REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

CONTACT CENTERS ASSOCIATION OF THE PHILIPPINES, INC. (CCAP), Petitioner,	**CTA Case No. 9666**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondents.	Promulgated: DEC 1 1 2020 3:01 pm

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RESOLUTION

For resolution are the following:

1. petitioner's **Motion for Reconsideration** [of the Decision dated July 8, 2020] filed via email on July 29, 2020; and,

2. petitioner's **Transmittal** filed on November 10, 2020.

Petitioner, in its Transmittal, avers that it submits the hard copy of the Motion for Reconsideration submitted online last July 29, 2020, in compliance to the Resolution dated October 26, 2020.

Petitioner seeks reconsideration of the Decision dated July 8, 2020 (assailed Decision), the dispositive portion of which reads:

> "**WHEREFORE**, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. The assessment for compromise penalty is **CANCELLED AND SET ASIDE**. The assessments for basic deficiency income tax, VAT and EWT are **MODIFIED**. Accordingly, petitioner is **ORDERED TO PAY** the amounts of **₱6,278,079.75, ₱6,310,674.81 and ₱368,650.70** representing deficiency income tax, VAT and EWT, respectively, or the total amount of **₱12,957,405.26**, inclusive of the 25% surcharge, 20%

deficiency interest, and 20% delinquency interest imposed thereon under Sections 248(A)(3), and 294(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, detailed below:

		Income Tax	VAT	EWT	Total
Basic Deficiency Tax	₱	2,714,694.73	2,669,293.56	155,508.31	5,539,496.60
Add: 25% Surcharge		678,673.68	667,323.39	38,877.08	1,384,874.15
Deficiency Interest from April 16, 2014 to February 13, 2017* (₱2,714,694.73 x 20% x 1,035/365 days)		1,539,566.60			1,539,566.60
Deficiency Interest from January 26, 2014 to February 13, 2017* (₱2,669,293.56 x 20% x 1,115/365 days)			1,630,828.67		1,630,828.67
Deficiency Interest from January 16, 2014 to February 13, 2017* (₱155,508.31 x 20% x 1,125/365 days)				95,861.29	95,861.29
Total Amount Due, February 13, 2017	₱	4,932,935.01	4,967,445.62	290,246.67	10,190,627.31
Deficiency Interest From February 14, 2017 to December 31, 2017					
(₱2,714,694.73 x 20% for 321/365 days)	₱	477,488.77			477,488.77
(₱2,669,293.56 x 20% for 321/365 days)			469,503.14		469,503.14
(₱155,508.31 x 20% for 321/365 days)				27,352.42	27,352.42
Delinquency Interest From February 14, 2017 to December 31, 2017					
(₱4,932,935.01 x 20% x 321/365 days)	₱	867,655.97			867,655.97
(₱4,967,445.62 x 20% x 321/365 days)			873,726.05		873,726.05
(₱290,246.67 x 20% x 321/365 days)				51,051.61	51,051.61
Total Amount Due, December 31, 2017	₱	6,278,079.75	6,310,674.81	368,650.70	12,957,405.26

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as the Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018, on the following amounts:

Tax	Amount
Income Tax	₱ 4,932,935.01
VAT	₱ 4,967,445.62
EWT	₱ 290,246.67

SO ORDERED."

Petitioner moves for reconsideration of the assailed Decision on the ground that the Court may have overlooked important facts and other considerations, which otherwise could modify its Decision anent the tax assessments.

Respondent, on the other hand, submits petitioner's motion to the sound discretion of the Court.[1]

THE COURT'S RULING

After careful consideration of petitioner's Motion for Reconsideration, the Court finds that its arguments are mostly mere amplification of arguments previously raised in its Petition for Review filed on August 25, 2017 and Memorandum filed on October 14, 2019, all of which were duly considered and passed upon by the Court in the assailed Decision.

With regard to the income tax assessment, petitioner argues that the burden to prove that the income being assessed by respondent was not derived from petitioner's real or personal properties, or from any activity conducted for profit, regardless of disposition thereof, rests on the government. Considering that respondent allegedly imposed income tax on petitioner for the sole reason that no Tax Exemption Certificate was presented, petitioner insists that it was prevented from properly contesting the assessment, thus resulting in a denial of its right to due process.

Section 30(F) of the National Internal Revenue Code (NIRC) of 1997, as amended, provides that a business league, chamber of commerce, or board of trade not organized for profit and no part of the net income of which inures to the benefit of any private stock-holder or individual is exempt from income tax. **The last paragraph thereof unequivocally qualifies that such exemption only operates when income of whatever kind and character are not sourced from any of the corporation's properties, real or personal, or from any of its activities conducted for profit, regardless of the disposition made.**

Petitioner erred in contending that the burden of proof lies with respondent to prove that petitioner's income is not exempt from income tax.

Tax exemptions are construed strictly against the one invoking such exemption, and the burden of proof rests upon the party claiming the exemption to prove that it is, in fact, covered by the exemption so claimed.[2] **Petitioner has the burden of proving that the income subject of the assessment was not sourced from its real or**

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[1] Respondent's Compliance filed on October 8, 2020, Docket, Vol. II, unpaginated.
[2] *Philippine Amusement and Gaming Corp. vs. Bureau of Internal Revenue*, G.R. No. 172087, March 15, 2011.

personal properties, or from any profit-generating activity. Petitioner's failure to discharge its burden is fatal to its cause.

Records show that petitioner failed to present any evidence to prove that its receipts were not sourced from its real or personal properties, or from any activity conducted for profit. Petitioner points to its Audited Financial Statements (AFS) to support the view that the income generated by petitioner is sourced from non-profit activities, but as elucidated in the assailed Decision, the AFS alone is insufficient to discharge the burden of proof necessary for petitioner to claim exemption from income tax. Thus, the assessment for ₱2,197,811.00 representing taxable income per audit was properly sustained.

With respect to the disallowance of expenses for failure to withhold expanded withholding tax (EWT), petitioner argues that it is not obliged to withhold taxes on its income payments as it is engaged in "not for profit activity".

Section 2.57.3[3] of Revenue Regulations No. 02-98[4] specifies the persons constituted as withholding agents for purposes of the creditable tax required to be withheld on income payments, yet, there is nothing therein that suggests, even remotely, that a business league, chamber of commerce, or board of trade is exempt from the requirement to withhold tax on income payments.

Considering that petitioner failed to withhold the required EWT in the amount of ₱6,851,171.43 on certain income payments, their disallowance as deductible expenses was proper.

Anent the deficiency value-added tax (VAT) assessment, petitioner contends that the amounts received from registration, and sponsorship were not fees for services rendered but were intended to answer for the costs incurred for the conduct of its event such as hotel

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[3] SECTION 2.57.3. *Persons Required to Deduct and Withhold.* — The following persons are hereby constituted as withholding agents for purposes of the creditable tax required to be withheld on income payments enumerated in Section 2.57.2:

(A) In general, any juridical person, whether or not engaged in trade or business;
(B) An individual, with respect to payments made in connection with his trade or business. However, insofar as taxable sale, exchange or transfer of real property is concerned, individual buyers who are not engaged in trade or business are also constituted as withholding agents;
(C) All government offices including government-owned or controlled corporations, as well as provincial, city and municipal governments.

[4] SUBJECT: Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes, April 17, 1998.

venue, audio visuals, food, accommodation, and tokens for the guest speakers, transportation, flyers, and others.

There is no dispute that the registration and sponsorship fees were paid by non-members and sponsors to be able to participate in events conducted by petitioner. Clearly, said fees represent payments for services rendered by petitioner. It is immaterial whether petitioner realized profit or not in the conduct of said events for purposes of determining petitioner's liability for VAT on said fees. As long as the entity provides services for a fee, remuneration or consideration, then the service rendered is subject to VAT.[5]

Finally, in upholding the deficiency VAT assessment on other collections in the amount of ₱130,334.73 and unaccounted receipts in the amount of ₱15,360,066.43, the Court reiterates its finding that petitioner failed to substantiate such receipts in accordance with the invoicing requirements under the law and regulations.

Basic is the rule that tax assessments are presumed correct and made in good faith, and all presumptions are in favor of the correctness of a tax assessment unless proven otherwise by the taxpayer.[6]

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Decision dated July 8, 2020.

WHEREFORE, premises considered, petitioner's **Transmittal** is **NOTED**. Petitioner's **Motion for Reconsideration** is hereby **DENIED** for lack of merit.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

CATHERINE T. MANAHAN
Associate Justice

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[5] *Commissioner of Internal Revenue vs. Court of Appeals*, G.R. No. 125355, March 30, 2020.
[6] *Commissioner of Internal Revenue vs. Antonio Tuason, Inc.*, G.R. No. 85749, May 15, 1989.