of the year 1993 had rendered this issue moot and academic.

We wish to make it clear that this Court is not intruding in, nor are we adjudicating upon ourselves, the powers and functions of the GTEB. The decision to annul the orders in question was called for in view of the grave abuse of discretion exercised both by GTEB and the lower court in refusing to release petitioner's 1993 allocations despite the fact that it was clearly entitled to such release. This is well within the jurisdiction of this Court which has the authority to check the abuses which may have been committed by any officer, board or tribunal exercising judicial functions (Sec. 1, Rule 65, Rules of Court).

Neither are we ordering the GTEB to release or grant export quota allocations to the transferee of AIFC's 1993 EQ allocations. The decision never granted such right to the transferee since we know that this issue is solely within the jurisdiction of the GTEB. What the decision discussed was petitioner's act of transferring the interest and assets of the former AIFC to its transferee. We do not consider this as an adjudication of GTEB functions.

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[16] Annex "S" of GTEB's petition.

[17] Annex "B" of GTEB's petition; *Rollo*, pp. 65-69.

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As regards the Motions to Intervene filed by Glorious Sun and Yeung Chun Kam and company, we find said motions improper. Intervention is not an independent action but is auxiliary and supplemental to existing litigation (Clareza *vs.* Rosales, 2 SCRA 455). The office of a petition for *certiorari* is only to check abuses or excesses in the exercise by a tribunal, board or officer, of its judicial functions and not to determine the respective rights and interests of the parties in the subject matter of the litigation. This petition is therefore not the proper forum for the discussion of the respective rights either or Glorious Sun or Yeung Chun Kam, and company. Whether or not Glorious Sun is entitled to quota allocations is an issue which could be properly raised before the GTEB. And regarding the interests of Yeung Chun Kam and company *vis-a-vis* those of AIFC's, the same should be properly ventilated in another appropriate proceeding.

Moreover, intervention is generally allowed only before or during trial (Sec. 2, Rule 12, Rules of Court) unless there are strong considerations to allow such intervention. None exists in this case.

In view of the denial of the Motions to intervene filed by Glorious Sun, Yeung Chun Kam and company, there is no reason for us to discuss their motions for reconsideration.

WHEREFORE, premises considered, petitioner's Motion for the issuance of a Writ of *Mandamus* is DENIED. GTEB's motion for reconsideration is also DENIED as well as the Motions for Intervention filed by Glorious Sun, Yeung Chun Kam, Yeung Chun Ho, and Archie Chan."

GTEB thus filed its petition in *G.R. No. 114711*, where it prayed:

"WHEREFORE, premises considered, it is respectfully prayed that the 21 January 1994 Decision and 22 March 1994 Resolution of the Court of Appeals (except insofar as the latter correctly denied AIFC and AIFC International Fashion Corporation's 'Motion For Issuance Of Writ Of *Mandamus*') BE ANNULLED AND SET ASIDE; and that instead a Resolution be issued DISMISSING the petition in CA-G.R. SP No. 31596 in its entirety for being moot and academic and/or for lack of merit."

AIFC's petition in *G.R. No. 115889*, on the other hand, is an offshoot of the petition filed by Glorious Sun with the GTEB

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on 21 September 1992.[18] In said GTEB petition,[19] Glorious Sun prayed that the export quotas which the GTEB had earlier awarded to AIFC on August 1, 1984 pursuant to its April 27, 1984 Decision in Adm. Case No. OSC 84-B-1, be cancelled and returned to Glorious Sun, on the alleged ground that AIFC was not qualified to the said awards under the policies, rules and regulations of the GTEB, and more specifically because:

"a. AIFC, at the time of the award on August 1, 1984, did not have its own in-house production capacity; in this connection, AIFC, to this date, still has no in-house production capacity as it has continued not owning any factory, plant, or even a single sewing machine, nor can it show any lease agreement for the use of any manufacturing facilities;

b. AIFC had no personality at the time of the award on August 1, 1984 as it was not yet a corporation, its incorporation having been effected only on September 6, 1984; in this connection, on May 22, 1992, the certificate of registration of AIFC was revoked by order of the Securities and Exchange Commission on the ground that the same was secured through fraud; and

c. AIFC, upon its incorporation, included as stockholders persons who were at the time disqualified from engaging in the garments export business."

The events leading to the filing of GTEB Case No. 92-50 are in turn summed up in the succeeding paragraphs of Glorious Sun's "Comment on Petition with Memorandum" dated August 1, 1995:[20]

"8. On 27 April 1984, the GTEB, on the basis of trumped-up charges of misdeclaration of importations, issued a Decision in Adm. Case No. OSC 84-B-1, cancelling the export quotas and export authorizations of Glorious Sun, and on 01 August 1984 illegally awarded part thereof to AIFC. The dispositive portion of said Decision reads thus:

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[18] Docketed as GTEB Case No. 92-50.

[19] Annex "C" of AIFC's petition in G.R. No. 115889.

[20] *Rollo*, pp. 289-338.

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'WHEREFORE, the Board finds that the Respondent firm violated its rules and regulations on importations and hereby imposes the following administrative penalties:

1. Cancellation of Export Quotas and Export Authorizations of the firm and disqualification of the firm and the major stockholders and officers from engaging in garment exports;

2. Cancellation of the firm's license to operate a bonded manufacturing warehouse.

The Board will likewise endorse the case to the Presidential Anti-Dollar Salting Task Force for further investigation and prosecution and will request the Bureau of Customs to seal the firm's bonded manufacturing warehouse and to conduct an inventory of the contents thereof.'

9. Subsequently, Glorious Sun appealed the said Decision to the office of the President. On September 7, 1989, the Office of the President, in O.P. Case No. 3781, nullified the Decision of the GTEB in the succeeding manner:

'WHEREFORE, the case is hereby remanded to the Garments and Textile Export Board for further proceedings, affording the Appellant an opportunity (a) of full disclosure of all the evidence and/or GTEB records relative to the charges in the Show Cause Order dated February 14, 1984, which evidence/ records must be properly identified and their due execution and existence duly established by appropriate competent witnesses, and (b) of rebutting the same evidence/records through the presentation of additional evidence, after which the Board may, on the basis of said evidence and records, maintain or revise its decision in this case.'

10. Thereafter, acting on Motions for Reconsideration of its September 7, 1989 decision, the Office of the President, on February 20, 1990, expanded its previous decision. The pertinent portion of the Resolution denying said motions are hereunder quoted, to wit:

'It is, however, insisted by the movants that the GTEB decision of *April 27, 1984* had already become final and that Glorious Sun abandoned its right when it elevated the case to the Supreme Court by way of *certiorari*, docketed as G.R. No. 67180, "Glorious Sun Fashion Garments and Textile

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Manufacturing Company (Philippines), Inc. *vs.* Garments and Textile Export Board, etc. et al." We disagree. For, as explicitly shown by the resolution promulgated on June 4, 1984 by the Supreme Court in the said case and as found by this Office in the decision presently sought to be reconsidered, the said April 27, 1984 decision was rendered by the GTEB in flagrant violation of Glorious Sun's right to due process. Hence, the GTEB may be said to have 'acted without or in excess of jurisdiction and with grave abuse of discretion' (Barranza *vs.* Campos, Jr. 120 SCRA 881, 888-889) and, therefore, the said decision is *null and void* (Bacus *vs.* Ople, 132 SCRA 690, 710; Free Employees and Workers Assn. [FEWA] *vs.* Court of Industrial Relations, 14 SCRA 781, 784-787) as if it was not rendered at all. As succinctly held by the Supreme Court:

> 'In this jurisdiction, a void judgment or order is in legal effect no judgment or order. By it no rights are divested. From it no rights can be obtained. Being worthless, it neither binds nor bars anyone. All acts performed under it and all claims flowing out of it are void (Paredes *vs.* Moya, 61 SCRA 525, 533, citing Chavez *vs.* Court of Appeals, 24 SCRA 663, 685; Comia *vs.* Nicolas, 29 SCRA 492, 503-504, quoting Chavez *vs.* CA, *supra*, and Gomez *vs.* Concepcion, 47 Phil. 717, 722).
>
> Thus, being null and void, rendered as it was in violation of the due process clause (Bacus *vs.* Ople, *supra*) and consequently for want of jurisdiction (Barranza *vs.* Campos, Jr., *supra*), the GTEB decision of April 27, 1984 'is not a decision in contemplation of law' (Planas *vs.* Collector of Internal Revenue, 3 SCRA 395, 399) and is, therefore, 'inexistent' (Free Telephone Workers Union *vs.* PLDT, 160 SCRA 43, 46). Consequently, the same decision can 'never become final' (Manila Railroad Company *vs.* Moya, 14 SCRA 358, 363-364), much less executory (Planas *vs.* Collector of Internal Revenue, *supra*). Indeed, the parties attempting to enforce (such void judgment) may be responsible as 'trespassers' (Comia *vs.* Nicolas, *supra*, at p. 504).
>
> What right then could Glorious Sun have abandoned when, as illustrated by the aforecited authorities, the void and inexistent GTEB decision of April 27, 1984

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neither vests nor divests any rights, neither binds nor bars anyone?'

11. The Decision of the Office of the President was in turn upheld by the Supreme Court in a Resolution dated May 23, 1991 and another Resolution dated July 2, 1991 in American Inter-Fashion Corporation *v.* Office of the President (197 SCRA 409 [1991]). In said case, the Supreme Court, citing Mabuhay Textile Mills Corporation *v.* Ongpin (141 SCRA 437 [1986]), ruled that the export quota allocations of Glorious Sun had evolved into some form of property right, which should not be removed from it arbitrarily and without due process. Thus:

'Contrary to the petitioner's posture, the record clearly manifests that in cancelling the export quotas of the private respondent GTEB violated the private respondent's constitutional right to due process. Before the cancellation in 1984, the private respondent had been enjoying export quotas granted to it since 1977. In effect the private respondent's export quota allocation which initially was a privilege evolved into some form of property right which should not be removed from it arbitrarily and without due process only to hurriedly confer it on another. Thus, in the case of Mabuhay Textile Mills Corporation *v.* Ongpin (Ibid), we stated:

'In the case at bar, the petitioner was never given the chance to present its side before its export quota allocations were revoked and its officers suspended. *While it is true that such allocations as alleged by the Board are mere privileges which it can revoke and cancel as it may deem fit, these privileges have been accorded to petitioner for so long that they have become impressed with property rights especially* since not only do these privileges determine the continued existence of the petitioner with assets of over P80,000,000.00 but also the livelihood of some 700,000 workers who are employed by the petitioner and their families. x x x (Italics supplied).

The decision penned by Deputy Executive Secretary Magdangal B. Elma and the resolution penned by Acting Deputy Executive Secretary Mariano Sarmiento II are not tainted in the slightest by any grave abuse of discretion. They outline in detail why the private respondent was

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denied due process when its export quotas were cancelled by GTEB. The findings are supported by the records.

Finally, American Inter-Fashion is hardly the proper party to question the Malacañang decision. It was incorporated after the incidents in this case happened. It was created obviously to be the recipient of export quotas arbitrarily removed from the rightful owner. It was sequestered precisely because of the allegation that it is a crony corporation which profited from an act of injustice inflicted on another private corporation.

xxx xxx xxx

PREMISES CONSIDERED, the motion for reconsideration is GRANTED. The instant petition is DISMISSED. The questioned decision and resolution of the Office of the President are hereby AFFIRMED (American Inter-Fashion Corporation *v.* Office of the President, 197 SCRA 409 [1991]).'

12. After the aforementioned Decision of the Office of the President was affirmed by the Supreme Court, and pursuant to the directive embodied in the said O.P. Decision, the case was remanded to the GTEB for further proceedings. However, while Glorious Sun presented additional evidence in support of its position, the GTEB did not, as it could not, present any evidence relative to the charges in the show Cause Order dated 14 February 1984. Instead, and in view of this dearth of evidence against Glorious Sun, the GTEB encouraged the latter to enter into a compromise agreement.

13. Glorious Sun assented to the execution of a compromise agreement primarily on the basis of an understanding with the GTEB that insofar as the balance of the export quotas due to Glorious Sun was concerned (which quotas AIFC was illegally and obstinately holding on to), Glorious Sun would be allowed to initiate separate proceedings for the recovery thereof against AIFC. Incidentally, this arrangement was rendered necessary by the fact that AIFC was never a proper party to, and had no personality to participate in Adm. Case No. OSC 84-B-1.

14. On August 20, 1992, the GTEB finally dismissed the complaint against Glorious Sun which formed the basis for the April 27, 1984 decision, restoring part of the export quota allocations of Glorious Sun. The dispositive portion of the said Resolution reads:

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'NOW THEREFORE, BE IT RESOLVED, as it is hereby resolved that:

a) The instant case is hereby terminated with prejudice;

b) The disqualification of Glorious Sun and its principal stockholders and officers from engaging in the garments export business is hereby lifted;

c) The bonded manufacturing warehouse license of Glorious Sun shall be restored subject to the condition that it shall within a reasonable period of time, comply with the requirements for the operations of a BMW, and

d) The Board hereby awards to Glorious Sun the canceled EQs of De Soleil Apparel Manufacturing Corporation as follows:

1. US Cat. 347/348-63,839 dzs.
2. Cat. 2 Canada-123,587 pcs.

e) The Board, under existing rules, regulations and policies, is not in a position to restore the balance of the cancelled quotas' (p. 4, GTEB Resolution dated August 20, 1992).

15. It will be noted that the Board restored to Glorious Sun the portion of the export quotas illegally taken away from Glorious Sun and given to DE Soleil Apparel Manufacturing Corporation (DSA), the same having been already taken back by the Board by cancellation. But, as stated above, with respect to the balance of the export quotas illegally taken away from Glorious Sun still being stubbornly illegally held on to by AIFC, additional steps became necessary for the recovery thereof.

16. Accordingly, on September 21, 1992, Glorious Sun filed GTEB Case No. 92-50 for the cancellation of the quotas illegally awarded to AIFC and for the restoration of the said quotas to Glorious Sun.

17. On August 3, 1993, the Hearing Officer submitted his Report with the recommendation that AIFC's export quotas be revoked/ cancelled and the same be returned or awarded to Glorious Sun subject to GTEB rules and regulations on performance and forfeiture. However, instead of approving the Report of the Hearing Officer assigned to hear the case and who conducted the proceedings, the GTEB appointed a committee to prepare a Report.

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18. The Committee submitted its Report and Recommendation under date of May 10, 1994. On June 21, 1994, the GTEB issued a Resolution adopting and approving *in toto* the Report and Recommendation. The pertinent portion of the Resolution reads:

'THE FOREGOING PREMISES CONSIDERED, the Board hereby RESOLVES:

1. That the export quotas and export authorizations awarded to AIFC be cancelled;

2. That the petition of Glorious Sun to be restored the export quota allocations which were awarded to AIFC be denied;

3. That said export quotas and export authorizations of AIFC be reverted to the allocable balance (open basket) which shall be made available to other garment manufacturers, including Glorious Sun, for application therefor; and

4. That AIFC's motion to dismiss be denied for lack of any merit.'

19. AIFC filed the instant petition to annul the above-quoted June 21, 1994 Resolution of the GTEB, as well as to compel the latter to restore the cancelled export authorizations which AIFC claims it is entitled to."

After Glorious Sun presented evidence in support of its petition in GTEB Case No. 92-50, AIFC filed a motion to dismiss the same for lack of jurisdiction.[21] On June 21, 1994, the GTEB issued its resolution subject of AIFC's petition in G.R. No. 115889,[22] the entirety whereof reads as follows:

"RESOLVED, that the findings and recommendation of the Committee on Administrative Case No. 92-50, as contained in Annex 'C', be, as they are hereby ADOPTED and APPROVED, *in toto*, wit:

1. That the export quotas and export authorizations awarded to AIFC be cancelled;

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[21] Annex "D" of AIFC's petition.

[22] Annex "A" of AIFC's petition.

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2. That the petition of Glorious Sun to be restored the export allocations which were awarded to AIFC be denied;

3. That the said export quotas and export authorizations of AIFC be reverted to the allocable balance which shall be made available to other garment manufacturers, including Glorious Sun, for application therefor;

4. That AIFC's motion to dismiss be denied for lack of merit."

Consequently, on 6 July 1994, AIFC filed its petition in G.R. No. 115889, where it sought to:

"(a) annul and set aside the respondent Garments and Textile Export Board's (GTEB's) resolution dated 21 June 1994 in GTEB Case No. 92-0, entitled Glorious Sun *vs.* AIFC, for having been issued without or in excess of jurisdiction, or in grave abuse of discretion; and

(b) have respondent GTEB commanded to restore or release petitioner AIFC's regular export quota entitlement for 1994."[23]

Simultaneous with the filing of its petition, AIFC filed a motion to consolidate the said petition with GTEB's petition in G.R. No. 114711. On July 20, 1994, after praying for time for the filing thereof, Glorious Sun filed, in G.R. No. 115889, a "Motion for Outright Dismissal of the Petition (with Opposition to Motion to Consolidate)," where it sought the dismissal of said petition on the grounds that (1) AIFC has no personality to file the petition; (2) AIFC failed to exhaust administrative remedies; and (3) AIFC is guilty of forum-shopping.

In view of Our July 20, 1994 Resolution: (1) requiring the respondents in G.R. No. 115889 to comment on the petition, and *not* to file a motion to dismiss, and (2) granting AIFC's motion to consolidate, Glorious Sun filed a "Manifestation" on August 15, 1994 whereby it withdrew the aforesaid "Motion for Outright Dismissal of the Petition (with Opposition to Motion to Consolidate)." At the same time it made manifest its intention to file a motion for reconsideration of the same July 20, 1994 Resolution insofar as it ordered AIFC's petition in G.R. No.

[23] *Rollo*, p. 2.

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115889 consolidated with the GTEB's petition in G.R. No. 114711.

Accordingly, on September 7, 1994, Glorious Sun filed a "Motion for Reconsideration[24] with Motion to Suspend Period to File Comment."

However, prior to the filing of Glorious Sun's aforesaid "Motion for Reconsideration, etc.," or on September 5, 1994, we issued our Resolution in the above-numbered cases, where we resolved to:

"(a) NOTE WITHOUT ACTION the motions filed by: (1) Glorious Sun Fashion Garments Manufacturing in G.R. No. 115889 for first and second extensions totalling fifteen (15) days from July 13, 1994 within which to file motion to dismiss petition and opposition to the motion to consolidate; and (2) American Inter-Fashion Corporation [N.B. this should have read 'Glorious Sun Fashion Garments Manufacturing'] in G.R. No. 114711 for the outright dismissal of the case with opposition to the motion to consolidate, it appearing that the: (1) motion for outright dismissal with opposition to the motion to consolidate was withdrawn by private respondent Glorious Sun Fashion Garments Manufacturing in G.R. No. 115889 through its manifestation dated August 11, 1994; and (2) motion to consolidate these cases was granted by the Second Division on July 20, 1994;

(b) GRANT the motions of: (1) private respondent American Inter-Fashion corporation: (aa) for a fourth (final) extension of five (5) days from July 23, 1994 within which to file comment on the petition for review on *certiorari*; and (bb) to admit comment on the petition in G.R. No. 114711;

(c) NOTE the: (1) urgent motion of petitioner in G.R. No. 115889 to resolve application for temporary restraining order or injunction; and (2) comment on the petition with motion for the issuance of a show cause order filed by private respondent American Inter-Fashion Corporation in G.R. No. 114711;

(d) require the petitioners [N.B. this should have read petitioner] to file a REPLY within ten (10) days from notice hereof to the comment on the petition filed by American Inter-Fashion Corporation; and

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[24] Re: Consolidation of Petition with G.R. No. 114711.

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(e) NOTE the manifestation dated August 12, 1994 by Atty. Benjamin D. de Asis, manifesting his withdrawal as counsel for petitioner Garments and Textile Export Board in G.R. No. 114711 but require aforesaid counsel to SUBMIT the conformity of his client within five (5) days from notice hereof."[25]

Thereafter, Glorious Sun filed on September 22, 1994 with the First Division of this Court, its "Manifestation and Motion to Suspend Further Proceedings Until After Resolution by *Second Division* of Motion for Reconsideration of Order of July 20, 1994 on Consolidation."[26] On the other hand, the GTEB, pursuant to Our above directive, filed its Reply to AIFC's Comment in G.R. No. 115889.

AIFC, as petitioner in G.R. No. 114711, filed with the Second Division of this Court an "Urgent Motion to Resolve Application for Injunction,"[27] which it followed up with an "Urgent Motion to Restore Status *Quo Ante*."[28] The latter motion was filed with the Third Division of this Court, to whom the above-numbered petitions had, in the meantime, been assigned. In response to these urgent motions, Glorious Sun filed, also with the Third Division of this Court, its "Comment (Re: Petitioner's Urgent Motions: [1] to Resolve Application for Injunction; and [2] to Restore Status *Quo Ante*)" where it argued that:

"I. The First Division of this Honorable Court, as far back as 05 September 1994, had already acted upon petitioner's urgent motion for the issuance of a temporary restraining order or injunction, by merely noting the same.

II. In any event, the instant motions should nevertheless be denied, there being absolutely no showing that petitioner is clearly entitled to injunctive relief."[29]

Subsequent to the filing of the above pleadings, AIFC filed yet another "Urgent Motion to Resolve," to which Glorious

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[25] *Rollo* of G.R. No. 115889, pp. 156-157.

[26] *Id.*, at pp. 179-196.

[27] *Rollo* of G.R. No. 114711, pp. 718-720.

[28] *Id.*, at pp. 725-732.

[29] *Rollo* of G.R. No. 115889, p. 752.

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Sun replied through a pleading denominated as "Manifestation (Re: Petitioner's March 30, 1995 Urgent Motion to Resolve) with Motion for Summary Dismissal and Motion to Cite Petitioner for Direct Contempt (For Violation of SC Revised Circular 28-91)."[30]

On April 3, 1995, we issued a resolution, the pertinent portions whereof reads:

"Considering the allegations contained, the issues raised and the arguments adduced in the petitions for review on *certiorari*, as well as the respective comments of the private respondents thereon and the replies of petitioner to said comments, the Court Resolved to give *DUE COURSE* to the petition, and to require the parties to *FILE* their respective *MEMORANDA* in both cases, within twenty (20) days from notice.

The Court further Resolved:

xxx xxx xxx

(b) to *NOTE*:

(1) the urgent motion to resolve application for injunction, dated March 2, 1995, filed by counsel for petitioner American Inter-Fashion Corporation; and

(2) the urgent motion to restore status *quo ante*, dated March 14, 1995, filed by counsel for petitioner."

Thereafter, both American Inter-Fashion Corporation and the GTEB filed their respective Memoranda. On the other hand, on August 4, 1995, Glorious Sun filed its "Comment on Petition with Memorandum,"[31] which pleading included the succeeding explanatory remarks:

"1. At the outset, it should be mentioned that contrary to the 05 April 1995 Resolution of the Honorable Court, Glorious Sun has not yet filed its comment to American Inter-Fashion Corporation's (AIFC's) petition in the above-numbered case.

2. On 07 September 1994, Glorious Sun filed a motion for reconsideration of the order of this Honorable Court which

[30] *Rollo* of G.R. No. 114711, pp. 773-794.

[31] *Rollo* of G.R. No. 115889, pp. 289-338.

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consolidated the instant petition with the petition of the Garments and Textile Export Board (GTEB) in G.R. No. 114711. Glorious Sun included in said motion for reconsideration a 'Motion to Suspend Period to File Comment,' pending resolution by the Honorable Court of the consolidation incident.

3. Subsequent thereto, or on 22 September 1994, Glorious Sun filed a 'Manifestation and Motion to Suspend Further Proceedings Until After Resolution by *Second Division* of Motion for Reconsideration of Order of July 20, 1994 on Consolidation.'

4. In view of the filing of the aforementioned motions, Glorious Sun held off the filing of its comment to the petition until said motions were resolved by the Honorable Court. To this day, however, no resolution has as yet been rendered by the Honorable Court relative to the above-stated motions.

5. We surmise that the comment being referred to by the Honorable Court as having been filed by Glorious Sun is that which the latter filed in connection with AIFC's Urgent Motions (1) to Resolve Application for Injunction; and (2) to Restore Status Quo Ante.

6. Be that as it may, Glorious Sun is filing the instant pleading which it prays be treated as its comment and memorandum."[32]

A "Motion for Leave to Intervene and Submit Manifestation"[33] in the above-entitled cases was subsequently filed by Messrs. Yeung Chun Kam and Yeung Chun Ho, who purport to be the Hongkong investors referred to by American Inter-Fashion Corporation in its 23 June 1995 Memorandum.

On July 19, 1996, Glorious Sun filed a "Manifestation," whereby it informed this Court of the May 20, 1996 Order of the Securities and Exchange Commission (SEC), the entirety whereof reads thus:

"The articles of incorporation of American Inter-Fashion Corporation (the new AIFC, for short) with SEC Reg. No. AS093-008101-A reveal that said corporation was formed for the purpose of re-registering American Inter-Fashion Corporation (the old AIFC) with SEC Reg. No. 12236 registered with the SEC on July 16, 1985

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[32] *Id.*, at pp. 293-294.

[33] *Id.*, at pp. 361-372.

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and that the same appear to have been approved by the Commission *en banc* in its Commission meeting held on October 14, 1993. What was actually approved in said meeting was the 'registration of a new corporation' and that it was not the intention of this Commission to approve the re-registration of the old AIFC.

American Inter-Fashion Corporation (SEC Reg. 12236), whose corporate registration had been ordered revoked, cannot avoid liquidation by reason of the revocation of its franchise and it cannot also be allowed to continue its business by virtue of its so-called 're-registration.'

Viewed in this light, this Commission *en banc* hereby RECALLS the certificate of registration issued to American Inter-Fashion Corporation on October 14, 1993 under SEC Reg. No. AS093-008101-A without prejudice to the registration of a new corporation."[34]

In the same "Manifestation," Glorious Sun prayed, among others, for the dismissal of the above-entitled petitions, citing as ground therefor the above-quoted SEC Order recalling American Inter-Fashion Corporation's certificate of registration. Thereafter, American Inter-Fashion Corporation filed its "Counter Manifestation (To Glorious Sun's Manifestation dated July 15, 1996),"[35] to which Glorious Sun responded by way of its "Reply (Re: Counter-Manifestation)."[36]

In G.R. No. 114711, the GTEB made the following assignment of errors:

"I. The respondent Court of Appeals erred gravely in failing to rule that it had no jurisdiction over the petition in CA-G.R. SP No. 31596.

II. The respondent Court of Appeals erred gravely in failing to rule that the petition in CA-G.R. SP No. 31596 did not state a cause of action against GTEB.

III. The respondent Court of Appeals erred gravely in failing to hold that the 11 January 1993 Resolution issued by GTEB was valid and in the proper exercise of its administrative discretion and jurisdiction.

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[34] *Id.*, at pp. 416-419.

[35] *Id.*, at pp. 432-434.

[36] *Id.*, at pp. 436-439.

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IV. The respondent Court of Appeals erred gravely in failing to hold that the petition in CA-G.R. SP No. 31596 was rendered moot and academic in its entirety by the mere passage of the year 1993.

V. The respondent Court of Appeals erred gravely in failing to deny and/or to dismiss the petition in CA-G.R. SP No. 31596 for lack of merit."[37]

On the other hand, AIFC makes the following assignment of errors in its petition:[38]

"The GTEB has no jurisdiction to take cognizance of Glorious Sun's action against AIFC for 'recovery' of property."[39]

"In any case, the GTEB's issuance of a resolution deciding the action on its 'merits' without hearing AIFC's evidence is a violation of AIFC's right to due process."[40]

"The GTEB's cancellation of AIFC's EQs is a confiscation of property without due process of law."[41]

THE ISSUES

1. Considering that AIFC's Certificate of Registration had been effectively revoked by the Securities and Exchange Commission on May 22, 1990, may AIFC still engage in business and claim entitlement to the export allocations subject of these petitions?

2. Does the Garments and Textile Export Board (GTEB) have the power and authority to grant or cancel export quotas or authorizations?

3. Did the GTEB, in issuing the assailed Resolutions, afford AIFC the right to due process?

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[37] *Rollo* of G.R. No. 114711, pp. 18-19.

[38] G.R. No. 115889.

[39] *Id.*, at p. 7.

[40] *Id.*, at p. 8.

[41] *Id.*, at p. 12.

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I

This is not the first time that we have been asked to resolve an issue relative to AIFC's corporate personality. In G.R. No. 110711, entitled *"American Inter-Fashion Corporation v. Securities and Exchange Commission, et al.,"* this Court *en banc* upheld the resolutions of the Prosecution and Enforcement Department (PED) of the Securities and Exchange Commission (SEC) in PED Case No. 87-0321 revoking AIFC's certificate of registration, on the basis of Glorious Sun's assertions that AIFC committed fraud and misrepresentation in securing said certificate of registration, after we had likewise effectively upheld the very same resolutions in an earlier petition filed by AIFC, entitled *"American Inter-Fashion Corporation v. Court of Appeals, et al."*[42]

In said G.R No. 110711, we recounted the factual circumstances pertinent to the revocation of AIFC's certificate of registration in the succeeding manner:

"The complaint was assigned for investigation and hearing to SEC's Prosecution and Enforcement Department (PED). On 14 May 1990, PED issued a resolution recommending the revocation of petitioner's SEC certificate of registration; however, on 24 May 1990, PED issued an amended resolution this time revoking the said certificate on the basis of its ruling that 'there was in effect no payment of at least P1,657,000.00 of the P2,500,000.00 supposed payment on subscription, contrary to the treasurer's affidavit that the subscription of P2,500,000.00 was fully paid and the payment had been fully received.' In PED's resolution of 15 October 1990, petitioner's motion for reconsideration was denied.

Acting on petitioner's appeal (docketed as Sec-AC No. 319) from the said resolutions of PED, the SEC affirmed the same, in its decisions of 22 May 1992. A copy of which was received by petitioner on *25 May 1992*. Petitioner's motion for reconsideration was denied by the SEC in the latter's order dated September 16, 1992, copy of which order was received by petitioner's counsel on *September 18, 1992* (three [3] SEC commissioners concurred; two [2] dissented). On September 25, 1992, petitioner then filed a petition for review with the Court of Appeals docketed as CA-G.R. SP No. 29017. But

[42] G.R. No. 107742.

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on *September 30, 1992*, the Court of Appeals dismissed the petition on the ground that it was filed late (last day to file petition was on September 19, 1992, but petition was filed only on September 25, 1992, thus, petition was filed six [6] days late).

On November 23, 1992, petitioner filed a petition for review (under Rule 45 of the Rules of Court) with this Court, docketed as G.R. No. 107742 assailing the resolution of the Court of Appeals in said CA-G.R. SP No. 29017, and questioning the SEC decision of 22 May 1992 in SEC-AC No. 319. On January 13, 1993, this Court (Third Division) denied AIFC's petition, thus affirming the Court of Appeals' assailed resolution of September 30, 1992, on the ground that the appellate court committed no reversible error in dismissing the petition in CA-G.R. SP No. 29017. Petitioner's motion for reconsideration was referred to the Court *en banc*. On July 1, 1993 the Court *en banc* denied *with finality* petitioner's motion for reconsideration and held that the reason given by petitioner's counsel for late filing of its petition (i.e. petition was filed late with the Court of Appeals because petitioner's counsel Atty. Ceniza of Sycip Law got seriously ill) was not a valid excuse and not a compelling reason to reconsider the Court's resolution of January 13, 1993.

Petitioner's counsel has filed the present petition (filed on 13 July 1993) under *Rule 65* of the Rules of Court, assailing the same PED resolutions and SEC decision assailed in G.R. No. 107742 (filed under Rule 45 of the Rules), this time on the ground that they were issued or rendered without jurisdiction.

As earlier noted, substantially and even principally the same issues and subject matter are raised and involved in the present petition (filed under Rule 65 of the Rules of Court) and those in the petition in G.R No. 107742 (filed under Rule 45 of the Rules).

In said G.R. No. 107742, petitioner had availed of the remedy of appeal by *certiorari*, i.e., appealing from the decision of the Court of Appeals in CA-G.R. SP No. 29017. Settled is the rule that a special civil action of *certiorari* (under Rule 65) is not a substitute for a lost appeal (Bank of America, et al., *vs.* CA, G.R No. 78917, June 8, 1990, 186 SCRA 417).

By the resolution of this Court *en banc*, dated July 1, 1993, rendered in G.R No. 107742, the petitioner's privilege (or opportunity) to question the SEC decision dated May 22, 1993 rendered in SEC-AC No. 319 was lost when the Court sitting *en banc* denied *with*

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finality the motion of petitioner to reconsider this Court's resolution of 13 January 1993, denying its petition for review (G.R. No. 107742).

Thus, since petitioner had already lost its privilege to question the SEC resolution dated May 22, 1992, petitioner can no longer assail the same SEC resolution, not even by *certiorari* under Rule 65 of the Rules of Court. A contrary rule would swamp this Court with petitions for *certiorari* under Rule 65 after an appeal is lost under Rule 45 of the Rules. This would subvert the long established public policy that litigations must come to an end at one time or other.

But even granting *ex gratia arguendo* that petitioner can still avail itself of the remedy of a special civil action of *certiorari* (under Rule 65) said remedy should be availed of within a reasonable period from the date of receipt of the assailed order/decision. In *Reas vs. Bonife*, we held that 'a petition for *certiorari* under Rule 65 is required to be filed within a reasonable period, no time frame being provided in the Rules within which such petition has to be filed.' In the subsequent case of *Philsec Workers' Union vs. Hon. Romeo A. Young* (Resolution dated 22 January 1992, G.R No. 101734), it was held that ninety (90) days from notice of the questioned order/decision is a reasonable period within which to file a petition for *certiorari* under Rule 65.

In the present petition, the assailed decision of the respondent SEC dated May 22, 1992, was received by petitioner's counsel on *May 25, 1992*, and the SEC's resolution denying petitioner's motion for reconsideration was received by petitioner on *September 18, 1992*. The present petition was filed on *July 13, 1993*. From September 18, 1992 to July 13, 1993, almost ten (10) months had lapsed. Undoubtedly, said period of ten (10) months is no longer a 'reasonable period' within which a petition for *certiorari* under Rule 65 may be filed.

As earlier said the denial of the petition in G.R No. 107742 is final. We must all be reminded of the settled rule that once a judgment has become final, the issues raised therein should be laid to rest. Hence, the issues raised anew regarding the again assailed decision of SEC, dated May 22, 1992, in SEC-AC No. 319, are no longer open to debate and/or adjudication.

ACCORDINGLY, the present petition is DISMISSED."[43]

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[43] Resolution in G.R No. 110771, pp. 2-6, August 11, 1993.

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It appears that subsequent to the revocation of AIFC's certificate of registration, or on October 14, 1993, AIFC registered anew with the SEC, this time under SEC Reg. No. AS093-008101-A under the name and style: AIFC International Fashion Corporation. Evidently then, the AIFC which filed the petition in G.R No. 115889 is the AIFC which was "*re-registered*" on the above date, the *original* AIFC's certificate of registration having been revoked with finality by virtue of our resolutions referred to in our above-quoted 11 August 1993 Resolution.[44] In the same manner, the AIFC which the GTEB refers to in its petition in G.R No. 114711 could not have been any one other than this same "*re-registered*" AIFC, said petition having been filed subsequent to the revocation of the original AIFC's certificate of registration.

It is obvious that the "*re-registered*" AIFC does not possess the legal personality necessary for it to prosecute these petitions. In view of the May 20, 1990 Order of the SEC, "the certificate of registration issued to American Inter-Fashion Corporation on October 14, 1993 under SEC Reg. No. AS093-008101-A"[45] was revoked. For all legal intents and purposes, AIFC no longer exists, and it may no longer claim to be entitled to the export allocations subject of these petitions. After all, it stands to reason that where there is no claimant, there can be no claim. The AIFC International is a personality separate and distinct from AIFC. For this reason, we cannot grant to *AIFC International Fashion Corporation* the personality to pursue the petition in G.R. No. 114711. It has not applied for and is thus equally devoid of any personality to lay claim on the export allocations subject of said petition.

In fine, if only for AIFC's lack of legal personality to maintain its claim relative to the export allocations subject of these petitions, its petition in G.R. No. 115889 is rendered dismissible. On the other hand, and in view likewise of this lack of legal personality, we would be justified in annulling the January 26, 1994 and March 22, 1994 Resolutions of the Court of Appeals

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[44] *Rollo* of G.R No. 114711, pp. 307-313.

[45] Annex "A" of Glorious Sun's "Manifestation" dated 15 July 1996.

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in CA-G.R. SP No. 31596, and in dismissing the said petition, as prayed for by the GTEB in G.R No. 114711.

II

In support of its assertion that it is "the sole entity possessed with the power, jurisdiction and discretion to grant and disapprove export allocations such as export quotas," the GTEB makes reference to Executive Order No. 537, as amended, including its implementing rules and regulations, and the fact that among the functions of the GTEB therein enumerated are "the approval of export allocations, as well as the monitoring, administration and regulation thereof."[46] Citing the doctrine of primary jurisdiction, the GTEB further argues that being "a highly specialized administrative agency endowed with regulatory and quasi-judicial powers x x x it enjoys the fundamental presumption that it has the technical expertise and mastery over such specialized matters, so much so that its findings as to the latter would ordinarily deserve the respect of the courts."[47]

AIFC, on the other hand, argues that inasmuch as none of the powers specified in Executive Order 537, specifically Section 3 thereof, gives the GTEB any judicial powers, nor any specific jurisdiction to hear and decide *actions*, as the term is understood under Section 1, Rule 2 of the Rules of Court, and inasmuch as GTEB Case No. 92-50 is such an action between private litigants, the GTEB has no jurisdiction over said case.[48] To reinforce its argument, AIFC cites our ruling in *Globe Wireless Ltd. v. PSC*.[49] In said case, we held:

"Too basic in administrative law to need citation of jurisprudence is the rule that the jurisdiction and powers of administrative agencies x x x are limited to those expressly granted or necessarily implied from those granted in the legislation creating such body; and any

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[46] GTEB petition, pp. 13-14.

[47] *Supra*, at pp. 14-15.

[48] AIFC petition, p. 7.

[49] 147 SCRA 269 [January 21, 1987].

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order without or beyond such jurisdiction is void and ineffective x x x."[50]

For its part, Glorious Sun joins the GTEB in the latter's assertion that it is the GTEB which has the jurisdiction to act and rule on Glorious Sun's petition for the cancellation and restoration to it of the quotas awarded to AIFC. Thus it argues:

"48. Contrary to AIFC's assertions, it is beyond dispute that the GTEB has the jurisdiction to act and rule on Glorious Sun's Petition for the cancellation and restoration to it of the quotas illegally awarded to AIFC. A simple reference to the pertinent provisions of the various Executive Orders (E.O.s) relative to the functions of the GTEB easily reveals as much.

49. Under E.O. No. 952, which amended E.O. Nos. 537 and 823 it is provided:

> 'SECTION 1. Section 3 subparagraphs (a), (h), and (i) of Executive Order No. 537 [on the powers and functions of the Board] is hereby amended to read as follows:
>
> xxx xxx xxx
>
> (h) In case of violations of its rules and regulations, cancel or suspend quota allocations, export authorizations and licenses for the operations of bonded garment manufacturing warehouses or disqualify the firm and/or its principal stockholders and officers from engaging in garment exports and from doing business with the Board; x x x.'

50. Thus, if only on the basis of the above-quoted provision, and even in the face of the criteria set forth in *Globe*, it is at once evident that the power to adjudicate on the question of the AIFC's entitlement to the subject EQs is 'necessarily implied' from the Board's power to 'cancel or suspend quota allocations, export authorizations and licenses.'

xxx xxx xxx

51. However, in addition to the above, E.O. No. 913, entitled 'Strengthening the Rule-Making and Adjudicatory Powers of the Minister of Trade and Industry in Order to Further Protect Consumers,'

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[50] *Supra*, at p. 272.

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was likewise issued, which E.O., we respectfully submit, made the GTEB's power to adjudicate on the question of the AIFC's entitlement to the subject EQs more than just being merely 'necessarily implied.'

52. Thus, Section 5 of Article III of the above-numbered E.O. reads:

> SEC. 5. *Formal investigation.* — (a) Whenever the Minister has verified that violation/s of 'Trade and Industry Laws' has/have been committed, he may *motu proprio* charge said violator/s, and thereafter proceed with a formal investigation, independent of the corresponding criminal or civil action for the said violation/s. The imposition of administrative penalties in the formal investigation is without prejudice to the imposition of penalties in the criminal action and/or judgment in the civil action, and vice versa. *Provided, however*, that in deciding the case the Minister or the judge, as the case may be, shall consider the decision of the other and impose further penalties, or consider the penalties imposed by the other as already sufficient, as his sense of justice dictates.
>
> (b) The Minister may proceed to hear and determine the violation in the absence of any party who has been served with notice to appear in the hearing.
>
> (c) The Minister shall use every and all reasonable means to ascertain the facts of the case speedily and objectively without regard to technicalities of law or procedure and strict rules of evidence prevailing in courts of law and equity. The Minister shall decide the case within thirty working days from the time the formal investigation was terminated.
>
> (d) The minister shall have the same power to punish direct and indirect contempts granted to superior courts under Rule 71 of the Rules of Court and the power to issue subpoena *duces tecum*.
>
> (e) When the 'trade and industry law' violated provides for its own administrative procedure and penalties, including a procedure where a Board Council, Authority, or Committee takes part as a body, the Minister shall have the option of selecting that procedure and penalties or the procedure and penalties provided in this Executive Order. If he opts for the latter, the approval of such Board, Council, Authority, or Committee of the Minister's decision shall not be necessary.'

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53. The above-quoted provisions are very significant in light of the definition of the 'Ministry' as the Ministry of Trade and Industry 'and/or any of its bureaus, offices, or attached agencies, or any other office, unit or committee by whatever name which is placed under or *attached* to the Ministry of Trade and Industry (Section 1, Article I, E.O. 913; Italics supplied).' The GTEB is one such bureau, office or agency.

54. In this connection, AIFC's statement to the effect that GTEB Case No. 92-50 is an action by one party against another for the enforcement or protection of a right, is not entirely accurate. It will be remembered that said GTEB case was initiated principally *for the purpose of securing the cancellation of EQs being illegally held onto by AIFC, a proceeding which is undoubtedly within the ambit of the Board's powers; that Glorious Sun stood to benefit from such cancellation was merely incidental to said proceeding.*"[51]

After examining the arguments raised by all parties concerned, we find the arguments of the GTEB and Glorious Sun to be impressed with merit, and accordingly hold that the power and jurisdiction to adjudicate on the question of AIFC's entitlement to the export allocations subject of the above-entitled petitions (be they export quotas or export authorizations), which includes the discretion to grant and disapprove said export allocations, belongs solely to the GTEB, and not to the regular courts.

Semantics notwithstanding, it cannot be denied that GTEB Case No. 92-50 was instituted by Glorious Sun for the purpose of securing the cancellation of EQs then alleged by it as being illegally held by AIFC. This being the case, it likewise cannot be denied that, as Glorious Sun correctly observes, such a proceeding is clearly within the ambit of the GTEB's powers, more specifically, the power granted to it by Section 3 subparagraph (h) of Executive Order No. 537 (as amended by E.O. No. 952) to "cancel or suspend quota allocations, export authorizations and licenses for the operations of bonded garment manufacturing warehouses or disqualify the firm and/or its principal stockholders and officers from engaging in garment

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[51] Glorious Sun's "Comment on Petition with Memorandum," pp. 30-34.

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exports and from doing business with the Board," in case of violations of its rules and regulations.

In light of the above, AIFC's reliance on our ruling in *Globe Wireless Ltd. v. PSC*,[52] is clearly misplaced. On the basis of the provisions of law cited by both the GTEB and Glorious Sun, that the power to adjudicate on the question of an entity's entitlement to export allocations *was expressly granted to the GTEB*, or at the very least, *was necessarily implied* from the power to cancel or suspend quota allocations, is beyond cavil.

In addition, we must take judicial notice of the fact that AIFC, in cases involving the same controversy as that in the above-entitled petitions, has recognized the exclusive jurisdiction of the GTEB to award or cancel export allocations to deserving entities.

AIFC categorically declared in its "Motion to Dismiss," Civil Case No. 93-138[53] that "Executive Order No. 537, as amended by Executive Order Nos. 823 and 952, vests upon defendant GTEB exclusive jurisdiction to grant export quota allocations," and that "(u)nder the doctrine of primary jurisdiction, only defendant GTEB has the authority to award/cancel export quotas." In fact, it is noteworthy that in said motion to dismiss, AIFC relied upon the very principles cited by both the GTEB and Glorious Sun in the above-entitled petitions in support of their argument that it is the GTEB which has jurisdiction over the export allocations subject of said petitions, to wit:

"Courts of justice should not generally interfere with purely administrative and discretionary functions; that courts have no supervisory power over the proceedings and actions of the administrative departments of the government involving the exercise of judgment and findings of fact, because by reason of their special knowledge and expertise over matters falling under their jurisdiction, the latter are in a better position to pass judgment on such matters and their findings of facts in that regard are generally accorded

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[52] 147 SCRA 269 [January 21, 1987].

[53] Annex "B" to Glorious Sun's "Comment on Petition with Memorandum."

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respect, if not finality, by the courts. (Ateneo de Manila *v.* CA, 145 SCRA 105)"[54]

AIFC reiterated this stance in its "Motion to Dismiss" in Civil Case No. 64010[55] in this wise:

"As stated above, this Court cannot grant the reliefs sought in the Complaint without first deciding that AIFC is not entitled to EQs, and that, in effect, *the EQs now in AIFC's name should be cancelled.* This power, however, has been granted not to the courts but to the GTEB, which is vested with jurisdiction —

> '[i]n case of violations of its rules and regulations, [to] cancel or suspend quota allocations, export authorizations and licenses for the operations of bonded garment manufacturing warehouses and/or to disqualify the firm and/or its principal stockholders and officers from engaging in garment exports and from doing business with the Board (Section 3[h], Exec. Order No 537 [1979], as amended by Exec. Order No. 823 [1982] and Exec. Order No. 952 [1984]).'

And even assuming for argument that it is indeed vested with original jurisdiction to *cancel EQs*, under the doctrine of primary jurisdiction, this Court cannot at this time take cognizance of the Complaint (*Supra*, at pp. 14-15)."

Having already invoked the jurisdiction of the GTEB in earlier actions involving the same controversy as that before us, AIFC cannot now be heard to question that same jurisdiction simply because it was unable to obtain the reliefs prayed for by it from the GTEB. We have warned against such a practice on more than one occasion in the past. Most recently, in *St. Luke's Medical Center, Inc. v. Torres*,[56] we reiterated such warning:

"It is a settled rule that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and after failing to obtain such relief, repudiate or question that same jurisdiction. A party cannot invoke jurisdiction at one time and

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[54] *Supra*, at p. 8.

[55] Annex "C" to Glorious Sun's "Comment on Petition with Memorandum."

[56] 223 SCRA 779 [June 29, 1993].

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reject it at another in the same controversy to suit its interests and convenience. The Court frowns upon and does not tolerate the undesirable practice of some litigants who submit voluntarily a cause and then accepting the judgment when favorable to them and attacking it for lack of jurisdiction when adverse (Tajonera *v.* Lamaroza, 110 SCRA 447, citing Tijam *v.* Sibonghanoy, 23 SCRA 35)."[57]

III

As to the allegations of AIFC that it was deprived of due process, we find no merit to this contention. With respect to the June 21, 1994 Resolution of the GTEB which AIFC assails in its petition in G.R No. 115889, it is AIFC's contention that the GTEB issued said resolution[58] without giving AIFC the opportunity to be heard and without receiving its evidence in any form.

We disagree.

Insofar as the supposed failure of the GTEB to issue a show cause order to AIFC is concerned, we hold that the GTEB committed no grave abuse of discretion in instituting an action against AIFC on the basis of the allegations in Glorious Sun's petition in GTEB Case No. 92-50. It is apparent from the rule cited by AIFC[59] that the same was aimed primarily at ensuring that if any action is to be filed against a respondent, the same must have sufficient basis in fact. Consequently, for so long as this goal is achieved, albeit through some other means, no undue prejudice can be caused by the non-issuance of a show-cause order. In fact, as correctly pointed out by Glorious Sun, the GTEB, as a bureau, office or agency attached to the Ministry of Trade and Industry, may even *motu proprio* charge violators of "Trade and Industry Laws," and thereafter proceed with a formal investigation.[60]

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[57] *Supra*, at p. 792, citing Saulog Transit, Inc. *v.* Lazaro, 128 SCRA 591.

[58] Annex "A" of AIFC's petition.

[59] Rule IV, Sec. 1, GTEB Procedural Rules.

[60] Section 5 of Article III, Executive Order No. 913.

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Anent AIFC's claim that it was not afforded the opportunity to present evidence in GTEB Case No. 92-50, we find such claim unworthy of belief. The GTEB, as an administrative agency, has in its favor the presumption that it has regularly performed its official duties, including those which are quasi-judicial in nature. In the absence of clear facts to rebut the same, said presumption of regularity must be upheld. This is also but in keeping with the doctrine of primary jurisdiction.

We are inclined to give credence instead to Glorious Sun's assertions relative to AIFC's presentation of evidence in GTEB Case No. 92-50, there being ample basis in the records therefor. Thus, after examining the "Motion to Dismiss" filed by AIFC in GTEB Case No. 92-50,[61] we find nothing therein to indicate that AIFC reserved its right to present evidence in said GTEB case, contrary to AIFC's claims. On the other hand, as correctly pointed out by Glorious Sun, if any reservation was made by AIFC in its "Sur Rejoinder (Re: Motion to Dismiss)," attached to AIFC's petition as Annex "E", this was limited to the reservation "to raise the question of jurisdiction."[62]

More importantly, it is apparent that not only was AIFC afforded the opportunity to present evidence, it actually *took advantage of this opportunity by presenting documentary evidence*, as asserted by Glorious Sun, an assertion which AIFC most notably failed to refute. As we have declared time and again, what is repugnant to due process is the denial of the *opportunity to be heard.*[63] That AIFC was afforded this opportunity is beyond question.

From what has been discussed the following conclusions are made:

(1) AIFC no longer has the legal personality to prosecute the above-entitled petitions and may therefore no longer claim entitlement to the export allocations subject of these petitions;

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[61] Annex "D" of AIFC's petition.

[62] *Supra*, paragraph 12.

[63] Korean Airlines Co., Ltd. *v.* Court of Appeals, 247 SCRA 599, 603 [1995]; Bermejo *v.* Barrios, 31 SCRA 764 [1970]; Caltex Phil. Inc., *v.* Castillo, 21 SCRA 1071 [1967].

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(2) It is the GTEB, and not the regular courts, nor the Court of Appeals, which has the jurisdiction to adjudicate on the question of AIFC's entitlement to the export allocations subject to these petitions; and

(3) AIFC's right to due process was in no wise violated by the GTEB, the former not having taken advantage of the opportunity afforded to it to present evidence in its behalf.

WHEREFORE, AIFC's petition in G.R. No. 115889 is hereby DENIED for lack of merit, as well as for being moot and academic, AIFC having lost the legal personality to prosecute the same. GTEB's petition is GRANTED, and the assailed January 21, 1994 Decision and March 22, 1994 Resolution of the Court of Appeals in CA-G.R. SP No. 31596 is hereby ANNULLED AND SET ASIDE (except insofar as it denied AIFC and AIFC International Fashion Corporation's "Motion for Issuance of Writ of *Mandamus*"). Said CA-G.R SP No. 31596 is likewise ordered annulled and set aside.

SO ORDERED.

Padilla (Chairman), Vitug, and *Kapunan, JJ.*, concur.

Bellosillo, J., took no part due to relationship to one of the parties.

THIRD DIVISION

[G.R. No. 122728. February 13, 1997]

CASIANO A. ANGCHANGCO, JR., *petitioner, vs.* **THE HONORABLE OMBUDSMAN, ZALDY TAMAYO, GILDA NAVARRA, ODELIA LEGASPI, SALVADOR TAMAYO, GASPAR ABORQUE, ROEL ABAS, REMEDIOS OLITA, ET AL., TEODORO TORREON, ET AL., JIMMY MARTIN, MENRADO ALLAWAN, MARGARITO ESCORIAL, NORBERTO OCAT and ALEJANDRO ERNA,** *respondents.*