REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL SECOND DIVISION

BASF PHILIPPINES, INC., Petitioner,	**CTA CASE NO. 11071**
	Members:
- versus -	**RINGPIS-LIBAN,** *PJ & Chairperson,* **MODESTO-SAN PEDRO,** *and* **FERRER-FLORES,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: _______________ 1:25 pm

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RESOLUTION

RINGPIS-LIBAN, P.J.:

Submitted before this Court is petitioner's *Motion for Partial Reconsideration (of Decision promulgated on 21 October 2025)* posted on November 24, 2025, without respondent's comment per *Records Verification* dated February 25, 202*[6]*.

On October 21, 2025, the Court promulgated a *Decision*, which partially granted the *Petition for Review* by upholding with modifications respondent's deficiency income tax (IT), value-added tax (VAT), expanded withholding tax (EWT), and withholding tax on compensation (WTC) assessments against petitioner for taxable year 2017, the dispositive portion of which reads as follows:

> "**ACCORDINGLY**, in light of the foregoing considerations, the present *Petition for Review* is **PARTIALLY GRANTED**. The assessments for deficiency income tax, VAT, EWT and WTC, for taxable year 2017, are **UPHELD WITH MODIFICATIONS**.
>
> Petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱10,004,828.47** inclusive of surcharge and deficiency interest imposed under Sections 248(A)(3) and 249(B) of the NIRC of 1997, as amended, computed as follows:

	Income tax	VAT	EWT	WTC	Total
Basic Tax	**₱4,254,177.50**	**₱28,783.60**	**₱348,834.69**	**₱1,609,491.54**	**₱6,241,287.33**
Add: **25% Surcharge**	1,063,544.38	7,195.90	87,208.67	402,372.89	1,560,321.84
Add: **12% Deficiency Interest**					
Income tax: From Apr. 17, 2018[1] to Feb. 26, 2021 *[₱4,254,177.50 x 12% x 1047/365 days]*	1,464,369.48				1,464,369.48
VAT: From Jan. 26, 2018 to Feb. 26, 2021 *[₱28,783.60 x 12% x 1128/365 days]*		10,674.38			10,674.38
EWT: From Jan. 23, 2018[2] to Feb. 26, 2021 *[₱348,834.69 x 12% x 1131/365 days]*			129,709.16		129,709.16
WTC: From Jan. 23, 2018[3] to Feb. 26, 2021 *[₱1,609,491.54 x 12% x 1131/365 days]*				598,466.28	598,466.28
Total Amount Due - February 26, 2021[4]	**₱6,782,091.36**	**₱46,653.42**	**₱565,752.52**	**₱2,610,330.71**	**₱10,004,828.47**

Finally, petitioner is **ORDERED TO PAY** respondent *delinquency interest* at the rate of twelve percent (12%) per annum on the total unpaid deficiency taxes due ₱10,004,828.47 as of February 26, 2021, as determined above, or equivalent to ₱3,289.26 per day, computed from February 27, 2021 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by R.A. No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018.

SO ORDERED."

In its motion, petitioner prays for the partial modification of the Decision above. It argues that respondent failed to sufficiently inform petitioner of the law and the facts on which the assessment is made, based on the following grounds, *viz.*:

I. The doctrine laid down in *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*, applies and behooves respondent to state in writing the reason for rejecting petitioner's protest to the PAN failing which rendered the FLD null and void.

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1 April 15, 2018 fell on a Sunday.

2 Petitioner is an EFPS filer, hence, for December EWT/WTC Return, payment of the tax due is on January 20 of the following year; January 20, 2018 fell on a Saturday.

3 Ibid.

4 February 26, 2021 is the due date for payment shown in the *Assessment Notices* attached to the FLD, Exhibits "P-5-A" to "P-5-E", Docket – Vol. III, pp. 1056 to 1060.

II. Even assuming, but without admitting that the FLD is not void for lack of due process under *Ground I*, the IT, EWT and WTC assessments are: (a) void on account of respondent's failure to apprise petitioner of the factual basis of the assessments and/or (b) invalid for not being based on actual facts.

III. Assuming arguendo that the EWT and WTC assessments are not void based on *Grounds I and II*, one-half (1/2) of the EWT and WTC assessments corresponding to the months of January to June 2017, found in the Decision as barred by prescription, should be cancelled as it is impossible for petitioner to fully account for the alleged income payments not subjected to EWT and WTC as a direct result of respondent's raw and macro-level findings derived from a mere comparison of expense totals from the AFS/ITR and a single lump sum amount taken from the tax returns which prevented petitioner from proving the amounts prescribed.

IV. There is sufficient evidence that the deficiency EWT on 'rental' is attributable to the income payments made to Cyprus Logistics, Inc. subjected to 2% EWT.

V. There is sufficient evidence that the salaries and wages subject to WTC are not subject to withholding tax on compensation.

VI. Respondent's disallowance of accrued liability for accrued expenses as deductions from gross income is invalid because the disallowance is not based on actual facts. Respondent can only disallow accrued expenses claimed as deduction in the ITR but not the accrued expenses set up as liability in the AFS.

VII. Assuming *arguendo* that the disallowance of the accrued liability as tax deduction is valid, the computation of the remaining disallowed accrued expenses in the FDDA fails to inform petitioner of what constitutes the alleged unsubstantiated disallowance in violation of due process.

As to the first ground, petitioner argues that its right to due process was violated when respondent issued the *Formal Letter of Demand* (FLD) with attached *Details of Discrepancies* and *Assessment Notices* dated January 27, 2021,[5] without giving due consideration to the points raised in its protest letter[6] dated January 5, 2021. Petitioner adds that the FLD only provided a general, vague, and sweeping statement in response to petitioner's protest to the *Preliminary Assessment Notice* (PAN), as there is nothing in the FLD which explains how respondent took into consideration petitioner's arguments and its supporting schedules and attachments. As such, petitioner contends that the general and

[5] Exhibit "P-5" to "P-5-E", Docket – Vol. III, pp. 1047 to 1060.
[6] Exhibit "P-4", Docket – Vol. III, pp. 1044 to 1046

vague language provided in the FLD fails to meet the standard set out in the case of *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc., et seq.* (Avon).[7]

Petitioner reiterates that respondent was declared in default by the Court in its Resolution dated September 8, 2023,[8] and thus took no part in the proceedings and presented no evidence. Petitioner argues that respondent's failure to participate left the Court with no means to ascertain or verify the truth of respondent's assertions — a position consistent with the ruling in *Rafael Arsenio S. Dizon, in his capacity as Judicial Administrator of the Estate of the deceased Jose P. Fernandez v. Court of Tax Appeals, et al.*[9] Petitioner accordingly urges the Court to consider only the evidence on record, which consists solely of petitioner's own evidence, and to refrain from ruling in respondent's favor when respondent made no effort to substantiate its claims.

As to the second ground, petitioner argues that even assuming the Formal Letter of Demand (FLD) is not void for violation of due process, the assessments for Income Tax (IT), Expanded Withholding Tax (EWT), and Withholding Tax on Compensation (WTC) are nonetheless void for respondent's failure to set out the factual and legal bases of the deficiency findings with sufficient particularity. Petitioner contends that the assessments, as issued, did not provide it with enough detail to mount a reasonable and intelligent protest, and that mere notification of alleged tax liabilities — unaccompanied by verifiable supporting facts — violates its right to due process.

On the third ground, petitioner agrees with the Court's ruling that respondent's right to assess portions of the deficiency EWT and WTC corresponding to the months of January to June 2017 has already prescribed. It takes issue, however, with the Court's consequent holding that no deduction shall be made on account of those prescribed portions. Petitioner contends that denying the deduction imposes an undue burden on the taxpayer, particularly because respondent's assessments rested on raw, macro-level findings derived solely from a comparison of aggregate expense figures in the Audited Financial Statements (AFS) or Income Tax Return (ITR) against a single lump-sum amount from the tax returns — without any transaction-level substantiation that would allow petitioner to meaningfully account for the prescribed amounts.

On the fourth ground, petitioner argues that it sufficiently established that the deficiency EWT assessed under the category of "Rental" is attributable to income payments made to Cyrus Logistics, Inc. for warehouse storage services, which are properly subject to the two percent (2%) EWT rate, not five percent (5%). Petitioner points to the testimony of its witness, Mr. John Sylvester M. Duran, who confirmed that the discrepancy arose from these payments, as corroborated by the invoices admitted in evidence during trial.[10]

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7 G.R. Nos. 201398-99 and 201418-19, October 3, 2018.
8 Resolution Docket – Vol. I, pp. 484 to 485.
9 G.R. No. 140944, April 30, 2008.
10 *Judicial Affidavit of John Sylvester M. Duran* marked as Exhibit "P-34", Docket - Vol. II, pp. 509 to 537.

About the fifth ground, petitioner argues that the Court *erred* in concluding that petitioner failed to provide detailed schedule of the transactions recorded under each expense account to prove that the invoices provided in evidence are recorded under their account falling under Salaries and Wages. Petitioner avers that it was primarily due to respondent's failure to fully apprise it on the material details of its assessment on WTC related to Salaries and Wages. Petitioner submits that it should not be faulted that respondent's assessment lacks material information and premised solely on its extrapolation of the data in the AFS and related tax returns. Petitioner contends that it is respondent who is duty-bound to substantiate the findings of deficiency in his assessments.

As to the sixth ground, petitioner argues that respondent's disallowance of accrued liability for accrued expenses under Note 13 of petitioner's 2017 AFS, as deduction from gross income, is *invalid* because the disallowance is not based on facts. Petitioner insists that respondent can only disallow accrued expenses claimed as deduction in the ITR but not the accrued expenses set up as liability in the AFS. As such, petitioner asserts that respondent's reliance on the "Accrued Expenses" is misplaced as this account represents liabilities pertaining to past events, which are not necessarily expenses claimed by petitioner in computing its 2017 ITR.

Lastly, as to the seventh ground, petitioner argues that assuming that the disallowance of the accrued liability as tax deduction is valid, the computation of the remaining disallowed accrued expenses in the *Final Decision on Disputed Assessment*[11] (FDDA) dated November 22, 2022 still fails to inform petitioner of what constitutes the alleged unsubstantiated disallowance in violation of its right to due process. Thus, petitioner claims that it cannot fully account and substantiate the disallowed accrued expenses and had no recourse but to make an inference that the amount represents professional fees and submit proof thereof.

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

As to petitioner's *first* argument, it insists that its right to due process of law was violated when respondent disregarded several of the schedules and attachments it included with its letter protest to the PAN. For this reason, petitioner maintains that the doctrine laid down in the *Avon* case – that the Bureau of Internal Revenue (BIR) must consider the defenses and evidence submitted by the taxpayer in its decision – is applicable to the present case.

The Court does not agree.

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11 Exhibit "P-8", Docket – Vol. III, pp. 1080 to 1082.

As held in the assailed Decision, one requirement in the *Avon* case is that the decision-maker must consider the totality of evidence presented to decide the case. In this case however petitioner did not submit the documents stated as its attachments. Petitioner did not provide the evidence needed to resolve the factual issues to begin with–a requirement in the *Avon* case. A party who alleges a fact has the burden of proving it by a preponderance of evidence. It is incumbent upon the party claiming *affirmative* relief from the Court to convincingly prove its claim. Bare allegations unsubstantiated by evidence are not equivalent to proof under our Rules. In short, mere allegations are not evidence.[12] In this regard, the Court quotes in part its ruling as follows:

> "Notably, **petitioner did *not* submit in evidence the attachments referred to in its reply to the PAN**. Hence, the reply to the PAN *standing alone* are mere factual allegations not backed by any relevant documents to prove the same. In fact, a reading of the reply given by petitioner to address some of the items of assessment are *vague one-liner* or *single sentence statements* concerning the supposed facts. In view of the unsubstantiated factual claims, the assessments are deemed *uncontested or undisputed.* In which case, there was *no due process violation* when respondent retained these items in the FLD, and simply reiterated what were previously already indicated in the *Details of Discrepancies* attached to the PAN. One requirement in *Avon* is that the decision-maker must consider the totality of evidence presented to decide the case. But respondent cannot be expected to comply with this requirement if petitioner did not provide the evidence needed to resolve the factual issues to begin with.
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> Simply put, in this case, the BIR *cannot* be faulted if it merely reiterated the findings in the PAN. With nothing to consider after the receipt of the letter-reply, respondent is justified in merely restating its findings, without giving any reason for rejecting the petitioner's unsubstantiated refutations. Groundless, vague one-liners or single sentence statements which are not responsive to the issues raised in the PAN are *insufficient* to overturn the factual findings in the PAN using the *Avon* case. This should be a guiding rule for the Court, otherwise, an indiscriminate application of *Avon* will open an opportunity to overturn the presumption of correctness of assessments based on unfounded defenses.
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> Since petitioner failed to show that it refuted these items, petitioner's defenses were not duly proven or have remained unsubstantiated. To be fair, the Court *cannot* conclude that respondent had anything to consider in re-evaluating these assessments prior to issuing the FLD. Again, *Avon* is *not* on all-fours with the present case that will merit voiding the findings of respondent."[13]

Moreover, petitioner also belabors the fact that respondent was declared in default and contends that the Court assumed the cudgels for respondent by ruling in his favor when he was *not* even able to present any evidence in the present case.

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[12] *Emerlinda C. Manaloto, at al. v. Ismael Veloso III*, G.R. No. 171365, October 6, 2010.
[13] Decision pp. 15 to 16, Docket – Vol. IV, pp. 1439 to 1440.

Petitioner's argument is erroneous. Again, the mere fact that a defendant was declared in default does *not* automatically result in the grant of petitioner's prayers. To triumph, petitioner must still present the same quantum of evidence that would be required if the defendant were present. In the case of *Erlinda Gajudo et al., v. Traders Royal Bank,*[14] the Supreme Court held that a party that defaults is *not* deprived of its rights, except the right to be heard and to present evidence to the trial court. If the evidence presented does *not* support a judgment for the plaintiff, the complaint should be dismissed, even if the defendant may not have been heard or allowed to present any countervailing evidence. The Supreme Court further stresses the principle that parties must rely on the strength of their *own* evidence and *not upon the weakness of the defense*, regardless of whether the latter had no opportunity to present evidence because of an order of default, to wit:

> "As in other civil cases, **basic is the rule that the party making allegations has the burden of proving them by a preponderance of evidence. Moreover, parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent. This principle holds true, especially when the latter has had no opportunity to present evidence because of a default order.** Needless to say, the extent of the relief that may be granted can only be as much as has been alleged and proved with preponderant evidence required under Section 1 of Rule 133.
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> Regarding judgments by default, it was explained in *Pascua v. Florendo* that **complainants are not automatically entitled to the relief prayed for, once the defendants are declared in default. Favorable relief can be granted only after the court has ascertained that the relief is warranted by the evidence offered and the facts proven by the presenting party**. In *Pascua*, this Court ruled that ". . . it would be meaningless to require presentation of evidence if every time the other party is declared in default, a decision would automatically be rendered in favor of the non-defaulting party and exactly according to the tenor of his prayer. This is not contemplated by the Rules nor is it sanctioned by the due process clause."
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> The import of a judgment by default was further clarified in *Lim Tanhu v. Ramolete*. The following disquisition is most instructive:
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>> 'Unequivocal, in the literal sense, as these provisions [referring to the subject of default then under Rule 18 of the old Rules of Civil Procedure] are, they do not readily convey the full import of what they contemplate. To begin with, contrary to the immediate notion that can be drawn from their language, these provisions are not to be understood as meaning that default or the failure of the defendant to answer should 'be interpreted as an admission by the said defendant that the plaintiff's cause of action find support in the law or that plaintiff is entitled to the relief prayed for....
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> xxx xxx xxx

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[14] G.R. No. 151098, March 21, 2006.

> Being declared in default does not constitute a waiver of rights except that of being heard and of presenting evidence in the trial court.....
>
> In other words, a defaulted defendant is not actually thrown out of court. **While in a sense it may be said that by defaulting he leaves himself at the mercy of the court, the rules see to it that any judgment against him must be in accordance with law. The evidence to support the plaintiff's cause is, of course, presented in his absence, but the court is not supposed to admit that which is basically incompetent. <u>Although the defendant would not be in a position to object, elementary justice requires that only legal evidence should be considered against him. If the evidence presented should not be sufficient to justify a judgment for the plaintiff, the complaint must be dismissed</u>.** And if an unfavorable judgment should be justifiable, it cannot exceed in amount or be different in kind from what is prayed for in the complaint.'

> In sum, while petitioners were allowed to present evidence *ex parte* under Section 3 of Rule 9, they were not excused from establishing their claims for damages by the required quantum of proof under Section 1 of Rule 133. Stated differently, any advantage they may have gained from the *ex parte* presentation of evidence does not lower the degree of proof required. Clearly then, there is no incompatibility between the two rules." *(Emphases and underscoring added)*

Based on the foregoing, petitioner must still prove that it is not liable for the deficiency tax assessments and cannot simply rely on the fact that respondent was declared in default. Although respondent was *unable* to present his evidence, petitioner's own evidence – being the only evidence on record – was still *deemed insufficient* to warrant a favorable judgment.

About the *second* argument, petitioner states that the IT, EWT and WTC assessments are void for failure to provide substantive details on the factual bases of the said assessments. Petitioner avers that the deficiency assessments failed to provide material information on the alleged deficiencies and merely relied on presumption of correctness and extrapolations.

Once again, the burden of disputing presumptions rests on the party challenging them. Upon introduction of the assessment in evidence, a *prima facie* case of liability on the part of the taxpayer is made. If a taxpayer files a petition for review with this Court and assails the assessment, the *prima facie* presumption is that the assessment made by the BIR is correct, and that in preparing the same, the BIR personnel regularly performed their duties. However, the *prima facie* correctness of a tax assessment does not apply <u>*upon proof*</u> that an assessment is utterly without foundation.[15] As such, petitioner must overcome the presumption with its own evidence, otherwise the presumption must stand.

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[15] *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005.

As a corollary, the general rule is that tax assessments by tax examiners are *presumed* correct and made in good faith. The taxpayer has the duty to prove otherwise. 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. All presumptions are in favor of the correctness of tax assessments.[16]

As to petitioner's *third* argument, petitioner maintains that since the Court found that one-half (1/2) of the EWT and WTC assessments are barred by prescription, *i.e.*, January to June 2017, the same should be cancelled as it is impossible for petitioner to fully account for the alleged income payments *not* subjected to EWT and WTC.

The Court is *not* convinced.

To reiterate, although the assessments for deficiency EWT and WTC for the months of January to June 2017 had already prescribed, the burden lies with petitioner to show which portion of said deficiency taxes pertain to the prescribed months. Unfortunately, petitioner did *not* provide a breakdown of the amount per books and per filed tax returns so that the exact prescribed portion could have been determined.

In the same vein, the Court cannot just assume that the documents, such as billing invoices, submitted by petitioner refer to the unexpired portion since petitioner failed to submit the documents, for example subsidiary ledgers, detailing the amounts reported in the general ledger which can then be traced back to the submitted supporting documents. Petitioner only presented the *Monthly Remittance Return of Creditable Income Taxes Withheld (Expanded) (BIR Form No. 1601-E)*[17] and *Monthly Remittance Return of Income Taxes Withheld on Compensation (BIR Form No. 1601-C)*[18] covering the months of January 2017 to July 2017 to prove the **date of filing** of the subject returns.[19] Correspondingly, the entire EWT and WTC assessments shall be taken as a whole.

As to the *fourth* argument, petitioner submits that it was able to provide sufficient evidence to show that the deficiency EWT on "Rental" is attributable to the income payments made to Cyrus Logistics, Inc. and is properly subjected to 2% EWT, not 5% EWT. Petitioner contends that respondent failed to fully apprise petitioner of the material details and factual basis surrounding the said EWT assessment on "Rental", which was solely premised on the extrapolation of data in the AFS and related tax returns. As such, petitioner cannot account

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16 *Commissioner of Internal Revenue v. Bank of Philippine Islands*, G.R. No. 134062, April 17, 2007.
17 Exhibits "P-32" to "P-32-F", Docket – Vol. III, pp. 1351 to 1364.
18 Exhibits "P-33" to "P-33-F", Docket – Vol. III, pp. 1365 to 1378.
19 Purpose, *Formal Offer of Evidence*, Docket – Vol. III, pp. 980 to 982.

for the peso-for-peso value of the disallowed expense related to income tax/income payment allegedly not subjected to EWT.

The Court finds the argument *untenable*.

Notably, the ₱6,976,693.80 disallowed expenses arose from the non-withholding of tax on rentals made by petitioner to its suppliers. As categorically stated in Schedule 2 of the *Details of Discrepancies* per the FDDA, respondent directly compared the amounts of income payments subject to withholding tax claimed per ITR/AFS as against the filed withholding tax returns (BIR Form No. 1601-E).[20] Petitioner was indeed informed of the factual basis of the assessment considering that it is petitioner who reported the amounts stated in the ITR/AFS and withholding tax returns to which respondent obtained its computation of the assessment. A careful review shows that the details indicated therein are *sufficient* to inform petitioner of the factual basis of the assessment issued.

To recall, the billing invoices supporting the fees paid by petitioner to supplier *Cyrus Logistics, Inc.* amounted to ₱6,994,471.17 (exclusive of VAT), as follows:

Billing Invoice No.	Billing Invoice Date	Amount	VAT	Total	Exhibit No.
40461	Dec. 09, 2016	₱480,095.07	₱57,611.41	₱537,706.48	"P-11"
40586	Jan. 12, 2017	478,667.60	58,878.17	537,545.77	"P-11-A"
40832	Feb. 07, 2017	411,758.36	49,411.00	461,169.36	"P-11-B"
40843	Feb. 09, 2017	57,792.00	6,935.04	64,727.04	"P-11-C"
40950	Mar. 10, 2017	352,273.54	42,272.82	394,546.36	"P-11-D"
41090	Apr. 08, 2017	415,766.50	49,891.98	465,658.48	"P-11-E"
41262	May 09, 2017	453,926.31	54,471.16	508,397.47	"P-11-F"
41475	June 08, 2017	423,529.38	50,823.53	474,352.91	"P-11-G"
41659	July 13, 2017	417,635.80	50,116.30	467,752.10	"P-11-H"
41817	Aug. 09, 2017	478,423.42	57,410.81	535,834.23	"P-11-I"
42013	Aug. 09, 2017	168,070.19	20,168.42	188,238.61	"P-11-J"
42011	Aug. 09, 2017	432,641.49	51,916.98	484,558.47	"P-11-K"
42014	Sept.07, 2017	361,380.05	43,365.61	404,745.66	"P-11-L"
42016	Sept. 07, 2017	189,368.16	22,724.18	212,092.34	"P-11-M"
42173	Sept. 30, 2017	427,301.04	51,276.12	478,577.16	"P-11-N"
42175	Sept. 30, 2017	196,922.40	23,630.69	220,553.09	"P-11-O"
42379	Oct.31, 2017	160,609.80	19,273.18	179,882.98	"P-11-P"
42378	Oct. 31, 2017	488,856.81	58,662.82	547,519.63	"P-11-Q"
42634	Nov. 30, 2017	132,543.60	15,905.23	148,448.83	"P-11-R"
42633	Nov. 30, 2017	334,956.75	40,194.81	375,151.56	"P-11-S"
43031	Dec. 31, 2017	131,952.90	15,834.35	147,787.25	"P-11-T"
	TOTAL	**₱6,994,471.17**	**₱840,774.61**	**₱7,835,245.78**	

[20] Exhibit "P-2", Docket – Vol. III, p. 1016.

There is an unaccounted variance between the sum of *Billing Invoices* submitted amounting to ₱6,994,471.17 (exclusive of VAT) which were allegedly subjected by petitioner at 2% EWT, *vis-à-vis* the disallowed expenses amounting to ₱6,976,693.80 which were assessed by respondent at 5% EWT.

Moreover, based on petitioner's *Alphabetical List of Payees from whom Taxes were Withheld* for the taxable year 2017, the income payments made by petitioner to supplier *Cyrus Logistics, Inc.* amounted to ₱22,178,797.30, with Alphanumeric Tax Codes WC160, WC100 and WC140, subjected to 2%, 5% and 10% EWT, respectively, shown below as follows:[21]

ATC	Tax Base	Rate	EWT	Month
WC160	₱437,371.50	2%	₱8,747.43	January
WC160	1,499,358.00	2%	29,987.16	February
WC160	701,613.00	2%	14,032.26	March
WC160	869,526.50	2%	17,390.53	April
WC160	2,081,620.00	2%	41,632.40	June
WC160	2,204,645.50	2%	44,092.91	July
WC160	446,503.50	2%	8,930.07	August
WC160	1,422,448.50	2%	28,448.97	September
WC160	3,572,018.50	2%	71,440.37	October
WC160	1,451,910.00	2%	29,038.20	November
WC160	1,674,417.50	2%	33,488.35	December
Sub-Total_WC160[22]	**₱16,361,432.50**		**₱327,228.65**	
WC100	₱106,291.40	5%	₱5,314.57	February
Sub-Total_WC100[23]	**₱106,291.40**		**₱5,314.57**	
WC140	52,648.00	10%	5,264.80	January
WC140	619,658.80	10%	61,965.88	February
WC140	506,211.60	10%	50,621.16	March
WC140	288,344.00	10%	28,834.40	April
WC140	105,960.00	10%	10,596.00	May
WC140	388,312.00	10%	38,831.20	June
WC140	701,003.10	10%	70,100.31	July
WC140	413,945.90	10%	41,394.59	August
WC140	441,160.00	10%	44,116.00	September
WC140	941,280.00	10%	94,128.00	October
WC140	679,080.00	10%	67,908.00	November
WC140	573,470.00	10%	57,347.00	December
Sub-Total_WC140[24]	**₱5,711,073.40**		**₱571,107.34**	
TOTAL	**₱22,178,797.30**		**₱903,650.56**	

Based on the preceding tables, the however Court cannot ascertain whether the income payments to *Cyrus Logistics, Inc.*, as supported by billing

21 Exhibit "P-12", Docket – Vol. III, pp. 1223 and 1231 to 1233.
22 Nature of income payment for ATC WC160 is EWT- Income payments made by top 10,000 private corporations to their local/resident supplier of services.
23 Nature of income payment for ATC WC100 is EWT- rentals: real/personal properties, poles, satellites & transmission facilities, billboards.
24 Nature of income payment for ATC WC140 is EWT- gross commission or service fees of custom, insurance, stock, real estate, immigration & commercial brokers & fees of agents of professional entertainers.

invoices in the total amount of ₱6,994,471.17 (exclusive of VAT), are indeed included in the total amount of ₱22,178,797.30 which were subjected by petitioner to varying withholding tax rates of 2%, 5% and 10%.

Likewise, while "Warehouse Storage Services" per petitioner's billing invoices are subject to 2% EWT, petitioner nonetheless failed to prove that the billing invoices supporting the fees it paid to supplier *Cyrus Logistics, Inc.* in the total amount of ₱6,994,471.17 are included in the ₱7,082,985.20[25] warehouse storage services booked as rental expense per petitioner's *Rental Expense Reconciliation.*

Let it be stressed that all the amounts considered in the determination of this part were all obtained from the records provided by petitioner. Hence, it is petitioner who has the burden of proving the veracity of its records and that the same are all in order. Having failed to discharge the burden of proving that the disallowed expenses due to non-withholding of ₱6,976,693.80 were properly subjected to EWT and contest the rate applied by respondent in the assessment, the assessed deficiency EWT of ₱348,834.69 shall be sustained. Consequently, the disallowance of the corresponding income payments of ₱6,976,693.80 shall likewise be sustained.

As to the *fifth* argument, petitioner asserts that respondent failed to fully apprise it on the material details of the assessment on WTC related to Salaries and Wages since it was premised solely on its extrapolation of the data in the AFS and related tax returns. Petitioner further clarifies that it already explained through the Judicial Affidavit of Mr. Duran that the amounts assessed as deficiency WTC are not in the nature of compensation subject to WTC, but are business expenses related to general personnel welfare and development and paid to third party suppliers, not salaries and wages paid to its employees.

Again, the assessment on salaries and wages not subjected to WTC in the amount of ₱6,123,875.22 as per the FDDA, was computed as follows:[26]

Schedule 3

Total Salaries and Wages per ITR/AFS		
Salaries and Allowances	₱70,886,263.00	
Direct Charges-Salaries, Wages and Benefits	30,154,081.00	₱101,040,344.00
Total Compensation per 1601-C		79,230,077.54
Unadjusted Disallowed Salaries and Wages due to Non-Withholding		₱ 21,810,266.46
Less: Retirement Provision	₱ 4,958,190.00	
Net Past Service Cost	5,652,545.00	
Medical Insurance	5,075,656.24	15,686,391.24
Disallowed Salaries and Wages due to Non-Withholding		**₱6,123,875.22**

25 Exhibit "P-13", Docket – Vol. III, p. 1234; Part of the total amount of ₱37,964,739.00 Rentals/Rent Expense claimed by petitioner per ITR/AFS.

26 *Details of Discrepancies,* Exhibit "P-2", Docket – Vol. III, p. 1017.

In its *Memorandum*[27] filed on October 9, 2024, petitioner claims that the disallowed salaries and wages include income payments not subject to WTC, listed as follows:

Particulars	**Amount**
Medical Expenses	₱691,042.13
Medical Expenses-Check Ups	518,139.73
Employee Leisure Activities	91,429.06
Recruitment & Interview Process	1,110,615.08
Expert Workshops Events Training	3,623,765.05
Employee Christmas Gifts	11,333.01
TOTAL	**₱6,046,324.06**

Petitioner submitted documents such as invoices and billing statements, pertaining to the line items above amounting to ₱6,046,324.06. However, it must be reiterated that the total amount per invoices submitted *versus* the amount per expenses listed by petitioner do *not* tally. Petitioner did not also provide any explanation as to the unaccounted difference between the Disallowed Salaries and Wages due to Non-Withholding amounting to ₱6,123,875.22 *vis-à-vis* the line items amounting to ₱6,046,324.06 *vis-à-vis* the total amount per invoices/billing statements submitted by petitioner.

Furthermore, the *General and Subsidiary Ledgers of Salaries and Wages* were also not submitted by petitioner. Thus, despite of the submission of the invoices and billing statements, it could not be ascertained whether the transactions per invoices and billing statements submitted were recorded under the account Salaries and Wages. The Court cannot simply assume that the invoices and billing statements submitted are included in the expenses claimed by petitioner without proper tracing of the supporting documents to the schedule or general ledger. Similarly, the Court cannot just rely on the statement in the *Judicial Affidavit* that the variances are business expenses related to general personal welfare and development and paid to third party suppliers without any corroborating evidence.

As to the *sixth* and *seventh* arguments, petitioner claims that respondent's disallowance of accrued liability for accrued expenses as deduction from gross income is *invalid* because the disallowance is not based on facts. Petitioner further submits that respondent can only disallow accrued expenses claimed as deduction in the ITR but not the accrued expenses set up as liability in the AFS.

Moreover, petitioner also argues that assuming that the disallowance of the accrued liability as deduction is valid, the computation of the remaining disallowed accrued expenses in the FDDA fails to inform petitioner of what constitutes the alleged unsubstantiated disallowance in violation of its right to due process.

[27] Docket – Vol. III, pp. 1387 to 1418.

To recap, the disallowed accrued expenses of ₱1,952,010.79 as per the FDDA are computed as follows:[28]

Schedule 1		
Note 13 of AFS		
Travel and External Services		₱22,849,276.00
Professional Fees		3,764,312.00
Disallowed Accrued Expenses		₱26,613,588.00
Less: Adjustments per Investigation		
GCCC	₱ 1,460,572.53	
Suppliers	22,419,104.68	
Professional Fees	781,900.00	24,661,577.21
Disallowed Accrued Expenses		**₱1,952,010.79**

Petitioner contends that it was unclear as to how respondent arrived at such assessment since the same *cannot* be traced to Note 13 of the AFS.

The Court finds no merit in petitioner's contention.

As per Note 13 of the AFS, accrued expenses consisted of the following items:[29]

	2017	**2016**
Salary, wages and other employment benefits	₱14,175,755.00	₱15,837,873.00
Commissions, rebates and discounts	30,515,282.00	17,665,222.00
Travel and external services	***22,849,276.00***	10,437,954.00
Professional Fees	***3,764,302.00***	3,883,423.00
Regional allocated costs	3,544,500.00	3,544,500.00
Employee expenses	2,168,088.00	1,632,232.00
Rent	1,446,085.00	1,558,065.00
Utilities	1,175,759.00	719,943.00
Interest	738,556.00	1,483,885.00
Research costs	457,456.00	563,867.00
Others	366,544.00	2,575,301.00
	₱81,201,603.00	**₱59,902,265.00**

Incidentally, the Court already considered the accrued expenses pertaining to professional fees which are supported by billing invoices in the total amount of ₱871,989.04. The Court further agrees that invoices that are not yet billed until 2018 are mere provisions and thus not deductible for income tax purposes. Nonetheless, the Court notes that petitioner did not present its 2017 Annual ITR as evidence. Hence, the Court could not ascertain whether the disallowed accrued expenses were not actually claimed as deduction in its 2017 Annual ITR.

28 *Details of Discrepancies,* Exhibit "P-2", Docket – Vol. III, pp. 1015 to 1016.
29 Exhibit "P-9", Docket – Vol. III, p. 1177.

In view of the foregoing and there being no *new matter* or substantial issue raised by petitioner in its motion, the Court finds no compelling reason to reverse or modify the conclusions reached in the Decision promulgated on October 21, 2025.

WHEREFORE, premises considered, petitioner's *Motion for Partial Reconsideration (of Decision promulgated on 21 October 2025)* is **DENIED** for lack of merit.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice