REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

FESTO HOLDINGS, INC.,
Petitioner,

CTA EB No. 1189
(CTA Case No. 8334)

Present:

Del Rosario, *P.J.*
Castañeda, Jr.,
Bautista,
Uy,
Casanova,
Fabon-Victorino,
Mindaro-Grulla,
Cotangco-Manalastas,
Ringpis-Liban, *JJ.*

- versus –

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:

AUG 24 2015
11:51 a.m.

x---x

DECISION

CASTAÑEDA, JR., *J.:*

Before the Court *En Banc* is a Petition for Review[1] filed via registered mail by petitioner Festo Holdings, Inc. on July 9, 2014 pursuant to Section 3(b), Rule 8 of the Revised Rules of the Court of Tax Appeals. The Petition for Review seeks the reversal of the Decision dated March 12, 2014,[2] as well as the Resolution dated June 2, 2014[3] of the Third Division (Court in

[1] Court *En Banc's* Docket, pp. 11-20.
[2] *Ibid.*, pp. 21-37; *Annex "A"*.
[3] *Id.*, pp. 38-41; *Annex "B"*.

Division)[4] of this Court in CTA Case No. 8334, entitled *Festo Holdings, Inc. vs. Commissioner of Internal Revenue.*

The respective dispositive portions of the assailed Decision and Resolution are quoted hereunder:

Assailed Decision:

> "**WHEREFORE**, the Petition for Review filed by petitioner Festo Holdings, Inc. is hereby **DENIED**. Petitioner is hereby **ORDERED** to **PAY** the amount of Php315,031.75 as basic income tax deficiency for the taxable year 2008.
>
> In addition, petitioner shall be liable for:
>
> a) Deficiency interest at the rate of twenty percent (20%) per annum pursuant to Section 249(B) of the 1997 NIRC, as amended, computed from April 15, 2009, until full payment thereof; and
>
> b) Delinquency interest at the rate of twenty percent (20%) per annum pursuant to Sec. 249(C) of the 1997 NIRC, as amended, computed from September 12, 2011, until full payment thereof.
>
> **SO ORDERED**."

Assailed Resolution:

> "**WHEREFORE**, petitioner's "Motion for Reconsideration" is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**"

THE FACTS[5]

Petitioner Festo Holdings, Inc. is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal

[4] Composed of Associate Justice Lovell R. Bautista as Chairperson, Associate Justice Esperanza R. Fabon-Victorino and Associate Justice Ma. Belen M. Ringpis-Liban as members.
[5] Division Docket (CTA Case No. 8334), pp. 104-108.

office located at Km. 18 West Service Road, South Superhighway, 1700 Parañaque City, Metro Manila.

Respondent is the Commissioner of Internal Revenue (CIR), head of the Bureau of Internal Revenue (BIR), the government agency created by law and charged with, among other powers and duties, the responsibility of assessing and collecting all national internal revenue taxes. Respondent holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On May 12, 2010, petitioner received from respondent a Preliminary Assessment Notice (PAN) dated May 12, 2010 finding petitioner liable for deficiency income tax amounting to Php701,676.75, the details of which are as follows:

A. Deficiency Income Tax		
Taxable Income (Loss) per ITR		P 30,385.00
Add: Adjustment/Disallowance		
a. Disallowed interest expense		P 1,500,000.00
Adjusted Taxable Income		P 1,530,085.00
Basic Income Tax Due (35%)		P 535,529.75
Less: Tax Credits. Payments		
Creditable Tax withheld per BIR Form 2307	P 96,428.00	
Carry-over from previous year	P 124,070.00	
Total	P 220,498.00	
Less: Excess MCIT	(P 28,041.25)	
Unsupportable creditable withholding tax at source	(P 48,214.00)	
Amount Carry Forward to Succeeding year	(P 181,927.00)	
	(P 258,182.25)	(P 37,684.25)
Basic Deficiency Tax		P 573,214.00
Add: 20% Interest (4-16-09 to 5-30-10)		P 128,462.75
Total Amount Due		**P 701,676.75**

Attached to the PAN was the Details of Discrepancies likewise dated May 12, 2010.[6]

On May 27, 2010, petitioner through its counsel, Del Rosario Bagamasbad & Raboca (VERALAW) filed a letter of reconsideration dated May 17, 2010 with respondent against the aforementioned PAN in accordance with Section 228 of the 1997 Tax Code (1997 NIRC). The said letter specified the factual and legal bases of the protest and requested that the deficiency tax assessments be reconsidered and, accordingly, withdrawn and cancelled.

On September 23, 2010, petitioner received a Formal Assessment Notice (FAN) dated September 14, 2010 informing petitioner that the request for reconsideration filed on May 27, 2010 was denied. Respondent found petitioner liable for deficiency income tax for the taxable year 2008, as follows:

A. Deficiency Income Tax		
Taxable Income (Loss) per ITR		P 30,385.00
Add: Adjustment/Disallowance		
a. Disallowed interest expense		P 1,500,000.00
Adjusted Taxable Income		P 1,530,085.00
Basic Income Tax Due (35%)		P 535,529.75
Less: Tax Credits. Payments		
Creditable Tax withheld per BIR Form 2307	P 96,428.00	
Carry-over from previous year	P 124,070.00	
Total	P 220,498.00	
Less: Excess MCIT	(P 28,041.25)	
Unsupportable creditable withholding tax at source	(P 48,214.00)	
Amount Carry Forward to Succeeding year	(P 181,927.00)	
	(P 258,182.25)	(P 37,684.25)
Basic Deficiency Tax		P 573,214.00
Add: 20% Interest (4-16-09 to 5-30-10)		P 173,377.60
Total Amount Due		**P 746,591.60**

[6] *Ibid.*, pp. 21-22; *Annex "B"*.

Attached to the FAN were the Details of Discrepancies dated September 14, 2010[7] and Assessment Notice No. IT-TVN138373-08-10-0459 finding petitioner liable for deficiency income tax in the amount of Php746,591.60.

On October 14, 2010, petitioner through counsel VERALAW, filed its formal letter of protest in accordance with Section 228 of 1997 NIRC. The said letter specified the factual and legal bases of the protest and requested that the deficiency tax assessments be reconsidered and, accordingly, withdrawn and cancelled.

On January 5, 2011, petitioner received a letter from BIR, Revenue Region No. 8-Makati, Revenue District Office (RDO) No. 52-Parañaque, denying the October 14, 2010 protest letter with finality.

On February 4, 2011, petitioner filed a Petition for Review, docketed as CTA Case No. 8226, appealing the decision of Revenue District Officer of RDO No. 52-Parañaque. Said case was dismissed through a Resolution dated September 2, 2011 and received by [petitioner's] counsel on September 15, 2011.

On August 18, 2011, during the pendency of CTA Case No. 8226, petitioner received from the CIR a Final Decision on Disputed Assessment (FDDA) dated August 11, 2011 denying petitioner's protest with finality.

Attached to the said FDDA was an Amended Notice of Assessment dated August 11, 2011 assessing petitioner deficiency income tax amounting to Php779,013.70, to wit:

A. Deficiency Income Tax		
Taxable Income (Loss) per ITR		P 30,385.00
Add: Adjustment/Disallowance		
a. Disallowed interest expense		P 1,500,000.00
Adjusted Taxable Income		P 1,530,085.00
Basic Income Tax Due (35%)		P 535,529.75
Less: Tax Credits/Payments		
Creditable Tax withheld per BIR Form 2307	P 96,428.00	
Carry-over from previous year	P 124,070.00	

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[7] *Id.*, pp. 30-31; *Annex "E"*.

Total	P 220,498.00	
Less: Excess MCIT	(P 28,041.25)	
Amount Carry Forward to Succeeding year	(P 181,927.00)	
	(P 209,968.25)	(P 10,529.25)
Basic Deficiency Tax		P 525,000.00
Add: 20% Interest (4-16-09 to 9-16-11)		P 254,013.70
Total Amount Due		**P 779,013.70**

On September 16, 2011, petitioner filed Petition for Review, docketed as CTA Case No. 8334, praying for the cancellation and withdrawal of the deficiency income tax assessment issued against it for taxable year 2008.

In her Answer dated November 18, 2011, respondent averred the following special and affirmative defenses:

"3) Petitioner has thirty days from August 18, 2011 or until September 17, 2011 within which to file a Petition for Review.

4) Verification disclosed that that (sic) the interest expense claimed in the amount of P1,500,000.00 is unreasonable and unnecessary on the following grounds:

a. The company is primarily engage[d] in leasing activity. Hence, the business may continue on a going concern without incurring such optional expense. It is therefore indicative that the said loan is unreasonable and unnecessary and also expenses attached to said loan pursuant to Section 34(A) of the NIRC in relation to Section 36 of the Code.

b. The company's loan is coming from a related party. Hence, the interest not deductible therefore is disallowed as expense pursuant to Section 34(B) of the Code in relation to Section 36 of the same Code.

5) Reinvestigation reveals that the bare claim that only 40% of the capital stock of Festo Holdings, Inc. (FHI) is owned by Festo, Inc. is insufficient to negate the application of

Section 36 (B) of the Tax Code which states that "Except in cases of distribution in liquidation, between two corporations more than fifty percent (50%) in value of the outstanding stock of each of which is owned, directly or indirectly, by or for the same individual, if either one of such corporations, xxx a personal holding company or a foreign personal holding company."

6) The requirement that between two corporations more than fifty percent (50%) in value of the outstanding stock of each is owned directly or indirectly does not necessarily follow that the 50% threshold must appear only in the Articles of Incorporation/General Information Sheet. Otherwise, the purpose of the law will be defeated. Form must yield to substance in order to come up with correct appraisal of the case. The law qualifies ownership of stock either directly or indirectly to determine whether interest expense incurred originated from one corporation which exercises control over another corporation and hence, disallowed for tax purposes.

7) The interest expense amounting to P1,500,000.00 will still be disallowed for lack of support. FHI failed to provide the source document evidencing interest expense.

8) Verification disclosed that the final return filed resulted to excess MCIT [amounting to] P28,041.25. This was excluded in the computation of deficiency income tax because this shall be carried forward and credited against the normal corporate income tax for the three (3) succeeding taxable years pursuant to Section 27(E)(2) of the 1997 Tax Code.

9) Verification disclosed as per Income tax return that there was an excess income tax payment, hence, not be allowed as tax credit in the computation of deficiency income tax for the current year, considering that the excess amount shall be credited as against the income tax due for the taxable quarters/years immediately succeeding the taxable quarters/years in which the excess credit arose pursuant to Section 2.58.3 under Revenue Regulation[s] 2-98.

10) Assessment[s] are prima facie presumed correct and made in good faith. The taxpayer has the duty of proving

otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. *(Aban, Law of Basic Taxation in the Philippines, 1st Edition, p. 109).*

11) Finally, Petitioner should be reminded that taxes are important because it is the lifeblood of the government and so should be calculated without unnecessary hindrance. *(Commissioner vs. Algue, Inc. L-28896, 17 February 1988).* Taxes are enforced proportional contribution (sic) from persons and property levied by the state, thus, no one is considered entitled to recover that which he must give up to another – *Non videtur quisquam id capere quod ei necesse est alii restitutere.*"[8]

On March 15, 2012, the parties submitted their Joint Stipulation of Facts and Issues presenting the issues of the case, enumerated as follows:

1. Whether or not the petitioner may claim the interest expense arising from a loan obligation with Festo, Inc. as a deduction from petitioner's taxable income;

2. Whether or not the disallowance of said deduction by the respondent was proper;

3. Whether or not for taxable year 2008 petitioner is liable for deficiency internal revenue taxes inclusive of interest until September 16, 2011 in the amount of Php779,013.70; and

4. Whether or not the Formal Assessment Notice has become final and executory.[9]

On April 16, 2012, the Court in Division issued a Pre-Trial Order and, thereafter, trial ensued. On August 6, 2012, petitioner filed via registered mail its Formal Offer of Evidence, which was resolved by the Court in Division on September 24, 2012. On the other hand, respondent filed via registered mail her Formal Offer of Evidence on December 6, 2012, which was resolved by the Court in Division through its Resolution dated January 24, 2013.[10] In the same Resolution, the Court in Division ordered the parties to submit their respective Memoranda within 30 days from receipt thereof.

[8] *Id.*, pp. 58-60.
[9] *Id.*, pp. 94.
[10] *Id.*, pp. 325-326.

On March 25, 2013, respondent filed her Memorandum via registered mail while petitioner failed to file its Memorandum as per Records Verification Report dated April 4, 2013. Thus, on April 16, 2013, the Court in Division issued a Resolution[11] submitting the case for decision.

On March 12, 2014, the Court in Division issued the assailed Decision denying the Petition for Review and ordering petitioner to pay the amount of Php315,031.75 as deficiency income tax plus deficiency and delinquency interests, both at the rate of 20% per annum.

Aggrieved, petitioner filed a Motion for Reconsideration on April 15, 2014 via registered mail, which the Court in Division denied in the assailed Resolution.

On June 24, 2014, petitioner filed a Motion for Extension of Time to File Petition for Review praying for an additional period of 15 days from June 24, 2014 or until July 9, 2014 within which to file a Petition for Review with the Court *En Banc*. The Court *En Banc* granted the said Motion through a Minute Resolution dated June 26, 2014.[12] Subsequently, on July 9, 2014, petitioner filed via registered mail the instant Petition for Review.

In a Resolution dated August 7, 2014,[13] the Court *En Banc* directed respondent to file a Comment to the Petition for Review within 10 days from receipt thereof. Respondent, however, failed to file a Comment as per Records Verification Report dated October 28, 2014.[14] Thus, the Court *En Banc* through its Resolution dated January 6, 2015,[15] required the parties to submit their Memoranda within 30 days from receipt thereof.

On February 20, 2015, petitioner filed a Motion for Extension of Time to File Memorandum praying for an additional period of 30 days from February 21, 2015 or until March 23, 2015 within which to file its Memorandum. The Court *En Banc* granted the said Motion through a Minute Resolution dated February 25, 2015.

On March 23, 2015, petitioner filed its Memorandum via registered mail while respondent failed to submit her Memorandum as per Records

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[11] *Id.*, pp.345.
[12] Court *En Banc*'s Docket, pp. 10.
[13] *Ibid.*, pp. 61-62.
[14] *Id.*, pp. 63.
[15] *Id.*, pp. 64-66.

Verification Report dated June 2, 2015.[16] In its Resolution dated June 22, 2015, the Court *En Banc* submitted the case for decision.

THE ISSUES

Petitioner raises the following assignment of errors: [17]

I.

CONTRARY TO THE FINDINGS OF THE HONORABLE COURT, THE PETITIONER HAS PRESENTED SUFFICIENT EVIDENCE TO SHOW THAT THE INTEREST EXPENSE WAS LEGITIMATELY INCURRED BASED ON A CONTRACTUAL OBLIGATION BETWEEN PETITIONER AND FESTO, INC. AND MAY THUS BE PROPERLY CLAIMED AS A DEDUCTION FROM THE INCOME OF PETITIONER FESTO HOLDINGS, INC.; AND

II.

THE IMPOSITION BY THE HONORABLE COURT OF DELINQUENCY INTEREST INCOME IS MISPLACED BECAUSE THE PETITIONER TIMELY FILED A PROTEST AND ELEVATED THE MATTER TO THE HONORABLE COURT OF TAX APPEALS AND THUS THE ASSESSMENT HAS NOT BECOME FINAL AND EXECUTORY.

THE COURT'S RULING

The Petition for Review is devoid of merit.

Petitioner failed to adduce sufficient evidence to prove that the interest expense arising from the Loan and Mortgage Agreement was reasonably necessary to petitioner's trade or business.

A careful and thorough evaluation of the arguments related to the first assigned error set forth by petitioner in the instant Petition for Review

[16] *Id.*, pp. 135.
[17] *Id.*, pp. 12.

reveals that they are mere restatements of petitioner's arguments previously raised before the Court in Division. Notably, these matters had already been adequately discussed and passed upon by the Court in Division in the assailed Decision and Resolution. We thus adhere to the findings of the Court in Division that petitioner failed to provide sufficient evidence to support the claim that the interest expense arising from the Loan and Mortgage Agreement was reasonably necessary to petitioner's trade or business.

The Court *En Banc* quotes with approval the pertinent disquisition of the Court in Division on the foregoing matter, to wit:

> "Petitioner asserts that the deduction of the amount of Php1,500,000.00 as interest expense was valid on the grounds: (a) that all of the requisites provided under Section 34(B) of the 1997 NIRC, as amended, has been properly complied with; and (b) that the said deduction does not fall under those items considered as non-deductible under Section 36 of the 1997 NIRC, as amended.
>
> However, upon careful examination of the records of the case, it reveals that petitioner failed to provide any documentary evidence that would support its claim that the Loan and Mortgage Agreement with Festo, Inc. was related to its trade and (sic) business. Neither did Affidavit – Direct Testimony of Randy A. Senese, the Finance and Administrative Manager of Festo, Inc., reveal any specific details that the proceeds of the loan was indeed used in the business of the taxpayer, to wit:
>
> *'Q.13 Are you aware if Festo, Inc. and Festo Holdings, Inc. entered into any contract of (sic) agreement, if any, concerning the real property you identified?*
>
> ***A.13 Yes, Festo, Inc. and Festo Holdings, Inc. entered into a Loan and Mortgage Agreement dated May 12, 2003 whereby Festo Holdings, Inc. borrowed Fifteen Million Pesos (Php15,000,000.00) from Festo, Inc., with payment term set at twenty-five (25) years and interest at ten percent (10%) per annum, payable semi-annually. As security for the loan, Festo Holdings, Inc. offered the property covered by TCT 146674 by way of mortgage.***

> *Q.14 What is your proof, if any, that Festo, Inc. and Festo Holdings, Inc. entered into the contract or agreement you mentioned?*
>
> ***A.14 I am submitting herewith copy of the Loan and Mortgage Agreement between Festo, Inc. and Festo Holdings, Inc. already previously marked as Petitioner's Exhibit 'L'[.]***
>
> *Q.15 Are you aware if, in the year 2008, Festo Holdings, Inc. paid Festo, Inc. the interest stipulated in the Loan and Mortgage Agreement you identified above, if any?*
>
> ***A.15 Yes, Festo Holdings, Inc. paid a total of One Million Five Hundred Thousand Pesos (Php1,500,000.00) to Festo, Inc. as interest payment under the terms of the Loan and Mortgage Agreement.***
>
> *Q.16 What is your proof[,] if any, that the interest payment had been paid by Festo Holdings, Inc.[?]*
>
> ***A.16 I am submitting herewith the audited financial statements of Festo Holdings, Inc. for the taxable year 2008 (already pre-marked as Petitioner's Exhibit 'Q'), in particular, Note 5 (already pre-marked as Petitioner's Exhibit 'Q-1') showing the disclosure of the Loan and Mortgage Agreement between Festo Holdings, Inc. and Festo, Inc. as well as payment of the ten percent (10%) interest amounting to One Million Five Hundred Thousand Pesos (Php1,500,000.00).***
>
> *Q.17 Are you aware if in the year 2008, Festo, Inc. received the interest payment of Festo Holdings, Inc. as stipulated in the Loan and Mortgage Agreement you identified above, if any?*
>
> ***A1[7]. Yes, Festo, Inc. received a total of One Million Five Hundred Thousand Pesos (Php1,500,000.00) from Festo Holdings, Inc. as***

> ***payment under the terms of the Loan and Mortgage Agreement[.]***
>
> *Q.18 What is your proof, if any, that the interest payment had been received by Festo, Inc.[?]*
>
> ***A.18 I am submitting herewith the audited financial statements of Festo, Inc. for the taxable year 2008 (already pre-marked as Petitioner's Exhibit 'R'), in particular, Note 7 (already pre-marked as Petitioner's Exhibit 'R-1') and Note 14 (already pre-marked as Petitioner's Exhibit 'R-2') showing the disclosure of the Loan and Mortgage Agreement between Festo, Inc. and Festo Holdings, Inc. as well as receipt of the ten percent (10%) interest amounting to One Million Five Hundred Thousand Pesos (Php1,500,000.00)[.]***
>
> *Q.19 What is the position of Festo Holdings, Inc., if any, with respect to the respondent's disallowance of the interest expenses claimed for the taxable year 2008?*
>
> *A.19 Petitioner incurred interest expenses arising from the loan it obtained from Festo, Inc. based on the Loan and Mortgage Agreement executed by the parties dated May 12, 2003. It is a valid corporate obligation of the taxpayer and is based on an arm's length transaction. In accordance with Section 34(B) of the Tax Code, such interest expense is properly deductible from taxpayer's income xxx'*

It has been consistently held that exemption from taxation is not favoured and is never presumed, and is strictly construed against the taxpayer. Thus, he who claims a deduction must not only be able to point to the specific provision of the statute authorizing it but he must also be able to prove that he is entitled to it.

In this case, petitioner failed to comply with the first requirement of Section 34(B) of the 1997 NIRC, as amended, when it did not provide any necessary documentary evidence to support its claim that the loan was a reasonable necessity to its trade or business. Neither did petitioner's financial statements for 2008 and 2007 clearly indicate how it made use of the proceeds from the Loan and Mortgage Agreement. The mere testimony of Mr. Randy A. Senese that the said Loan and Mortgage Agreement was a valid corporate obligation, based on an arm's length transaction, is insufficient to prove that the transaction was actually related to the business.

Thus, the amount of Php1,500,000.00 as interest expense arising from the Loan and Mortgage Agreement cannot be deducted for income tax purposes."[18]

In its Petition for Review, petitioner alleges that it is a holding company and that it is engaged in leasing out property that it owns.[19] It further alleges that it needed additional funds to improve the property for lease and thus, it entered into a Loan Agreement with Festo, Inc.[20] However, nothing in the documentary or testimonial evidence presented by petitioner definitely shows that the loan proceeds was actually used for such purpose.

It is a well-settled rule that mere allegation is not evidence, and is not equivalent to proof.[21] Bare allegations, unsubstantiated by sufficient evidence, cannot be given credence. Accordingly, it cannot be used as basis for the court's decision.[22]

The imposition of delinquency interest is proper.

As regards the second assigned error, it is the considered view of the Court *En Banc* that the imposition of delinquency interest in the present case is proper. Section 249 (C)(3) of 1997 NIRC mandates the imposition of such interest in the event that the taxpayer is held liable for deficiency taxes. Section 249 (C)(3) of 1997 NIRC reads:

"SEC. 249. Interest –

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[18] *Id.*, pp. 30-33. Citations omitted.
[19] *Id.*, pp. 14.
[20] *Id.*
[21] *Hector C. Villanueva vs. Philippine Daily Inquirer, Inc. et. al.*, G.R. No. 164437, May 15, 2009, 588 SCRA 1, 11; *Social Security Commission and Social Security System vs. Teresa G. Favila*, G.R. No. 170195, March 28, 2011, 646 SCRA 462, 477; *ECE Realty and Development, Inc. vs. Rachel G. Mandap*, G.R. No. 196182, September 1, 2014, 734 SCRA 76, 84.
[22] *Rimbunan Hijau Group of Companies and Niugini Lumber Merchants Pty. Ltd. vs. Oriental Wood Processing Corporation*, G.R. No. 152228, September 23, 2005, 470 SCRA 650, 665.

(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.

x x x x x x x x x

(C) Delinquency Interest. – In case of failure to pay:

(1) The amount of the tax due on any return required 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." *(Emphasis and underscoring supplied)*

In *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*,[23] the Supreme Court ruled that payment of delinquency interest provided under Section 249 (C)(3) of 1997 NIRC is mandatory. As aptly held by the Court:

> "Based on established doctrine, these charges incident to delinquency are compensatory in nature and are imposed for the taxpayer's use of the funds at the time when the State should have control of said funds. **Collecting such charges is mandatory.** Therefore, the Decision of the Court of Appeals imposing a 20% delinquency interest over the assessment reduced by the CTA was justified and in accordance with Section 249 (c) (3) of the NIRC." *(Emphasis supplied)*

In view of the foregoing, the Court *En Banc* finds no cogent justification to disturb the findings and conclusions elucidated by the Court

[23] G.R. No. 137002, July 27, 2006, 496 SCRA 601, 620.

in Division in the assailed Decision and Resolution dated March 12, 2014 and June 2, 2014, respectively.

WHEREFORE, premises considered, petitioner Festo Holdings Inc.'s Petition for Review filed on July 9, 2014 is hereby **DENIED**. Accordingly, the Decision and Resolution dated March 12, 2014 and June 2, 2014, respectively, are hereby **AFFIRMED**.

SO ORDERED.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

LOVELL R. BAUTISTA
Associate Justice

ERLINDA P. UY
Associate Justice

CAESAR A. CASANOVA
Associate Justice

ESPERANZA R. FABON-VICTORINO
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

AMELIA R. COTANGCO-MANALASTAS
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the above Decision has been reached in consultation with the members of the Court *En Banc* before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice