Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills,
Mandaluyong City

ASSAB PACIFIC PTE. LTD.,-
PHILIPPINE BRANCH,
Appellant,

- **versus** -

SEC En Banc Case No. 01-13-285

COMPANY REGISTRATION AND
MONITORING DEPARTMENT,
Appellee.
x----------x

DECISION

Before the Commission En Banc is the Appeal filed by Assab Pacific Pte. Ltd., - Philippine Branch ("Appellant") seeking the reversal of the Letter-Order dated 06 December 2012 ("Assailed Order") issued by the Company Registration & Monitoring Department of the Commission ("CRMD"). The Assailed Order denied Appellant's application to use the proposed name "Assab Steels Philippines Inc." on the ground that the same name has been registered to another corporation under SEC Reg. No. 164505.

The facts of the case are as follows:

Appellant is a foreign company organized and existing under the laws of the Republic of Singapore and duly licensed by the Commission to transact business in the Philippines on 30 November 2006.[1] It was established to manufacture, produce, assemble and export steel plates, round bars, strip steel, cutting tools and related products and services including heat treatment services and surface treatments for distribution but not limited to manufacturers of die sets for metal stamping and blanking, plastic moulds, extrusion, and die casting and other applications.[2]

[1]Records, p. 22.
[2] Id.

In a letter dated 08 October 2012, Appellant applied with the Commission for the use or appropriation of the corporate name "Assab Steels Philippines Inc.," arguing that the Commission already revoked the certificate of incorporation of the corporation with SEC Reg. No. 164505 using said corporate name. It further argues that the word "ASSAB" stands for the mark "Associated Swedish Steels Aktiebolag" registered with the Intellectual Property Office on 05 December 1977 and renewed with a duration term of twenty (20) years ending 05 December 2017 under Registration No. 25306.

However, the CRMD, in a letter-order dated 06 December 2012, [3] denied Appellant's application for the use or appropriation of the corporate name "Assab Steels Philippines Inc.," on the ground that the same is confusingly similar to the name of a registered corporation with SEC Reg. No. 164505 whose primary license has been revoked on 29 September 2003 for non-filing of reports through the Commission's Order dated 20 August 2003, but to which the remedy of filing a petition for lifting the revocation order is still available until 31 December 2013 pursuant to SEC Memorandum Circular No. 1, series of 2012.[4]

Hence, the instant Appeal.

The sole issue in this Appeal is whether or not there is a valid ground for denying Appellant's application for the use or appropriation of the corporate name "Assab Steels Philippines Inc."

Records show that Assab Steel Philippines Inc. was registered with the Commission on 07 June 1989 under SEC Registration No. 164505. In the Commission's Order dated 20 August 2003, it was included in the list of corporations whose certificates of incorporation were revoked for non-filing of reports, such as General Information Sheet and the Financial Statements, for the period of 1997 to 2002.

SEC Memorandum Circular No. 1, series of 2012, and prior-related circulars,[5] have been issued by the Commission providing for additional period within which a corporation, whose certificate of registration has been revoked for non-filing of reports, may petition the Commission for lifting said revocation order. Based on said Circular, Assab Steel Philippines Inc. had until 31 December 2013 to file said petition.

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[3] Id., pp. 17-18.
[4] Dated 08 March 2012.
[5] SEC Circular No. 4, series of 2008, and SEC Circular No. 15, series of 2009.

Considering the lapse of the aforementioned period, the remedy of lifting the order of revocation ceased to be available to Assab Steel Philippines Inc. Also, it should be noted that its certificate of registration has been revoked on 29 September 2003, thus, the six-year period afforded for the use and appropriation of said corporate name pursuant to SEC Memorandum Circular No. 21, series of 2013 and other related Circulars has already expired.

Moreover, it is worthy to note that the word "ASSAB" is a registered mark with the Intellectual Property Office on 05 December 1997 and renewed with a duration term ending 05 December 2017 in favor of Assab Pacific Pte. Ltd., Singapore, the parent company of Appellant.[6] Thus, prior to the incorporation of Assab Steel Philippines Inc. with SEC Registration No. 164505, the word "ASSAB" is a name already protected by law[7] in favor of Appellant through its parent company, Assab Pacific Pte. Ltd., Singapore, and predecessor-in-interest, Associated Swedish Steels Aktiebolag.

Given the foregoing, the grounds used by CRMD to deny appellant's reservation and subsequent use or appropriation of the corporate name "Assab Steels Philippines Inc." cease to exist. The matter should now be remanded to the CRMD for its further consideration.

WHEREFORE, premises considered, the matter of appellant's application for the use or appropriation of the corporate name "Assab Steels Philippines Inc." is hereby REMANDED to the appellee Company Registration and Monitoring Department of the Commission for its appropriate action. With that, the instant appeal is closed and terminated insofar as the Commission En Banc is concerned.

SO ORDERED.

Mandaluyong City, 04 March 2014.

TERESITA J. HERBOSA
Chairperson

MA. JUANITA E. CUETO
Commissioner

MANUEL HUBERTO B. GAITE
Commissioner

[6] Records, pp. 2-3.
[7] Republic Act No. 8293, Intellectual Property Code.

The dispositive part reads as follows:

"**WHEREFORE,** premises considered, the matter of appellant's application for the use or appropriation of the corporate name "Assab Steels Philippines Inc." is hereby REMANDED to the appellee Company Registration and Monitoring Department of the Commission for its appropriate action. With that, the instant appeal is closed and terminated insofar as the Commission En Banc is concerned.

SO ORDERED.

Mandaluyong City, 04 March 2014."

ELADIO M. JALA
Commissioner

ANTONIETA FORTUNA-IBE
Commissioner