FORMER SECOND DIVISION

TAKENAKA CORPORATION PHILIPPINE BRANCH, Petitioner,	**C.T.A. CASE NO. 7701**
	Members:
- versus -	**CASTAÑEDA, JR.,** *Chairperson* **UY,** *and* **PALANCA-ENRIQUEZ,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	**Promulgated:** OCT 0 4 2010 1:30 p.m.

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DECISION

UY, J.:

In this Petition for Review filed on October 31, 2007, petitioner, Takenaka Corporation Philippine Branch, prays that, after due notice and hearing, this Court render judgment finding petitioner not liable for the total amount of ₱ 761,189.81, representing alleged deficiency expanded withholding taxes and further ordering respondent, Commissioner of Internal Revenue, to cancel and terminate the deficiency tax assessment for taxable year 2003 issued against petitioner.

THE FACTS

Petitioner is a foreign corporation organized and existing under the laws of Japan, duly licensed to transact business in the Philippines, with principal office address at 18th Floor, Tower II Enterprise Center, Ayala Avenue, Makati City.[1] It is registered with the Bureau of Internal Revenue (BIR) as an income tax and value-added tax taxpayer,[2] with Taxpayer Identification No. 005-301-571-000.[3]

Respondent is the duly appointed Commissioner of the Bureau of Internal Revenue, vested by law with the authority to decide disputed assessment and to enforce the provisions of the National Internal Revenue Code (NIRC) and other tax laws, with office address at the BIR National Office Building, Diliman, Quezon City.[4]

On April 15, 2004, petitioner filed its original Income Tax Return for taxable year 2003, and on October 7, 2004, its final amended Income Tax Return.[5]

A Preliminary Assessment Notice (PAN), together with the Details of Discrepancies dated December 5, 2006 was received by petitioner on December 22, 2006 representing deficiency income tax and expanding withholding tax, in the amounts of ₱ 169,650,228.93 and ₱ 752,921.59, respectively, for taxable year 2003.[6] On January 5, 2007, petitioner, through its tax counsel, wrote respondent a letter which: (a) acknowledged receipt of the PAN on December 22, 2006; (b) recognized the fact that the last day given by the BIR for filing the Reply to the PAN fell on a Saturday, January 6, 2007, thus the same may be done on the next working day which is Monday, January 9, 2007; and (c) requested for an extension of time of fifteen (15) days to file its Reply to the PAN in view of the fact

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[1] Par. 1, Facts Admitted, Joint Stipulation of Facts and Issues (JSFI), Docket, p. 227.
[2] Par. 3, Facts Admitted, JSFI, Docket, p. 227.
[3] Exhibit "A".
[4] Par. 2, Facts Admitted, JSFI, Docket, p. 227.
[5] Par. 4, Facts Admitted, JSFI, Docket, p. 228.
[6] Par. 5, Facts Admitted, JSFI, Docket, p. 228.

that the PAN was received during the Christmas holiday season, resulting in insufficiency of time to study and evaluate the said PAN.[7]

On January 8, 2007, petitioner filed a protest letter to the above-mentioned PAN,[8] stating its objections to the assessment and showing why the same has no merit or basis.[9] On January 12, 2007, petitioner received a Formal Assessment Notice, together with the Details of Discrepancies dated January 6, 2007, representing deficiency income tax and expanded withholding tax in the respective amounts of ₱ 171,558,285.13 and ₱ 761,189.81 for taxable year 2003.[10]

On February 9, 2007, petitioner filed a formal protest disputing the said assessments and requested its withdrawal and cancellation.[11] On February 12, 2007, petitioner, through counsel, received a letter from respondent dated February 6, 2007, stating that: (a) respondent has denied petitioner's request for a fifteen (15)-day extension to file a protest against the PAN; (b) respondent acknowledged receipt of petitioner's reply to the PAN; (c) respondent will consider petitioner's reply to the PAN as petitioner's formal protest to the Final Assessment Notice (FAN); (d) the FAN was issued in view of petitioner's non-submission of a Waiver of the Statute of Limitations; and (e) the docket of the case has been forwarded to Revenue District Office (RDO) No. 47-East Makati under 1st Indorsement dated February 6, 2007 for reinvestigation of the above-mentioned deficiency taxes.[12]

[7] Par. 6, Facts Admitted, JSFI, Docket, p. 228.
[8] Par. 7, Facts Admitted, JSFI, Docket, p. 228.
[9] Exhibit "D".
[10] Par. 8, Facts Admitted, JSFI, Docket, p. 228.
[11] Par. 9, Facts Admitted, JSFI, Docket, p. 228.
[12] Par. 10, Facts Admitted, JSFI, Docket, pp. 228 to 229.

On April 4, 2007, petitioner submitted supporting documents to its protest, such as its Income Tax Returns for taxable years 2004 and 2005 and its Audited Financial Statements for taxable year 2005.[13]

On October 24, 2007, petitioner availed of the tax amnesty under Republic Act No. 9480 and completed its requirements.[14] Consequently, only the issue regarding the deficiency expanded withholding tax assessment remains in dispute.

Due to respondent's inaction on petitioner's Formal Protest filed on February 9, 2007, the instant Petition for Review was filed on October 31, 2007.

In the Answer filed on January 8, 2008, respondent interposes the following Special and Affirmative Defenses:

> "5. The assessments in question were made and issued in accordance with law, rules and regulations.
>
> 6. Petitioner was assessed of deficiency expanded withholding tax for its failure to withhold and remit the corresponding withholding tax on its professional fees and temporary staff costs in the amount of P4,715,449.10 claimed as deductions its income tax return for taxable year 2003.
>
> 7. All presumptions are in favor of the correctness of the tax assessment **(Interprovincial Autobus vs. Collector of Internal Revenue, 98 Phil. 290)**." [15]

After pre-trial held on March 13, 2008, the parties filed their Joint Stipulation of Facts and Issues[16] on April 1, 2008, which was approved by the Court in the Resolution dated on April 8, 2009.[17] Among the facts admitted by the parties, are the following matters:

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[13] Par. 11, Facts Admitted, JSFI, Docket, p. 229.
[14] Par. 12, Facts Admitted, JSFI, Docket, p. 229.
[15] Docket, pp. 202 to 204.
[16] Docket, pp. 227 to 230.
[17] Docket, p. 231.

"13. It is the respondent's position that Petitioner failed to withhold and remit the corresponding withholding tax due on professional fees and temporary staff costs amounting to P761,189.81 inclusive of interest.

14. Petitioner claimed as deduction in its income tax return for taxable year 2003 professional fees and temporary staff costs amounting to P4,715,449.10.

xxx xxx xxx

20. The following firms are general professional partnerships:

a. Accounting firm of SyCip Gorres Velayo & Co
b. Law firm of Castillo Laman Tan Pantaleon San Jose
c. Law firm of Angara Abello Concepcion Regala & Cruz (ACCRA)
d. Law firm of Aranas Consunji Barleta & Co
e. Accounting firm of Joaquin Cunanan & Co".

During trial, the parties presented their respective testimonial and documentary evidence in support of their respective claims and assertions. Upon admission of respondent's documentary evidence in the Resolution dated September 3, 2009, the parties were directed to file their respective Memorandum within thirty (30) days from notice.[18]

In the Resolution dated October 16, 2009, this case was submitted for decision, considering petitioner's Memorandum filed on October 8, 2009 and the report of this Court's Record Division that respondent failed to file a Memorandum.[19]

Hence, this Decision.

THE ISSUES

A sole issue was stipulated by the parties for this Court's resolution, to wit:[20]

[18] Docket, pp. 663 to 664
[19] Docket, p. 690.
[20] Docket, p. 230.

> "1. Whether or not petitioner failed to withhold (sic) the corresponding withholding tax on professional fees and temporary staff costs amounting to P471,544.91 for the taxable year 2003."

Petitioner's arguments

Petitioner argues that the assessment for alleged deficiency expanded withholding tax against petitioner should be cancelled and terminated, considering that: (a) the alleged discrepancy between the amount of petitioner's payments for professional fees and temporary staff costs per financial statements vis-à-vis per alphalist resulted from payments to general professional partnerships and other expenses subject to a different rate of withholding tax; (b) petitioner properly subjected to withholding tax all its other payments for goods and services; and (c) the presumption of correctness of the alleged deficiency tax assessment has been disputed and overturned by evidence on record.

Respondent's counter-arguments

In the Answer, respondent contends that the assessments in question were made and issued in accordance with law, rules and regulations. According to respondent, petitioner was assessed of deficiency expanded withholding tax for its failure to withhold and remit the corresponding withholding tax on its professional fees and temporary staff costs in the amount of ₱ 4,715,449.10 claimed as deductions its income tax return for taxable year 2003.

THE COURT'S RULING

At the outset, 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 a BIR examiner and approved by his superior officers will not be disturbed. All presumptions are in favor of the correctness of tax assessments.[21]

The deficiency expanded withholding tax of petitioner for taxable year 2003 was computed by respondent as follows:[22]

Amount per General Ledger/FS/ITR	₱ 7,457,219.00
Less: Amount per Alphalist	2,741,769.90
Amount not subjected to EWT	₱ 4,715,449.10
Multiply by 10%	10%
Expanded Withholding Tax due	₱ 471,544.91
Add: Interest @ 20% (1.16.04 to 02.12.07)	289,644.90
Total Amount Due	₱ 761,189.81

Petitioner argues that the deficiency expanded withholding tax of ₱ 471,544.91 assessed against it was due to respondent's flawed audit procedure. It further points out that respondent merely "picked-up" the amounts of professional fees included in petitioner's "Alphalist of Payees Subject to Expanded Withholding Tax as of December 31, 2003"[23] and compared them to the "Professional and Temporary Staff Cost" reported by petitioner in its Audited Financial Statements for taxable year 2003.[24] Consequently, the difference between the two amounts were treated by respondent as payments not subjected to expanded withholding tax and imposed thereon a uniform rate of ten percent (10%) to come up with the alleged deficiency expanded withholding tax.

Petitioner also explains that the amount of ₱ 7,457,219.00 was derived from the total amount of ₱ 14,914,437.81, which is composed of items subjected

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[21] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 134062, April 17, 2007; *Rizal Commercial Banking Corporation vs. Commissioner of Internal Revenue*, G.R. No. 168498, April 24, 2007.
[22] Exhibit "E".
[23] Exhibit "S" and Exhibit "5".
[24] Exhibit "N".

to expanded withholding tax as well as those not subjected to expanded withholding tax, summarized as follows:[25] .

PAYEE	AMOUNT	NOT SUBJECTED TO EWT	SUBJECTED TO EWT	GENERAL PROFESSIONAL PARTNERSHIP
SGV & CO. - Accounting Firm	₱ 2,820,840.00			₱ 2,820,840.00
CASTILLO LAMAN TAN PANTALEON & SAN JOSE – Law Firm	1,684,848.30			1,684,848.30
TENGSON CES ASSOCIATES PHILS., INC. – Specialty Contractor	1,464,854.62		₱ 1,464,854.62	
MAUNSELL PHILIPPINES, INC. – Civil Structural Specialty Contractor	1,022,000.00		1,022,000.00	
ACCRA (Abello Concepcion Regala & Cruz) Law Office	990,080.18			990,080.18
ARANAS CONSUNJI BARLETA & CO. – Law Firm	851,760.07			851,760.07
KDDI PHILIPPINES CORP. – Maintenance of Network	684,297.50		684,297.50	
ARANAS MENDIOLA & DE JESUS – Law Firm	350,000.00		350,000.00	
LEGAL INFORMATION NETWORK CORP. – Legal Information	325,170.00		325,170.00	
JOAQUIN CUNANAN & CO. – Accounting Firm	292,225.14			292,225.14
CONTROL RISKS (PHILIPPINES) INC. – Security Risks	159,810.00		159,810.00	
WILFRIDO MONTES - Engineer	147,000.00		147,000.00	
MJ INTERNATIONAL CO., LTD - Maintenance Infolog System	110,000.02		110,000.02	
PETTY CASH	11,551.98	11,551.98		
NON-DEDUCTIBLE EXPENSES - No receipts	4,000,000.00	4,000,000.00		
TOTAL	**₱ 14,914,437.81**	**₱ 4,011,551.98**	**₱ 4,263,132.14**	**₱ 6,639,753.69**
LESS-COST OF CONTRACTS (PROFESIONAL FEES)	7,457,218.71			
PROFESSIONAL & TEMPORARY STAFF COST-GENERAL	**₱ 7,457,219.10**			

[25] Exhibit "GG".

From the foregoing, petitioner is of the position that the total professional fees and temporary staff cost of ₱ 7,457,219.10 is derived by deducting the cost of contracts on professional fees from the total payment made for professional and temporary staff cost, which is ₱ 14,914,437.81. Said amount is composed of payments made to general professional partnerships, payments subjected to expanded withholding tax, and petty cash and non-deductible expenses not subjected to EWT, classified as follows:

General Professional Partnership	₱	6,639,753.69
Payments subjected to EWT		4,263,132.14
Payments not subjected to EWT		4,011,551.98
TOTAL	**₱**	**14,914,437.81**

Petitioner further claims that it paid a total amount of ₱ 6,639,753.69 to the Accounting firm of Sycip, Gorres, Velayo & Co., the Law firm of Castillo, Laman, Tan, Pantaleon and San Jose, the Law firm of Angara, Abello, Concepcion, Regala and Cruz (ACCRA), the Law firm of Aranas, Consunji, Barleta & Co., and the Accounting firm of Joaquin, Cunanan & Co.; all of which are general professional partnerships as judicially admitted by the parties.[26]

We find the foregoing explanations of petitioner unmeritorious.

Petitioner's claim that the amount of ₱ 7,457,219.10 representing Professional and Temporary Staff Cost under general and administrative expenses is arrived at by deducting the amount of ₱ 7,457,218.71—representing the amount of "COST OF CONTRACTS (PROFESSIONAL FEES)"— from the total amount of ₱ 14,914,437.81 deserves scant consideration. This is simply because assuming that the latter amount is precise and true, the said amount of ₱ 7,457,218.71 is non-existent, since it was not reported as an item in the

[26] Par. 20, Facts Admitted, JSFI, Docket, p. 230.

breakdown of the Cost of Contract under Note 11 of petitioner's Audited Financial Statements for 2003[27], which provided the "details" thereof, to wit:

"**Note 11 – Cost of contract**

The details of cost of contracts for the years ended December 31 follow:

	Notes	2003	2002
Subcontracted labor	2	P 162,319,976	P 1,701,263,050
Salaries and other employee benefits	16	24,809,379	91,662,543
Security guard cost		5,427,813	7,006,902
Communication, light and water		3,950,515	44,032,833
Rental of equipment used in construction		2,873,134	4,126,726
Cost of materials used in construction		2,793,134	140,073,129
Taxes and licenses		2,225,058	7,480,517
Transportation and travel		2,193,025	4,252,391
Depreciation	7	760,114	933,773
Supplies		276,431	814,142
Reversal of losses on uncompleted contracts	2	-	(252,318,397)
Other contract costs		1,163,549	586,109
		P 208,792,938	P 1,749,913,718

In 2002, the Branch reversed the provision for losses on uncompleted contracts of P252,318,397 in 2001 based on the Branch's updated estimate of the cost of completion of the project as of December 31, 2002."

In this connection, it must be remembered that Section 1 of Revenue Regulations No. 21-2002[28] requires the presentation of accounts in financial statements "in a very descriptive fashion", to wit

> "**SECTION 1. CONTENTS AND FORMAT OF FINANCIAL STATEMENTS TO BE ATTACHED TO THE ANNUAL INCOME TAX RETURN OR INFORMATION RETURN.** – The Financial Statements with accompanying Auditor's Certificate attached to the Annual Income Tax Return, or Annual Information Return for the Tax exempt persons, as the case may be, to be filed with the Bureau of Internal Revenue, thru its collection agents including Accredited Agent Banks, shall present/state the accounts therein in a very descriptive fashion such that the nature of the specific transactions entered in the accounts are known to the reader. The account titles to be used must be specific and not control accounts which must completely be enumerated in the financial statements and these accounts must conform to the rules and requirements of regulatory agencies that have supervision over them such as the Securities and

[27] Exhibit "N", p. 15.
[28] SUBJECT: Implementing the Provisions of Section 6(H) of the Tax Code of 1997, Authorizing the Commissioner of Internal Revenue to Prescribe Additional Procedural and/or Documentary Requirements in Connection with the Preparation and Submission of Financial Statements Accompanying the Tax Returns.

Exchange Commission (SEC), Bangko Sentral ng Pilipinas (BSP), Insurance Commission (IC), etc.

xxx xxx xxx." *(Underscoring supplied)*

And even granting for the sake of argument, that the said amount of ₱ 7,457,218.71 existed, it is not a sound business practice not to disclose the same in the said Audited Financial Statements, at least in the Notes thereof, considering that it is a significant and relevant information.[29]

In fine, the non-existence of ₱ 7,457,218.71, or the failure to report it as a separate account, or to make a notation regarding the same, in petitioner's Audited Financial Statements for 2003, work to the detriment of petitioner's cause as it weakens its claims.

Anent the argument of petitioner that respondent merely "picked-up" the amounts of professional fees included in petitioner's "Alphalist of Payees Subject to Expanded Withholding Tax as of December 31, 2003"[30] and compared them to the "Professional and Temporary Staff Cost" reported in its Audited Financial Statements for taxable year 2003[31], We find the same untenable.

Noteworthy is the testimony of respondent's witness, Dominador A. Callangan, the Revenue Officer who conducted the examination of petitioner's 2003 internal revenue tax liabilities. On cross-examination, he testified, among other matters, as follows:

"ATTY. FAUSTINO
Mr. Witness, I will refer you to the last page of Exhibit '3' particularly the portion with the heading Expanded Withholding Tax.

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[29] The objective of financial statements is to provide information about the financial position, performance and changes in financial position of an enterprise that is useful to a wide range of users in making economic decisions. Financial statements should be understandable, relevant, reliable and comparable. *(http://en.wikipedia.org/wiki/Financial_statement#cite_note-iasplus.com-1)*
[30] Exhibit "S" and Exhibit "5".
[31] Exhibit "N".

Q Can you confirm, Mr. Witness, that your findings regarding the alleged discrepancy on Expanded Withholding Tax liability of petitioner were based only on your comparison of the figures appearing in the ITR and the alpha list?

MR. CALLANGAN
A **I would like to put on record that the basis of my examination was the entries taken from the books of accounts particularly the ledger account and the audited financial statement as well as the annual income** ... *(Interrupted)*

ATTY. FAUSTINO
Thank you, Mr. Witness.

Q **As a Revenue Officer, Mr. Witness, would you agree with me that your procedures as well as your findings has been in accordance with applicable revenue rules and regulations relevant to this case?**

MR. CALLANGAN
A **Yes, definitely.**

ATTY. FAUSTINO
Q To your knowledge, Mr. Witness, what is the proper treatment of payments to general professional partnerships and those of Pag-ibig contribution, SSS and Philhealth, are these payments subject to withholding tax?

MR. CALLANGAN
A **With respect to professional fees paid to GPPs or General Professional Partnerships, these are not taxable entities, so consequently they are exempt from professional fees.**

With respect to the salaries and SSS, Pag-ibig contributions, these are non-taxable compensation, not subject to withholding tax on compensation.

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ATTY. FAUSTINO
Q And in your examination, Mr. Witness, were you able to verify whether the discrepancy you've found were due to payments that are not subject to EWT?

MR. CALLANGAN
A Well, **I have the occasion to check the journal vouchers but then I failed to establish that these income payments were paid to GPPs** or non-taxable compensation as paid to the employees.

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ATTY. FAUSTINO
Q So, Mr. Witness, the entire discrepancy was subjected automatically to the maximum tax rate without even verifying what type of transaction it is?

MR. CALLANGAN
A I've concluded that the nature of the income payment pertains to professional fees paid to professionals which are subject to professional withholding tax rates."[32] *(Emphasis supplied)*

Additionally, We take note of the "Analysis of Expanded Withholding Taxes due"[33] prepared by respondent, to wit:

Per Withholding Tax Returns

	Prof. Fees 10% WI010	Rental 5% WC100	Contractors 2% WC120	Prof. Fees 10% WC010	Rental 5% WI100	Amt. Paid
Jan	3,580.50	24,042.48	540,469.11	-	-	568,092.09
Feb	17,215.00	40,028.14	668,779.99	-	-	726,023.13
Mar	3,729.38	40,624.27	1,241,973.47	74,958.29		1,361,285.41
Apr	1,200.00	9,602.28	608,551.79	17,140.74		636,494.81
May	1,800.00	53,544.38	630,456.29	109,824.50		795,625.17
Jun	1,800.00	19,957.09	468,180.52	18,648.50		508,586.11
Jul	900.00	11,205.89	78,490.48	5,413.26	19,920.52	115,930.15
Aug	-	69,569.14	59,013.78	2,756.00		131,338.92
Sep		47,019.23	270,981.58	2,758.00		320,758.81
Oct		19,308.79	123,871.95	2,734.00		145,914.74
Nov	-	75,865.56	530,844.50	6,948.82		613,658.88
Dec		12,140.71	617,915 .69	2,770.00		632,826.40
	30,224.88	422,907.96	5,839,529.15	243,952.11	19,920.52	6,556,534.62
	10%	5%	2%	10%	5%	
	302,248.80	8,458,159.20	291,976,457.50	2,439,521.10	398,410.40	

Nature of Income Payment	Direct Costs	G & A	Total	Ewt rate	ewt due	Alpha	Def. EWT
1 Subcontracted Labor	162,319,976.00	-	162,319,976.00	2%	3,246,399.52	5,839,529.15	(2,593,129.63)
2 Security Guard Costs	5,427,379.00	5,427,379.00	10,854,758.00	2%	217,095.16		217,095.16
3 Rental-Equipment	2,873,134.00	-	2,873,134.00	2%	57,462.68	19,920.52	37,542.16
4 Costs of Materials used	2,793,944.00	-	2,793,944.00	2%	55,878.88	-	55,878.88
5 Rental	3,349,014.00	3,349,014.00	6,698,028.00	5%	334,901.40	422,907.96	(88,006.56)
6 Professional Fees & temp. staff cost	-	7,457,219.00	7,457,219.00	10%	745,721.90	274,176.99	471,544.91
	176,763,447.00	16,233,612.00	192,997,059.00		4,657,459.54	6,556,534.62	(1,899,075.08)

[32] Transcript of Stenographic Notes, hearing held on June 24, 2009.
[33] Exhibit "4", BIR Records, p. 523.

Evidently, the foregoing testimonial and documentary evidence negate petitioner's claim that respondent merely "picked-up" the amounts of professional fees included in petitioner's "Alphalist of Payees Subject to Expanded Withholding Tax as of December 31, 2003" and compared them to the "Professional and Temporary Staff Cost" reported in its Audited Financial Statements for taxable year 2003.

Based on the unrefuted testimony of respondent's witness, Callangan was aware that general professional partnerships are not subject to income tax and consequently, to withholding tax. Thus, We cannot assume that when he arrived at the above-stated findings, he had in mind the assessment of deficiency expanded withholding tax on petitioner's income payments to general professional partnerships. This is bolstered by the fact that the Alphalist in question pertinently refers to "Payees Subject to Expanded Withholding Tax as of December 31, 2003".

Definitely, income payments to general professional partnerships are not subject to expanded withholding tax.[34] Thus, from respondent's perspective, the said Alphalist could not be a source of information relating to income payments made by petitioner to general professional partnerships, but to those income payments that are subject to expanded withholding tax. Consequently, there is no merit in petitioner's argument that the discrepancy between the amount of petitioner's payments for professional fees and temporary costs per financial statements vis-à-vis per Alphalist resulted from payments to general professional partnerships.

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[34] Section 2.57.5(B)(4), Revenue Regulations No. (RR) 2-98, as amended by RR 14-2002.

Moreover, based on the above Analysis, respondent was able to dichotomize the total amount of ₱ 6,556,534.62 found in the petitioner's "Alphalist of Payees Subject to Expanded Withholding Tax as of December 31, 2003"[35] and its 2003 Annual Information Return of Creditable Income Taxes Withheld (Expanded)/Income Payments Exempt from Withholding Tax (BIR Form No. 1604-E)[36], as to which amounts of expanded withholding tax refer to professional fees, rental and contractors, and their corresponding expanded withholding tax rates. Said information are consistent with petitioner's own evidence.[37]

Likewise, respondent was able to determine the direct costs and general & administrative expenses which are subject to expanded withholding tax, and the respective withholding tax rates applicable thereto, thereby determining any deficiency or overpayment concerning the same. Parenthetically, in the said Analysis, respondent supports Our finding that there is indeed no direct cost or cost of contracts relating to professional fees in the amount of ₱ 7,457,218.71.

In the same Analysis, the computation of the amount of ₱ 2,741,769.90 stated in the subject assessment is not hard to discern. Said amount is arrived at by adding the total professional fees categorized under WI010[38] in the amount of ₱ 302,248.80 and that which is categorized under WC010[39] in the amount of ₱ 2,439,521.10.

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[35] Exhibit "S" and Exhibit "5".
[36] Exhibit "R".
[37] Exhibits "T" to "EE".
[38] "WI010" is the Alphanumeric Tax Code (ATC) for Income Payments to Professionals (lawyers, CPAs, engineers, etc) subject to Creditable Withholding Taxes, if the current year's gross income of the professional concerned is ₱ 720,000 and below, pursuant to Revenue Memorandum Order No. 3-2004.
[39] "WC010" is the Alphanumeric Tax Code (ATC) for Income Payments to Professional talent fees paid to juridical persons subject to Creditable Withholding Taxes, if the current year's gross income of such juridical person is ₱ 720,000 and below, pursuant to Revenue Memorandum Order No. 3-2004.

In sum, petitioner failed to sufficiently show that the assessment in question is erroneous, and that the same was arrived at arbitrarily and capriciously.

To reiterate, all presumptions are in favor of the correctness of tax assessments. The good faith of tax assessors and the validity of their actions are presumed. They will be presumed to have taken into consideration all the facts to which their attention was called. No presumption can be indulged that all of the public officials of the state in the various countries who have to do with the assessment of property for taxation will knowingly violate the duties imposed upon them by law.[40]

The judicial affirmance of the subject assessment is therefore in order. Consequently, in addition to the deficiency expanded withholding tax due, civil penalty and interest thereon should likewise be imposed on petitioner, in accordance with the following provisions of the NIRC of 1997, viz:

> "SEC. 247. *General Provisions.*—
>
> (a) The additions to the tax or deficiency tax prescribed in this Chapter shall apply to all taxes, fees and charges imposed in this Code. The amount so added to the tax shall be collected at the same time, in the same manner and as part of the tax."
>
> "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:
>
> xxx xxx xxx
>
> (3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment;"
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> "SEC. 249. *Interest.*—

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[40] *Collector of Internal Revenue vs. Bohol Land Transportation Co.*, G.R. Nos. L-13099 and L-13462, April 29, 1960.

> (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.
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> xxx xxx xxx
>
> (C) *Delinquency Interest.* — In case of failure to pay:
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> xxx xxx xxx
>
> (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."

WHEREFORE, in view of the foregoing considerations, the instant Petition for Review is hereby **DENIED**. Accordingly, the deficiency expanded withholding tax assessment issued by respondent against petitioner for taxable year 2003 is hereby **UPHELD.** Petitioner is hereby **ORDERED TO PAY** the amount of **FIVE HUNDRED EIGHTY NINE THOUSAND FOUR HUNDRED THIRTY ONE PESOS AND FOURTEEN CENTAVOS (₱ 589,431.14)**, computed as follows:

Amount per General Ledger/FS/ITR	₱ 7,457,219.00
Less: Amount per Alphalist	2,741,769.90
Amount not subjected to EWT	₱ 4,715,449.10
Multiply by 10%	10%
Expanded Withholding Tax due	₱ 471,544.91
Penalty equivalent to 25% imposed under Section 248(A)(3), NIRC of 1997	117,886.23
Total	₱ 589,431.14

In addition to the foregoing amount, petitioner is hereby **ORDERED TO PAY** respondent the following:

(a) interest at the rate of twenty percent (20%) *per annum* on the same amount, computed from January 16, 2004 until full payment thereof, pursuant to Section 249(A) of the NIRC of 1997; and

(b) delinquency interest at the rate of twenty percent (20%) *per annum* on the unpaid amount (*i.e.,* ₱ 761,189.81)[41] until full payment thereof, pursuant to Section 249(C)(3) of the NIRC of 1997.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

OLGA PALANCA-ENRIQUEZ
Associate Justice

ATTESTATION

I attest 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's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

I hereby certify that the decision was reached after due consultation with the members of the division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.

ERNESTO D. ACOSTA
Presiding Justice

[41] Exhibit "E".