REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

BANGKO SENTRAL NG PILIPINAS,
Respondent.

CTA EB NO. 3190
(CTA Case No. 10083)

Present:
RINGPIS-LIBAN, *P.J.,*
BACORRO-VILLENA,
MODESTO-SAN PEDRO,
REYES-FAJARDO,
CUI-DAVID,
FERRER-FLORES, *and*
ANGELES, *JJ.*

Promulgated:
JUL 15 2026

x- x

DECISION

RINGPIS-LIBAN, *P.J.:*

The Case

Before the Court is a Petition for Review praying for (a) the cancellation and setting aside of the Amended Decision[1] dated February 19, 2025 ("Assailed Amended Decision") of the Court of Tax Appeals ("CTA") First Division ("First Division") and Resolution[2] dated July 10, 2025 ("Assailed Resolution") of the CTA Special First Division, and (b) the issuance of a new decision dismissing for lack of merit the petition filed by Respondent with the Court *a quo.*

The Parties

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1 Promulgated by Associate Justice Catherine T. Manahan, with Presiding Justice Roman G. Del Rosario concurring and Associate Justice Marian Ivy F. Reyes-Fajardo reiterating her position in the original Decision dated February 11, 2022. Docket, pp. 565-583.

2 Promulgated by Associate Justice Catherine T. Manahan, with Presiding Justice Roman G. Del Rosario and Associate Justice Marian Ivy F. Reyes-Fajardo concurring. Docket, pp. 622-628.

Petitioner is the Commissioner of the Bureau of Internal Revenue ("BIR"), duly appointed to exercise the powers and perform the duties of his office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees, other charges, and penalties imposed in relation thereto, or other matters arising under the Tax Code.[3]

Respondent is a government instrumentality created by virtue of Republic Act ("R.A.") No. 7653 with principal office address at A. Mabini corner P. Ocampo Streets, Malate, Manila. It is registered with the BIR under Tax Identification Number (TIN) 000-354-790.[4]

The Facts

The Proceedings in the First Division

The facts as stipulated by the parties during the proceedings in the First Division are as follows:

> "On February 3, 2016, [respondent] and RD Realty Development Corporation executed a Deed of Absolute Sale involving the sale of a parcel of land located in General Santos City in the amount Php4,500,000.00.
>
> [Respondent] allegedly paid CGT on the aforesaid transaction in the amount of Php1,620,000.00.
>
> Sometime in May of 2017, the BIR issued an assessment requiring [respondent] to pay the amount of Php6,886,006.10 representing deficiency CGT with surcharge, interest and compromise penalty.
>
> On May 23, 2017 [respondent] paid the assessed amount of Php6,886,006.10 under protest.
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> On November 7, 2018, [respondent] filed with the BIR-Large Taxpayers Service (LTS), an administrative claim for refund arguing that the fair market value of the property is not Php10,650.00 per square meter but the lower amount of Php7,500.00 per square meter considering that the subject property falls under the classification 'Industrial-Interior Lots.'

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[3] Rollo (CTA EB No. 3190), Petition for Review, Parties, p. 11.

[4] Docket, Decision dated February 11, 2022, The Parties, p. 317.

> Due to the alleged inaction of [petitioner] on its claim for refund of CGT, [respondent] filed a Petition for Review with this Court on May 22, 2019."[5]

The Ruling of the First Division

On February 11, 2022, the First Division promulgated the original Decision dismissing the petition for lack of jurisdiction, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the Petition for Review is **DISMISSED** for lack of jurisdiction.
>
> **SO ORDERED.**"[6]

Aggrieved, Respondent filed a "Motion for Reconsideration (*Decision dated 11 February 2022*)"[7] on March 10, 2022, which the First Division denied in the Resolution dated August 18, 2022, to wit:

> "**WHEREFORE**, premises considered, petitioner's *Motion for Reconsideration (Decision dated 11 February 2022)* filed on March 10, 2022 is **DENIED** for lack of merit.
>
> Accordingly, the Decision of the court in the above-captioned case dated February 11, 2022 is hereby **AFFIRMED.**
>
> **SO ORDERED.**"[8]

The First Proceedings in the Court En Banc

On September 16, 2022, a "Petition for Review"[9] was filed with the CTA *En Banc*, entitled *Bangko Sentral ng Pilipinas v. Commissioner of Internal Revenue*. The case was docketed as CTA EB Case No. 2687.

On February 21, 2024, the Court *En Banc* issued a Decision[10] granting the "Petition for Review", the pertinent portions of which read:

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5 *Id.*, Decision dated February 11, 2022, The Facts, p. 318.
6 *Id.*, Decision dated February 11, 2022, p. 327.
7 *Id.*, pp. 339-355.
8 *Id.*, Resolution dated August 18, 2022, p. 373.
9 Rollo (CTA EB No. 2687), pp. 1-29.
10 *Id.*, pp. 166-189.

> "**WHEREFORE**, the Petition for Review is hereby **GRANTED**. This case is **REMANDED** to the Court in Division to resolve [respondent's] claim for refund on the merits with due and deliberate dispatch.
>
> **SO ORDERED**."

Since no motion for reconsideration or appeal of either party has been filed with the Supreme Court, an Entry of Judgment[11] was issued on June 25, 2024, stating that the Decision dated February 21, 2024 rendered in CTA EB No. 2687 has become final and executory and recorded in the Books of Entries of Judgments on March 22, 2024.

The Ruling of the First Division

In accordance with the decision of the Court *En Banc*, the case was remanded to the First Division to resolve respondent's claim for refund on the merits.

On February 19, 2025, the First Division promulgated the Assailed Amended Decision granting the petition, the dispositive portion of which reads:

> "**WHEREFORE**, in light of the foregoing considerations, the present Petition for Review is **GRANTED**.
>
> Accordingly, [petitioner] is **ORDERED TO REFUND** to [respondent] the amount of [Php]5,677,373.22, representing [respondent's] erroneously or illegally paid CGT, surcharge, and interest, paid [*sic*] for the sale of its parcel of land to RD Realty Development Corporation located in Barangay Calumpang, General Santos City.
>
> [Respondent] is **DIRECTED** to pay the additional filing fee of [Php]18,092.13 pursuant to the afore-quoted Section 2, Rule 141 of the Rules of Court.
>
> **SO ORDERED**."[12]

Aggrieved, petitioner filed a "Motion for Reconsideration Re: Amended Decision dated 19 February 2025"[13] on March 12, 2025, which the Special First Division denied in the Assailed Resolution, to wit:

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[11] *Id.*, pp. 209-210.
[12] Docket, Amended Decision dated February 19, 2025, p. 582.
[13] *Id.*, pp. 590-599.

> "**WHEREFORE**, premises considered, the Court finds no cogent reason to modify or reverse the assailed Amended Decision.
>
> Accordingly, [petitioner's] *Motion for Reconsideration Re: Amended Decision dated 19 February 2025* is **DENIED** for lack of merit.
>
> **SO ORDERED.**"[14]

The Second Proceedings in the Court of Tax Appeals En Banc

On July 28, 2025, petitioner filed a "Motion for Extension to File Petition for Review"[15] with the CTA *En Banc*, entitled *Commissioner of Internal Revenue v. Bangko Sentral ng Pilipinas*. The case was docketed as CTA EB Case No. 3190. The motion prayed for an additional period of fifteen (15) days or until August 14, 2025 within which to file the petition.

The same was granted in a Minute Resolution[16] dated July 29, 2025.

On August 12, 2025, petitioner filed the present "Petition for Review"[17].

On September 11, 2025, a Minute Resolution[18] was issued directing respondent to comment on the "Petition for Review" within ten (10) days from notice.

On September 23, 2025, respondent filed its "Comment"[19].

The Court then issued a Minute Resolution[20] on October 22, 2025 noting the "Comment" and submitting the instant case for decision.

Assignment of Errors

Petitioner raises the following grounds for its petition:

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[14] *Id.*, Resolution dated July 10, 2025, p. 627.
[15] Rollo (CTA EB No. 3190), pp. 1-6. Record shows that Petitioner received the July 10, 2025 Resolution on July 15, 2025; Docket, p. 621.
[16] Rollo (CTA EB No. 3190), pp. 8.
[17] *Id.*, pp. 9-24.
[18] *Id.*, p. 59.
[19] *Id.*, pp. 61-85.
[20] *Id.*, p. 86.

I.
With all due respect, the Honorable Court in Division erred in ruling that respondent filed the correct remedy on its claim.

II.
With all due respect, the Honorable Court in Division erred in ruling that respondent is entitled to the claim for refund.

III.
With all due respect, the Honorable Court in Division erred in ruling that respondent is not subject to surcharge and interest.[21]

The Arguments of the Parties

Petitioner submits that respondent failed to exhaust administrative remedies before elevating the case to the CTA. According to petitioner, respondent should have raised its contention on the value of the Fair Market Value ("FMV") as determined by petitioner to the Technical Committee on Real Property Valuation ("TCRPV") as per Revenue Memorandum Circular ("RMC") No. 27-2010 in relation to Department of Finance ("DOF") Department Order No. 6-2010.

Petitioner also contends that there was no erroneous payment of CGT. Respondent is required by law to pay the CGT, which is based on the FMV or zonal value, whichever is higher. In this case, the FMV as determined by the CIR is higher. Moreover, the land subject of the instant case is a second lot from the national highway with boundaries indicated in the face of the tax declaration as road. This means that the subject property is considered falling under the classification "along the road", and not an interior lot as suggested by respondent.

Additionally, petitioner asserts that the Court in Division incorrectly applied zonal values from a later issuance that was issued well after the date of the property sale.

Lastly, petitioner points out that the late payment of the correct taxes gave rise to deficiency tax, which is subject to interest and surcharge under Section 248 of the National Internal Revenue Code ("NIRC") of 1997, as amended.

On the other hand, respondent declares that the petition should be dismissed outright for failure to attach the duplicate original or certified true copy of the Amended Decision dated February 19, 2025 and the Resolution dated July

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[21] *Id.*, Petition for Review, Assignment of Error [*sic*], p. 15.

10, 2025 pursuant to Section 2, Rule 6 of the Revised Rules of the Court of Tax Appeals ("RRCTA").

Respondent claims that the petition should be dismissed since it is a mere rehash of arguments which have already been extensively passed upon by the Court *a quo*.

Moreover, respondent alleges that jurisprudence provides that a petition may be filed with the CTA when there is inaction by the CIR of a taxpayer's administrative claim.

Respondent likewise maintains that there is no cogent reason to disturb the factual findings of the Court *a quo* since its ruling is based on evidence submitted during the proceedings.

Finally, respondent avers that the Court *a quo* correctly ruled that it is entitled to refund of erroneously paid surcharge and interest on the CGT.

The Ruling of the Court

Timeliness of Petition

The Court in Division issued the Resolution denying Petitioner's "Motion for Reconsideration Re: Amended Decision dated 19 February 2025" on July 10, 2025. Petitioner received said Resolution on July 15, 2025.[22] Pursuant to Rule 4, Section 2(a)(1)[23] in relation to Rule 8, Section 3(b)[24] of the RRCTA[25], petitioner

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[22] Docket, p. 621.

[23] **Sec. 2.** *Cases within the jurisdiction of the Court en banc.* — The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

> (a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Divisions in the exercise of its exclusive appellate jurisdiction over:
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> xxx xxx xxx
>
> (1) Cases arising from administrative agencies – Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture; x x x

[24] **Sec. 3.** *Who may appeal; period to file petition.* — x x x

> (b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review. (Rules of Court, Rule 42, sec. 1a)

[25] A.M. No. 05-11-07-CTA, November 22, 2005.

had fifteen (15) days from date of receipt of the resolution or until July 30, 2025 within which to file his petition for review.

On July 28, 2025, petitioner filed a "Motion for Extension to File Petition for Review" requesting until August 14, 2025 within which to file the petition, which was granted in a Minute Resolution dated July 29, 2025.

On August 12, 2025, Petitioner timely filed the present "Petition for Review". Hence, the Court *En Banc* validly acquired jurisdiction.

We now proceed to the merits of the case.

At the outset, it must be emphasized that Petitioner presents no new argument to persuade Us that it has a meritorious case. In fact, the instant "Petition for Review" is a reproduction of the "Motion for Reconsideration Re: Amended Decision dated 19 February 2025"[26] filed by Petitioner on March 12, 2025 before the First Division, the arguments of which had been fully and exhaustively resolved in the Assailed Resolution.

Refund of erroneously or illegally collected taxes

The crux of the controversy is whether or not the Court *a quo* correctly ruled that respondent is entitled to a refund of its alleged erroneously paid CGT surcharge, and interest, for the sale of its parcel of land to RD Realty Development Corporation located in Barangay Calumpang, General Santos City, amounting to Php5,677,373.22.

Preliminarily, petitioner's assertion notwithstanding, there is no violation of the doctrine of exhaustion of administrative remedies. Neither DOF Department Order No. 6-2010 nor RMC No. 27-2010 requires prior recourse to the TCRPV before judicial action. These issuances merely establish an inter-agency technical review mechanism. Moreover, the TCRPV has no authority to resolve refund claims for internal revenue taxes, even if valuation issues are involved. At its core, the instant dispute concerns an allegedly erroneous payment of CGT arising from an incorrect FMV determination, jurisdiction over which belongs exclusively to the CTA under RA No. 1125, as amended.

The tax credit or refund of erroneously or illegally collected taxes by the BIR is governed by Sections 204(C) and 229 of the NIRC of 1997, as amended by R.A. No. 10963[27]. This was the applicable Tax Code then prevailing at the

[26] Docket, pp. 590-599.
[27] Also known as the Tax Reform for Acceleration and Inclusion (TRAIN) Law, December 19, 2017.

time when Petitioner's claim was filed, before the further amendment of the Code by R.A No. 11534[28] and R.A. No. 11976[29].

The provisions read as follows:

"SEC. 204. ***Authority of the Commissioner to Compromise, Abate and Refund or Credit Taxes.*** —

The Commissioner may —

xxx xxx xxx

(C) <u>Credit or refund taxes erroneously or illegally received</u> or penalties imposed without authority, refund the value of internal revenue stamps when they are returned in good condition by the purchaser, and, in his discretion, redeem or change unused stamps that have been rendered unfit for use and refund their value upon proof of destruction. **No credit or refund of taxes or penalties shall be allowed unless the taxpayer files in writing with the Commissioner a claim for credit or refund <u>within two (2) years after the payment of the tax or penalty</u>**: *Provided, however*, That a return filed showing an overpayment shall be considered as a written claim for credit or refund.

A Tax Credit Certificate validly issued under the provisions of this Code may be applied against any internal revenue tax, excluding withholding taxes, for which the taxpayer is directly liable. Any request for conversion into refund of unutilized tax credits may be allowed, subject to the provisions of Section 230 of this Code: *Provided*, That the original copy of the Tax Credit Certificate showing a creditable balance is surrendered to the appropriate revenue officer for verification and cancellation: *Provided, further*, That in no case shall a tax refund be given resulting from availment of incentives granted pursuant to special laws for which no actual payment was made.

The Commissioner shall submit to the Chairmen of the Committee on Ways and Means of both the Senate and House of Representatives, every six (6) months, a report on the exercise of his powers under this Section, stating therein the following facts and information, among others: names and addresses of taxpayers whose cases have been the subject of abatement or compromise;

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28 Also known as the Corporate Recovery and Tax Incentives for Enterprises Act or CREATE Law, March 26, 2021.

29 Also known as the Ease of Paying Taxes Act, January 05, 2024.

amount involved; amount compromised or abated; and reasons for the exercise of power: *Provided*, That the said report shall be presented to the Oversight Committee in Congress that shall be constituted to determine that said powers are reasonably exercised and that the Government is not unduly deprived of revenues."[30]

"SEC. 229. ***Recovery of Tax Erroneously or Illegally Collected.*** — <u>No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessively or in any manner wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner</u>; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.

In any case, no such suit or proceeding shall be filed after the expiration of <u>two (2) years from the date of payment</u> of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."[31]

Based on the foregoing provisions, erroneously or illegally assessed or collected taxes may be credited or refunded provided that:

1) the taxpayer files an administrative claim for refund with the BIR within two (2) years after the payment of the tax;
2) the filing of a judicial claim for refund is preceded by the filing of an administrative claim for refund;
3) the filing of a judicial claim for refund is also made within two (2) years after the payment of the tax; and,
4) the tax has been erroneously or illegally collected, or the penalty has been collected without authority, and/or any sum has been excessively, or in any manner, wrongfully collected.

Thus, for the judicial claim for refund to prosper, Petitioner must prove these four (4) requisites.

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30 *Emphasis and underscoring supplied.*
31 *Emphasis and underscoring supplied.*

In the case at bar, both Petitioner's administrative and judicial claims were filed within the two-year reglementary period. Moreover, the judicial claim was made after the filing of the administrative claim, as shown below:

	2-year prescriptive period		Administrative Claim	Judicial Claim
	Payment Date (START)	END		
CGT	May 23, 2017[32]	May 23, 2019	November 07, 2018[33]	May 22, 2019[34]

As such, Petitioner was able to prove the first three (3) requisites.

As for the fourth requisite, We now determine whether the Court *a quo* was correct in ruling that Respondent had erroneously paid CGT amounting to Php5,677,373.22.

Section 27(D)(5) in relation to Section 6(E)[35] of the NIRC of 1997, as amended, provides that sale of land is subject to six percent (6%) CGT, the tax base of which is the higher of the selling price or FMV. FMV, in turn, is the higher of the zonal value as determined by the CIR, and value per assessor's schedule, to wit:

> "**SEC. 27.** *Rates of Income Tax on Domestic Corporations.* –
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> xxx xxx xxx
>
> (D) Rates of Tax on Certain Passive Incomes. –
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> xxx xxx xxx
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> (5) Capital Gains Realized from the Sale, Exchange or Disposition of Lands and/or Buildings. - **A final tax of six percent (6%) is** hereby **imposed** on the gain presumed to have been realized **on the sale, exchange or disposition of lands and/or buildings which are not actually used in the business of a corporation and are treated as capital assets, based on the gross selling price or fair market value as determined in accordance**

[32] Docket, Exhibits "P-5", "P-6" and "P-7", pp. 160-162.
[33] *Id.*, Exhibit "P-10", pp. 167-169.
[34] *Id.*, pp. 10-28.
[35] Before the amendment by Republic Act (RA) No. 12001 or Real Property Valuation and Assessment Reform Act on June 13, 2024. Under Section 18 (a)(3) of RA No. 12001, the Commissioner of Internal Revenue shall use the Schedule of Market Values or the actual gross selling price in consideration, as stated in real property transaction documents, whichever is higher, in computing any internal revenue tax.

> **with Section 6(E)of this Code, whichever is higher**, of such lands and/or buildings."[36]

"**SEC. 6**. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.* -

xxx xxx xxx

> (E) Authority of the Commissioner to Prescribe Real Property Values. – The Commissioner is hereby authorized to divide the Philippines into different zones or areas and shall, upon mandatory consultation with competent appraisers both from the private and public sectors, and with prior notice to affected taxpayers, determine the fair market value of real properties located in each zone or area, subject to automatic adjustment once every three (3) years through rules and regulations issued by the Secretary of Finance based on the current Philippine valuation standards: *Provided*, That no adjustment in zonal valuation shall be valid unless published in a newspaper of general circulation in the province, city or municipality concerned, or in the absence thereof, shall be posted in the provincial capitol, city or municipal hall and in two (2) other conspicuous public places therein: *Provided, further*, That the basis of any valuation, including the records of consultations done, shall be public records open to the inquiry of any taxpayer. For purposes of computing any internal revenue tax, **the value of the property shall be, whichever is the higher** of:
>
> (1) the **fair market value as determined by the Commissioner**; or
>
> (2) the **fair market value as shown in the schedule of values of the Provincial and City Assessors**."[37]

As stated above, the tax base for the computation of CGT is the higher of the following values – selling price, zonal value (as determined by Petitioner), and assessed value (value per assessor's schedule). As the assessed value is typically lower than the zonal value, the comparison in this case is limited to the selling price and the zonal value.

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[36] *Emphasis and underscoring supplied.*

[37] *Emphasis and underscoring supplied.*

There is no dispute as to the selling price of the subject lot, stated in the Deed of Absolute Sale between the respondent and RD Realty Development Corporation at Php4,500,000.00.[38]

What is disputed is the accuracy of the zonal value computation made by the petitioner.

Zonal value must be correctly classified, in this case, industrial interior *vis-a-vis* along the road. Based on the evidence on record, greater probative weight is accorded to the evidence presented by respondent than to that of petitioner. Accordingly, We concur that the correct zonal value of the subject property—an industrial lot located in Barangay Calumpang, General Santos City—at the time of sale was Php4,725.00 per square meter, based on Exhibit "P-4"[39], a BIR certified zonal valuation schedule which the Court *a quo* found credible and uncontroverted, not Php10,650.00 per square meter as used by the petitioner, *viz.*:

> "While [respondent] presented and offered the document, which was marked as Exhibit 'P-2', containing the supposed zonal valuations for Barangay Calumpang, General Santos City, South Cotabato, the same is merely certified as a photocopy by a certain 'WALTER S. GARCIA,' without any indication as to what specific official capacity the latter is certifying, considering that the said document purportedly is a public document, and thus, to the mind of the Court, the same document is not credible to contain the facts therein stated. And even granting that this Court may rely on the said document, [respondent] has not established that the subject lot fell under the category of 'Industrial-Interior Lot,' instead of 'Industrial-Along the road.' The alleged Lot Plan prepared by Cuervo Appraisers, Inc. was never presented in evidence during the trial of this case, and thus, cannot constitute as a matter of fact. Basic is the rule that bare allegations, unsubstantiated by evidence, are not equivalent to proof, *i.e.*, mere allegations are not evidence.
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> xxx xxx xxx
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> Unlike Exhibit 'P-2', Exhibit 'P-4' was certified by Ms. Gina O. Villasoto, who is purportedly the Assistant Chief of the BIR's Assessment Performance Monitoring Division. It is noteworthy that [petitioner] did not object to, or dispute, the said BIR employee's official capacity to certify the said Exhibit 'P-4' as a 'CERTIFIED XEROX COPY'; neither did [petitioner] present or offer evidence to the contrary. Thus, this Court may conclude that Ms. Villasoto

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[38] *Id.*, Exhibit "P-12", pp. 178-181.

[39] *Id.*, p. 158.

had, in fact, the authority to certify the zonal valuations and other information stated in the same Exhibit 'P-4' and may rely thereon for the Court's conclusion.

Considering that Exhibit 'P-4' states that the zonal value for the industrial lots in Calumpang is [Php]4,725.00 per square meter (sqm) at the time when the subject sale by [respondent] to RD Realty Development Corporation was made, such zonal value should have been used in the imposition of the present CGT, instead of the zonal value of [Php]10,650.00 per sqm., as reflected in the BIR's computation sheet."[40]

Based on the above, the correct zonal value is Php42,525,000.00[41], which is higher than the selling price of Php4,500,000.00, and therefore the proper tax base for the CGT.

Applying the six percent (6%) CGT rate to the tax base of Php42,525,000.00, the correct CGT due is Php2,551,500.00.

As found by the Court *a quo*, Respondent paid in the instant case a total of Php8,506,006.10 as follows:

Initial CGT payment[42]		Php1,620,000.00
Additional CGT paid under protest[43]		
Additional CGT still due	4,131,000.00	
Surcharge	1,437,750.00	
Interest	1,267,256.10	
Compromise penalty	50,000.00	6,886,006.10
TOTAL		**Php8,506,006.10**

The next step is to determine the amount refundable to the respondent. Before doing so, it must first be ascertained whether the respondent is liable for surcharge, interest, and compromise penalty.

First, surcharge is imposed only in enumerated cases under Section 248[44] of the NIRC of 1997, as amended. Since none of these circumstances are present, the surcharge imposed is without legal basis.

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40 *Id.*, Amended Decision dated February 19, 2025, pp. 575-576.

41 Php4,725 × 9,000 square meters = Php42,525,000.00.

42 Docket, Exhibits "P-13" and "P-16", pp. 182 and 131.

43 *Id.*, Exhibit "P-5", p. 160.

44 SEC. 248. Civil Penalties. -

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty-five percent (25%) of the amount due, in the following cases:

Second, under Section 249[45] of the NIRC of 1997, as amended, interest applies only to the actual deficiency, counted from the date prescribed for payment. CGT must be paid within thirty (30) days from sale. Thus, interest must be computed from thirty (30) days after execution of the Absolute Deed of Sale until full payment.

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(1) Failure to file any return and pay the tax due thereon as required under the provisions of this Code or rules and regulations on the date prescribed; or

(2) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment; or

(3) Failure to pay the full or part of the amount of tax shown on any return required to be filed under the provisions of this Code or rules and regulations, or the full amount of tax due for which no return is required to be filed, on or before the date prescribed for its payment.

(B) In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case, any payment has been made on the basis of such return before the discovery of the falsity or fraud: Provided, That a substantial under-declaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute prima facie evidence of a false or fraudulent return: Provided, further, That failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, and a claim of deductions in an amount exceeding (30%) of actual deductions, shall render the taxpayer liable for substantial under-declaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

45 SEC. 249. Interest. -

(A) In General. - There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest for loans or forbearance of any money in the absence of an express stipulation as set by the Banko Sentral ng Pilipinas[212] from date prescribed for payment until the amount is fully paid: Provided, That in no case shall the deficiency and delinquency interest prescribed under Sections (B) and (C) hereof, be imposed simultaneously.[213]

(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, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.[213]

(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.2

(D) Interest on Extended Payment. - If any person required to pay the tax is qualified and elects to pay the tax on installment under the provisions of this Code, but fails to pay the tax or any installment hereof, or any part of such amount or installment on or before the date prescribed for its payment, or where the Commissioner has authorized an extension of time within which to pay a tax or a deficiency tax or any part thereof, there shall be assessed and collected interest at the rate hereinabove prescribed on the tax or deficiency tax or any part thereof unpaid from the date of notice and demand until it is paid.

As to the compromise penalty, it must be noted that petitioner did not dispute the same, and actually, the same is not part of the present claim.

From all the foregoing, petitioner is only liable for Php2,828,632.88 representing deficiency CGT inclusive of interest and compromise penalty, as computed below:

Correct CGT due	Php2,551,500.00
Add: Penalties	
Surcharge	-
Interest (Php931,500.00[46] x 20% x 445 days[47] / 365 days[48])	227,132.88
Compromise penalty	50,000.00
TOTAL	**Php2,828,632.88**

After deducting the amount properly due from the amount actually paid, the respondent is entitled to a refund of Php5,677,373.22[49].

ACCORDINGLY, premises considered, the instant "Petition for Review" is **DENIED**. The Amended Decision dated February 19, 2025 and Resolution dated July 10, 2025 issued by the Court of Tax Appeals First Division and Special First Division, respectively, are **AFFIRMED.**

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

WE CONCUR:

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

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[46] Php2,551,500.00 (correct CGT due) less Php1,620,000.00 (Initial payment made on January 14, 2016).

[47] Number of days counted from March 04, 2016 (the time the CGT is prescribed for payment on March 4, 2016, which is thirty (30) days from the date of execution of the Deed of Sale on February 03, 2016) until May 23, 2017 (date of full payment).

[48] Total number of days in a year.

[49] Php8,506,006.10 less Php2,828,632.88.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice