REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

FORT BONIFACIO DEVELOPMENT CORPORATION, Petitioner,	**CTA CASE NO. 10425**
	Members:
- versus -	**RINGPIS-LIBAN,** *P.J., Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JUL 28 2026

X -X

RESOLUTION

FERRER-FLORES, J.:

Submitted before this Court are the following:

1. petitioner's **Omnibus Motion for: 1) Partial Reconsideration of the Amended Decision dated 13 February 2026; and 2) Leave of Court to File and Admit Supplemental Judicial Affidavit of Winnie C. Ramos with Supplemental Formal Offer of Evidence** filed on March 11, 2026, with respondent's **Comment and Opposition (Re: Omnibus Motion dated 11 March 2026)** filed on April 23, 2026; and,

2. respondent's **Motion for Partial Reconsideration (Re: Amended Decision promulgated on 13 February 2026)** filed on March 11, 2026, with petitioner's **Comment (Re: Respondent's "Motion for Partial Reconsideration," dated 10 March 2026)** filed on April 27, 2026.

On February 13, 2026, the Court promulgated an Amended Decision partially granting petitioner's *Motion for Reconsideration (of the Decision dated May 6, 2025)*, the dispositive portion of which reads as follows:

ACCORDINGLY, petitioner's *Motion for Reconsideration (of the Decision Dated May 6, 2025)* is **PARTIALLY GRANTED**. The assailed Decision dated May 6, 2025 is **REVERSED** and **SET ASIDE**. The dispositive portion of the Decision dated May 6, 2025 is, thus, amended to read as follows:

> **ACCORDINGLY**, premises considered, the *Petition for Review* is **PARTIALLY GRANTED**.
>
> Consequently, respondent's deficiency VAT assessment for the period July to December 2014 is **PARTLY UPHELD** but in the adjusted amount of **₱1,200,173.53**. Inasmuch as respondent has garnished petitioner's funds amounting to **₱28,987,923.78,** respondent should return to petitioner the amount of **₱27,956,835.28** computed as follows:
>
> | | |
> |---|---|
> | Garnished amount | ₱ 28,987,923.78 |
> | Less: Deficiency VAT Liability, including increments | 1,031,088.50 |
> | Amount to be refunded | **₱ 27,956,835.28** |
>
> **SO ORDERED**.

SO ORDERED.

Petitioner's Motion for Leave of Court to File and Admit Supplemental Judicial Affidavit with Supplemental Formal Offer of Evidence

In its *Motion for Leave of Court to File and Admit Supplemental Judicial Affidavit with Supplemental Formal Offer of Evidence*, petitioner moves to submit additional documentary and supplemental testimonial evidence to support the following arguments it raised:

1. With respect to Philgear International Inc. (Philgear), petitioner alleges that the discrepancy with the certified Third-Party Information (TPI) vis-à-vis Summary List of Sales (SLS) is due to the difference in the method of value-added tax (VAT) recognition. Petitioner, thus, seeks to submit its General Ledger (GL) account of Philgear for taxable year (TY) 2014 pre-marked as Exhibit "P-1-MR".

2. Petitioner explains that the certified TPI from the Turf Company Inc. (Turf) did not reflect the several payments it made. As such, petitioner seeks to submit its GL account of Turf for TY 2014, sales invoices, collection receipts and vouchers related to Turf for July to

December 2014 pre-marked as Exhibits "P-3-MR" to "P-11-2-MR" to validate that the amount of input VAT per Summary List of Purchases (SLP) are all supported.

3. Petitioner avers that it was in good faith in claiming input tax on purchases from Maui Travel and Tours (Maui), the entry for which was an honest mistake in encoding. Hence, it seeks to submit Exhibit "P-12-MR" to support its assertion that the transaction should be for Creatif.

In relation to the foregoing, petitioner moves for leave of Court to file and admit the attached *Supplemental Judicial Affidavit* of Ms. Winnie C. Ramos and the additional pre-marked documents enclosed thereto as documentary exhibits contained in a USB pre-marked as Exhibit "P-13-MR".

Unfortunately, the Court finds petitioner's arguments untenable.

At this juncture, the additional documents such as the relevant GL accounts, sales invoices, collection receipts and vouchers attached to the instant *Omnibus Motion* that petitioner seeks to present, amount to no more than forgotten evidence.

Inevitably, "forgotten evidence" refers to evidence that: (1) are already in existence or available before or during a trial; (2) are known to and obtainable by the party offering it; and (3) could have been presented and offered in a seasonable manner, were it not for the sheer oversight or forgetfulness of the party or the counsel. Presentation of forgotten evidence is disallowed, because it results in a piecemeal presentation of evidence, a procedure that is not in accord with orderly justice and serves only to delay the proceedings. A contrary ruling may open the floodgates to an endless review of decisions, whether through a motion for reconsideration or for a new trial, in the guise of newly discovered evidence.[1]

On a final note, petitioner also offered no explanation why it did not present the said documents to support its arguments on the deficiency tax assessments during the trial. As a corollary, the bare invocation of the interest of substantial justice is "not a magic wand that will automatically compel this Court to suspend procedural rules."[2] Especially so, when petitioner could have presented the same evidence, which it now seeks to

---

1 *Office of the Ombudsman, et. al. vs. Carmencita D. Coronel,* G.R. No. 164460, June 27, 2006.
2 *Romulo B. Estrella, et al., vs. SM Prime Holdings, Inc.,* G.R. Nos. 257814 & 257944, February 20, 2023.

introduce, when it was given the opportunity during trial had it exercised due diligence.

That having been settled, the Court shall now proceed to discuss the merit of petititoner's *Motion*.

Petitioner's Motion for Partial Reconsideration

In its *Motion for Partial Reconsideration*, petitioner contends that the supposed remaining deficiency VAT, surcharge, deficiency interest and delinquency interest in the adjusted total amount of ₱1,200,173.53 does not have basis in law and/or fact. Petitioner claims that the subject assessment is void considering that the Formal Letter of Demand (FLD) dated September 8, 2017 with attached Final Assessment Notices (FAN), with due date on 30 September 2017, and the Final Decision on Disputed Assessment (FDDA) dated November 20, 2020 with attached Assessment Notice, with payment due date of June 30, 2019 are void for infringing upon petitioner's right to due process. According to petitioner, there are no undeclared sales allegedly based on a comparison of SLS and TPI since any apparent discrepancy with certified TPI from Philgear is due to the difference in the method of VAT recognition resulting from timing differences in the reporting of VAT by petitioner.

Petitioner likewise submits that the amounts of input VAT per SLP are all supported. On the contrary, the certified TPI from the Turf did not reflect several payments made by petitioner for the given period of July 1, 2014 to December 31, 2014. Petitioner claims good faith in claiming input tax on purchases from Maui, the entry for which had an honest mistake in encoding. On the assumption that there is remaining deficiency VAT, petitioner posits that it should not be liable for surcharge, deficiency interest as it was in good faith in the reporting and the payment of VAT during the subject second half of TY 2014.

On the other hand, in his *Comment and Opposition*, respondent denies any violation of petitioner's right to due process of law in the present case as the FDDA categorically stated and fixed the deficiency tax liabilities as required under the National Internal Revenue Code (NIRC) of 1997, as amended, and relevant Bureau of Internal Revenue (BIR) issuances. Respondent also insists that the FLD with attached FAN, complied with the minimum requirements specified under Section 228 of the NIRC of 1997, as amended, and related revenue regulations, since nowhere does it provide that respondent must provide a highly detailed assessment to the taxpayer;

instead, the law merely requires respondent, however simple, to clearly indicate the factual and legal bases of the assessment.

Respondent objects to the admission of petitioner's *Supplemental Judicial Affidavit* and the documents attached thereto. For respondent, petitioner was already given more than ample time to present the said evidence during trial. Lastly, respondent maintains that tax assessments are presumed correct and made in good faith. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by the BIR examiner and approved by his superior officers will not be disturbed.

After due consideration, the Court finds petitioner's *Motion for Partial Reconsideration* bereft of merit.

The validity of the FLD and the FDDA

Petitioner avers that neither the Decision dated May 6, 2025 nor the Amended Decision dated February 13, 2026 discussed all the arguments it raised in its *Petition for Review*, *Amended Petition for Review* and *Petitioner's Memorandum*, particularly its contention that the FDDA did not indicate a valid date for payment, since the due date reflected in the Assessment Notice accompanying the FDDA is "June 30, 2019," but the FDDA itself was only issued and received on November 20, 2020. Citing the case of *Commissioner of Internal Revenue vs. Fitness by Design, Inc.* (Fitness by Design case),[3] petitioner insists that the FLD and the FDDA are void for failure of respondent to indicate the proper due date.

Petitioner further asserts that the FLD and the FDDA failed to inform petitioner how the BIR came up with the "basic tax due" allegedly representing deficiency VAT. It is at a loss as to how the amount of ₱16,419,292.64 was arrived at or was computed by the BIR.

The Court disagrees.

The FDDA[4] and attached Assessment Notice[5] were issued by respondent and received by petitioner on November 20, 2020; however, the due date indicated in the Assessment Notice was **JUN 30 2019**. It must be noted, however, that while the Assessment Notice indicates a date that is earlier than the date of issuance, it is also indicated therein that the due date

---

[3] G.R. No. 215957, November 9, 2016.
[4] Exhibit "R-9", BIR Records (Folder 2), pp. 425 to 428.
[5] Exhibit "R-9-a", BIR Records (Folder 2), pp. 424.

for the payment of alleged deficiency taxes is "**30 days from receipt thereof**".

Clearly, while the Assessment Notice bears a due date of "**JUN 30 2019**," which predates its issuance and receipt by petitioner, the same Assessment Notice expressly provides that payment of the alleged deficiency taxes is due within "**30 days from receipt thereof**." Consequently, notwithstanding the discrepancy in the stamped due date, there appears to be no confusion as to the period within which petitioner was required to pay the assessed taxes, considering the clear and unequivocal statement in the Assessment Notice that the due date is reckoned from the date of receipt.

Moreover, the *Fitness by Design case,* cited by petitioner as basis to support its argument that the FDDA should be void, is not on all fours applicable to the instant case. The Supreme Court, in the *Fitness by Design* case, voided the assessment as the FLD/FAN itself did not indicate any due date. Here, the FLD/FAN has a valid due date, while the FDDA, which petitioner assails, is the decision on the disputed assessment, not the assessment itself.

It bears stressing that the alleged defect pertains only to the due date reflected in the Assessment Notice attached to the FDDA and not to the assessment itself. Note that the FLD/FAN, which formally assessed petitioner for the alleged deficiency taxes, contains a valid due date and sufficiently informs petitioner of the amount due and the period within which payment must be made. Thus, even assuming that the due date indicated in the FDDA and its attachment is defective or invalid, such defect does not necessarily invalidate the FLD/FAN or the assessment embodied therein. Consistent with the pronouncement in *Commissioner of Internal Revenue vs. Liquigaz Philippines Corporation*,[6] the FDDA, being merely the CIR's decision on the protested assessment, is distinct from the assessment itself; hence, the invalidity of the former does not automatically render the latter void, absent any showing that the law or applicable regulations requires such consequence.

A careful scrutiny of the FLD/FAN dated September 8, 2017 and FDDA dated November 20, 2020, shows that the deficiency tax assessments are valid and contains a definite amount of tax due and a definite demand for payment thereof. To discuss them anew, as insinuated by petitioner, would be mere superfluity.

[6] G.R. No. 215534, April 18, 2016.

With regard to petitioner's argument that the FLD/FAN and FDDA failed to sufficiently show how the basic deficiency VAT was computed, the same likewise lacks merit.

Verily, as part of the due process requirement, the taxpayer needs to know the nature of the examiner's findings in order to be able to properly contest the same and submit supporting documents. Section 228 of NIRC of 1997, as amended, provides that the taxpayer must be informed in writing of the law and the facts upon which a tax assessment is based; otherwise, the assessment is void.

In the Amended Decision, the Court already threshed out and cancelled the items in respondent's assessments that lack factual and legal bases. As to those items remaining, the Court finds that petitioner was sufficiently apprised of the factual and legal bases of the subject assessments as can be seen in the Details of Discrepancies, Audit Result/Final Assessment Notices, and the corresponding Schedules attached to the FLD.[7] Contrary to petitioner's claim, respondent indicated the source and the bases on how the amounts were arrived in the said assessments.

VAT assessments based on TPI

Petitioner contends that the difference between the amounts in its SLS and Philgear's TPI highlighted in the assailed Amended Decision, amounting to ₱546,607.75, is explained by the method of VAT recognition resulting in timing difference in its reporting. Further, with regard to the difference in the amount of ₱2,934,056.93 in relation to the purchases from Turf, petitioner points out that it appears to be an error on the side of the Turf and not on its part.

The Court, however, cannot give evidentiary weight to petitioner's explanations regarding the discrepancies in its sales to Philgear and purchases from Turf.

In its attempt to explain the discrepancies, petitioner submitted a GL together with its *Motion for Partial Reconsideration*. The GL along with other documents, however, constitute forgotten evidence, the admission of which was not allowed following the denial herein of petitioner's *Motion for Leave of Court to File and Admit Supplemental Judicial Affidavit with Supplemental Formal Offer of Evidence*. Consequently, the records remain devoid of competent evidence sufficient to reconcile the discrepancy of ₱546,607.75 between petitioner's SLS and Philgear's reported purchases, as

---

[7] Exhibit "P-6", Docket – Vol. II, pp. 634 to 643.

well as the input tax discrepancy of ₱352,086.83 certified by Turf. Thus, petitioner still failed to satisfactorily explain and substantiate the claimed discrepancies, and there exists no sufficient basis to disturb the findings and adjustments made by the Court in the assailed Amended Decision.

Despite the "good faith" or "honest mistake" in recording, the purchase from Maui is still unsupported.

Again, the Amended Decision upheld the disallowance of petitioner's input taxes of ₱5,891.32, which were not properly supported by VAT official receipts (ORs), as follows:

Exhibit No.	Registered Name	Input Tax	Remarks
"P-11-K-1"	**Maui Travel and Tours**	**₱ 1,607.14**	**OR issued by Creatif Foire Pro, Inc. for a different transaction**
"P-11-K-2"	Kapisanan ng mga Brodkaster ng Pilipinas	3,748.47	non-VAT OR
"P-11-K-14"	Shutter and Reel Photo and Video Services	535.71	non-VAT OR
	Total	**₱ 5,891.32**	

In its *Motion for Partial Reconsideration*, petitioner admitted that the disallowance of its purchases from *Kapisanan ng mga Brodkaster ng Pilipinas* (KBP) and Shutter and Reel Photo and Video Services (Shutter and Reel) in the aggregate amount of ₱4,284.18 (₱3,748.47 plus ₱535.71) is valid. Petitioner avers, however, that there was an honest/good faith mistake in encoding in the SLP the entry for Maui. The transaction should be for Creatif Fiore Pro Inc. (Creatif) with a VAT registered TIN 228-539-006.

To recall, respondent's assessment includes a breakdown of the disallowed input taxes claimed by petitioner on purchases from non-VAT registered and unregistered taxpayer, amounting to ₱522,708.17, as follows:

Registered Name	Taxable Purchase	Input Tax
Rollstar General Contractor	₱ 2,665,000.00	₱ 319,800.00
Poblador Bautista and Reyes	1,548,307.09	185,796.85
Sampaloc Refrigeration and Airconditioning Supply	93,500.00	11,220.00
Kapisanan ng mga Brodkaster ng Pilipinas	31,237.25	3,748.47
Maui Travel and Tours	13,392.83	1,607.14
Shutter and Reel Photo and Video Services	4,464.25	535.71
Total	**₱ 4,355,901.42**	**₱ 522,708.17**

In his *Report*, the Court-commissioned ICPA explains that he "traced the related VAT supporting document of the purchases from various suppliers based on the BIR assessment using the Company-submitted SLP," which revealed the following, viz.:[8]

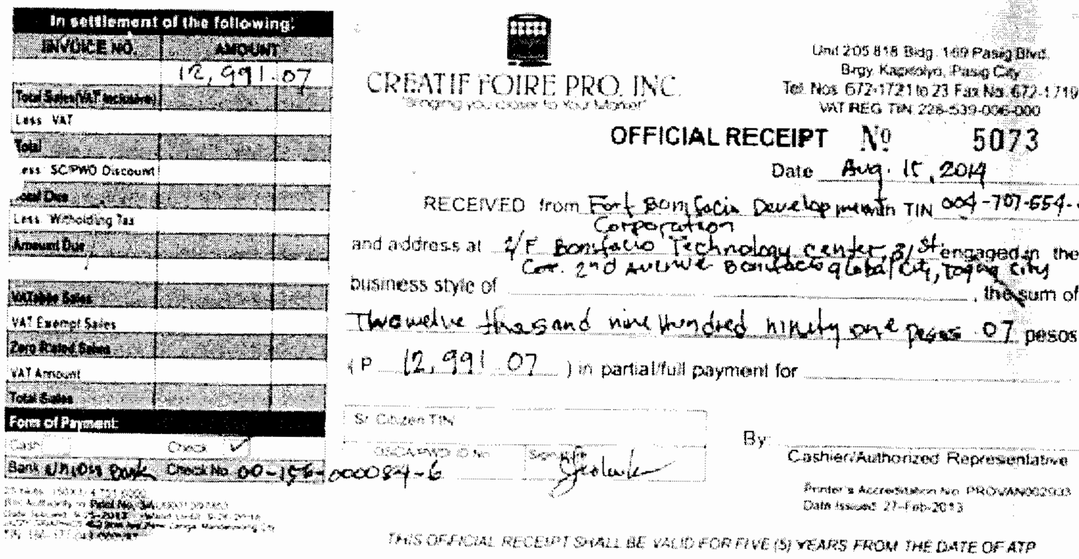
REFERENCE	VENDOR NAME	OR NUMBER	OR DATE*	OR AMOUNT	TAXABLE PURCHASE	VAT AMOUNT
"P-11-K-1"	CREATIF FOIRE PRO, INC.	5073	15 08 2014	₱ 15,000.00	₱ 13,392.86	₱ 1,607.14
"P-11-K-2"	Kapisanan ng mga Brodkaster ng Pilipinas	28955	01 07 2014	34,985.68	31,237.22	3,748.47
"P-11-K-3"	Mina B. Capitulo (Sampaloc Refrigeration & Airconditioning Supply)	1413	08 08 2014	104,720.00	93,500.00	11,220.00
"P-11-K-4"	Poblador Bautista & Reyes Law Offices	19192	17 10 2014	461,013.78	411,619.44	49,394.34
"P-11-K-5"	Poblador Bautista & Reyes Law Offices	18842	08 08 2014	875,913.32	782,066.00	93,847.92
"P-11-K-6"	Poblador Bautista & Reyes Law Offices	19710	30 01 2015	397,176.26	354,621.66	42,554.60
"P-11-K-7"	Rolando M. Legaspi (Rollstar General Contractor)	0035	25 07 2014	201,400.00	179,821.43	21,578.57
"P-11-K-8"	Rolando M. Legaspi (Rollstar General Contractor)	0038	05 09 2014	201,400.00	179,821.43	21,578.57
"P-11-K-9"	Rolando M. Legaspi (Rollstar General Contractor)	0039	23 09 2014	768,000.00	685,714.28	82,285.71
"P-11-K-10"	Rolando M. Legaspi (Rollstar General Contractor)	0040	24 10 2014	780,000.00	696,428.57	83,571.43
"P-11-K-11"	Rolando M. Legaspi (Rollstar General Contractor)	0753	05 12 2014	170,000.00	151,785.71	18,214.29
"P-11-K-12"	Rolando M. Legaspi (Rollstar General Contractor)	0752	05 12 2014	780,000.00	696,428.57	83,571.43
"P-11-K-13"	Rolando M. Legaspi (Rollstar General Contractor)	0754	19 12 2014	84,000.00	75,000.00	9,000.00
"P-11-K-14"	SHUTTER AND REEL PHOTO AND VIDEO SERVICE	00005	18 10 2014	5,000.00	4,464.29	535.71
Total				**₱4,878,609.04**	**₱4,355,901.46**	**₱522,708.18**

** Shown as day, month, year (dd mm yyyy).*

Here, while the Court notes that the VAT OR issued by Creatif has already been examined by the ICPA and marked as Exhibit "P-11-K-1", scrutiny of the said document, however, shows that the ICPA merely copied the amount in the SLP under the supplier name Maui, and the foregoing table does not reflect the actual amount of ₱12,991.07 indicated in the OR, as follows:

---

[8] Annex 4-2, Exhibit "P-12", USB (Exhibit "P-12-b"). See also Exhibit "P-12", Docket – Vol. I, pp. 484 to 485.



In settlement of the following:	
INVOICE NO.	AMOUNT
	12,991.07
Total Sales (VAT inclusive)	
Less: VAT	
Total	
Less: SC/PWD Discount	
Total Due	
Less: Withholding Tax	
Amount Due	
VATable Sales	
VAT Exempt Sales	
Zero Rated Sales	
VAT Amount	
Total Sales	
Form of Payment:	
Cash	Check ✓
Bank Union Bank	Check No. 00-156-000084-6

CREATIF FOIRE PRO. INC.
"Bringing you closer to Your Market"

Unit 205 818 Bldg. 169 Pasig Blvd.
Brgy. Kapitolyo, Pasig City
Tel. Nos. 672-1721 to 23 Fax No. 672-1719
VAT REG. TIN: 228-539-006-000

OFFICIAL RECEIPT № 5073

Date Aug. 15, 2014

RECEIVED from Fort Bonifacio Development Corporation TIN 004-707-654-000 and address at 8/F Bonifacio Technology Center 31st Cor. 2nd Avenue Bonifacio Global City, Taguig City engaged in the business style of ______, the sum of Twelve thousand nine hundred ninety one pesos 07 pesos (P 12,991.07) in partial/full payment for ______

Sr. Citizen TIN
OSCA/PWD ID No. Signature

By: ______
Cashier/Authorized Representative

Printer's Accreditation No. PROVAN002033
Date Issued: 27-Feb-2013

THIS OFFICIAL RECEIPT SHALL BE VALID FOR FIVE (5) YEARS FROM THE DATE OF ATP

Notably, the amount reflected in the subject OR does not clearly indicate whether it is VAT inclusive, and the amount of VAT is also not separately indicated in violation of the invoicing requirements set forth in Section 113(B)(2)(a) of the NIRC of 1997, as amended. What is clear, however, is that there were two distinct transactions, one each, for Maui and Creatif. In view of the foregoing findings, petitioner's purchase from Maui is evidently unsupported.

Hence, regardless of whether petitioner made an error in recording, the Court cannot consider the input tax on petitioner's purchase from Creatif as a replacement for the input tax on its purchase from Maui. Consequently, petitioner's input tax in the total amount of ₱5,891.32 shall remain disallowed.

<u>Petitioner's liability for surcharge, deficiency interest and delinquency interest</u>

Lastly, petitioner argues that it should not be liable for surcharge, deficiency interest as it was in good faith in the reporting and payment of VAT during the subject second half of TY 2014.

The Court is not convinced.

Good faith cannot be invoked in this case since deficiency interest is imposable on all internal revenue taxes and the simultaneous imposition of deficiency interest and delinquency interest is based on law. Perforce, Section 249 of NIRC of 1997, as amended, explicitly speaks of the imposition of civil interests which reads as follows:

> SEC. 249. *Interest.* –
>
> (A) *In General.* - There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment until the amount is fully paid.
>
> (B) ***Deficiency Interest*** - Any **deficiency in the tax due**, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof.
>
> (C) ***Delinquency Interest.*** - In case of **failure to pay**:
>
> (1) The amount of the tax due on any return to be filed, or
>
> (2) The amount of the tax due for which no return is required, or
>
> (3) **A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner**, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax. x x x. *(Emphases added)*

Relative thereto are Sections 3 and 4 of Revenue Regulations No. 21-18,[9] which provide for the definition of deficiency and delinquency interests, to wit:

> SECTION 3. *Deficiency Interest.* — Interest imposed on any deficiency tax due, which interest shall be assessed and collected from the date prescribed for its payment until: (a) full payment thereof, or (2) upon issuance of a notice and demand by the Commissioner or his authorized representative, whichever comes first.
>
> SECTION 4. *Delinquency Interest.* — Interest imposed on the failure to pay:
>
> (1) The amount of the tax due on any return to be filed; or
>
> (2) The amount of the tax due for which no return is required; or
>
> (3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner or his authorized representative until the amount is fully paid, which interest shall form part of the tax.

---

[9] Regulations Implementing Section 249 (Interest) of the National Internal Revenue Code (NIRC) of 1997, as amended under Section 75 of the Republic Act (RA) No. 10963 or the "Tax Reform for Acceleration and Inclusion (TRAIN Law)", September 14, 2018.

Based on the foregoing, the deficiency interest is computed from the date following the last day prescribed for the payment of the tax until the due date indicated in the notice and demand; whereas, deficiency interest from the day following the due date indicated in the notice and demand until September 30, 2017.

Deficiency interest is imposed upon any tax that is still due and unpaid to the government. Such interest is imposed by the fact that a portion of the tax imposed by law, which is the 'deficiency tax', is still withheld by the taxpayer. Otherwise stated, it is imposed on the amount short of the full tax due and should be paid to the government, which is the deficiency tax.

Delinquency interest, on the other hand, is the interest imposed on failure to pay (i) the amount of tax due on any return required to be filed, (ii) the amount of tax due for which no return is required, or, (iii) deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner. It is the interest upon the delay in the payment of the amount of tax due whether return is required to be filed or not, or delay in the payment of deficiency tax, surcharges and interests thereon.

As correctly held in the Amended Decision, petitioner is liable to pay deficiency interest at the rate of 20% per annum computed from the date prescribed for its payment until the full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended. With the effectivity of Republic Act (R.A.) No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law on January 1, 2018, however, the 20% deficiency interest shall be computed until December 31, 2017 only.

Similarly, petitioner is also liable to pay delinquency interest at the rate of 20% (until December 31, 2017) and 12% (starting January 1, 2018) per annum computed from October 1, 2017 until full payment thereof in accordance with Section 249(C) of the NIRC of 1997, as amended.

Furthermore, the delay in the payment of the deficiency tax within the time prescribed for its payment in the notice of assessment justifies the imposition of additional 25% surcharge in consonance with Section 248(A)(3) of the NIRC of 1997, as amended.

Worth noting is that the payment of surcharge is mandatory and the BIR is not vested with any authority to waive the collection thereof.[10] This is justified because the intention of the law is precisely to discourage delay in the payment of taxes due to the State and, in this sense, the surcharge and interest charged are not penal but compensatory in nature–they are compensation to the State for the delay in payment, or for the concomitant use of the funds by the taxpayer beyond the date he is supposed to have paid them to the State.[11] Hence, the imposition of the 25% surcharge is deemed proper.

Lastly, as to petitioner's request that the reimbursement be made by the respondent in cash and not in the form of a tax credit certificate, the same is, however, subject to applicable rules and procedures and related issuances by the BIR governing refund of garnished amounts.

Respondent's Motion for Partial Reconsideration

In his *Motion for Partial Reconsideration*, respondent argues that the Court erred in cancelling part of petitioner's deficiency VAT liability on the ground that some of the confirmation letters sent to TPI were not certified by TPI sources. Respondent states that the use of TPI finds legal support in Section 5(B) of the NIRC of 1997, as amended. As a matter of procedure, respondent explains that other sources of information may be utilized besides the book of accounts and other accounting records. Respondent maintains that he acted within his right in determining the tax deficiency of petitioner by using information obtained from third parties.

Moreover, respondent also contends that petitioner was sufficiently informed of the bases of the assessment as petitioner was able to intelligently refute the findings and explain its side. Lastly, respondent maintains that assessments are presumed correct and made in good faith and it is the taxpayer who has the duty to prove otherwise. Respondent, thus, submits that petitioner is liable for deficiency VAT in the total amount of ₱28,987,923.78.

On the other hand, petitioner contends that respondent's *Motion for Partial Reconsideration* does not contain substantial argument to warrant the reconsideration or modification of the Amended Decision. Petitioner further contends that the use of TPI must comply with the rules on evidence and due

---

10 *Philex Mining Corporation. vs. Commissioner of Internal Revenue, et al.*, G.R. No. 125704, August 28, 1998.

11 *Philippine Refining Company (now known as "Unilever Philippines [PRC], Inc.") vs. Court of Appeals, et al.*, G.R. No. 118794, May 8, 1996 citing *Republic vs. Philippine Bank of Commerce*, G.R. No. L-20951, July 31, 1970.

process and that the presumption of correctness of tax assessments does not apply to those assessments that are based on unverified, uncertain and hearsay data.

After due consideration, the Court finds respondent's *Motion for Partial Reconsideration* bereft of merit.

As a general rule, tax assessments are presumed correct and made in good faith. All presumptions are in favor of the correctness of a tax assessment. It is to be presumed, however, that such assessment was based on sufficient evidence. The *prima facie* correctness of a tax assessment does not apply upon proof that an assessment is utterly without foundation.

ACCORDINGLY, petitioner's **Omnibus Motion for: 1) Partial Reconsideration of the Amended Decision dated 13 February 2026; and 2) Leave of Court to File and Admit Supplemental Judicial Affidavit of Winnie C. Ramos with Supplemental Formal Offer of Evidence** and respondent's **Motion for Partial Reconsideration** are both **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

We Concur:

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice