REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

ORIENTAL ASSURANCE CORPORATION, *Petitioner,*	**CTA CASE NO. 8582**
-*versus*-	Members: ***Bautista,*** *Chairperson* ***Fabon-Victorino,*** *and* ***Ringpis-Liban,*** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUN 22 2016 10:44 a.m.

x --- x

AMENDED DECISION

BAUTISTA, J:

For resolution are:

1. Respondent's "Motion for Partial Reconsideration (Re: Decision promulgated 7 March 2016)" ("respondent's MR") filed on March 28, 2016; with petitioner's "Comment (On Respondent's Motion for Partial Reconsideration)" ("petitioner's Comment") filed on May 2, 2016; and

2. Petitioner's "Motion for Partial Reconsideration" ("petitioner's MR") filed by registered mail on April 6, 2016; and respondent's "Comment/Opposition (Re: Motion for Reconsideration of the Decision dated 7 March 2016)" ("respondent's Comment") filed on April 27, 2015.

On March 7, 2016, the Court promulgated a Decision, disposing of the case as follows:

WHEREFORE, in view of the foregoing, the present Petition for Review is hereby **PARTIALLY GRANTED**. The assessment issued by respondent against petitioner for taxable year 2005 covering deficiency DST in the amount of Php137,791,709.56 is hereby **CANCELLED** and **WITHDRAWN**. However, the assessments issued by respondent for taxable year 2005 covering deficiency WTC, EWT and final withholding VAT are hereby **UPHELD IN PART**. Accordingly, petitioner is hereby **ORDERED TO PAY** the deficiency WTC, EWT and final withholding VAT in the total amount of **Thirty Five Million Three Hundred Ninety-Five Thousand Thirty-Four and 8/100 Pesos (Php35,395,034.08)**, inclusive of the 25% surcharge imposed under *Section 248(A)(3) of the 1997 NIRC*, as amended, computed as follows:

Type of Tax	Basic Tax	25% Surcharge	Total
Withholding Tax on Compensation	₱ 961,862.33	₱ 240,465.58	₱ 1,202,327.91
Expanded Withholding Tax	9,818,821.43	2,454,705.36	12,273,526.79
Final Withholding VAT	17,535,343.50	4,383,835.88	21,919,179.38
Total	**₱ 8,316,027.26**	**₱ 7,079,006.82**	**₱ 35,395,034.08**

In addition, petitioner is also **ORDERED TO PAY**:

1. Deficiency interest at the rate of twenty percent (20%) *per annum* on the basic deficiency WTC, EWT and final withholding VAT computed from the dates indicated below until full payment thereof pursuant to *Section 249(B) of the 1997 NIRC*, as amended:

Tax Type	Basic Tax	Deficiency Interest Computed from
Withholding Tax on Compensation	961,862.33	January 15, 2006
Expanded Withholding Tax	9,818,821.43	January 15, 2006
Final Withholding VAT	17,535,343.50	January 10, 2006

2. Delinquency interest at the rate of twenty percent (20%) *per annum* on the amount of Php35,395,034.08, representing the basic deficiency WTC, EWT and final withholding VAT and the corresponding twenty five percent (25%) surcharge; and on the twenty percent (20%) deficiency interest which have accrued as aforestated in Item (1), computed from October 31, 2012 until full payment thereof pursuant to *Section 249(C) of the 1997 NIRC, as amended.*

SO ORDERED.

On March 28, 2016, respondent's MR was filed moving for the partial reconsideration of the Decision on the ground that the Court erred in cancelling the Documentary Stamp Tax ("DST") assessment in the amount of Php137,791,709.56; and in modifying the deficiency assessments for Withholding Tax on Compensation ("WTC"), Expanded Withholding Tax ("EWT"), and Final Withholding Value-Added Tax ("VAT").

On March 31, 2016, the Court ordered petitioner to file its comment on respondent's MR within ten (10) days from notice.

On April 6, 2016, petitioner's MR was filed, moving for reconsideration of the Decision due to the following grounds: that petitioner is not liable for WTC on amounts received by its employees representing benefits and payments to the Social Security System ("SSS"), Philippine Health Insurance Corporation ("PhilHealth"), and Home Development Mutual Fund ("HDMF") since they are not part of the employees' taxable compensation; that petitioner is not liable for EWT on items which are not payments made to suppliers of goods and services; that there is no deficiency VAT withholding due from petitioner since non-life insurance premiums are not subject to VAT; and that the Court erroneously imposed both deficiency and delinquency interest.

On April 18, 2016, the Court ordered respondent to file her comment on petitioner's MR within ten (10) days from notice.

On April 27, 2016, respondent's Comment was filed arguing that all presumptions are in favor of the correctness of assessments; that the burden of proof is on the taxpayer contesting the validity of the assessment; and that petitioner failed to discharge this burden, hence, respondent is not obliged to present evidence as the burden never shifted to respondent.

On May 2, 2016, petitioner's Comment was filed alleging that the Court correctly held that it validly availed of the benefits under the Tax Amnesty Program ("TAP"); that it complied with all the documentary requirements and procedures in availing of the TAP; that it is not liable for WTC and EWT; that it more than sufficiently overcame any presumption of correctness of tax assessments; and that respondent's MR is *pro forma* and does not deserve consideration.

Petitioner further claims that the presumption of a valid and correct assessment for the alleged failure to submit documents cannot support or justify an unfounded assessment; that the assessment must be based on actual facts; and that this presumption cannot be based on another presumption.

Upon careful review of the arguments raised, the Court finds, as follows:

<u>Withholding Tax on Compensation</u>

1. Uniform Allowance, unused leave paid in cash and OT allowance

Petitioner argues that the issue of whether the amounts for uniform and clothing allowance received by the employees have exceeded the ceiling amount of Php3,000.00 *per* annum set by *Section 2.78.1 of RR No. 02-98*, as amended, can be determined from the alpha list and the vouchers submitted. It illustrates that since the number of employees listed in the alpha list totaled to 111 employees[1] and the total benefits for uniform allowance for 2005 amounted to Php932,209.10, as evidenced by vouchers[2], it can be assumed that petitioner spent the same cost for uniform allowance for each employee, and that each employee received uniform allowance in the amount of Php8,398.28 for 2005.[3] Therefore, only the amounts in excess of Php3,000.00 can be subject to CWT. The same holds true with respect to the unused leaves paid in cash and OT allowance.

RR No. 02-98 provides the limits in the amount of each *"de minimis"* benefit. If the employer gives more than the limit prescribed, the excess shall be taxable to the employee receiving the benefit — if such excess is beyond the Php30,000.00 ceiling of "Other Benefits"

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[1] *Exhibit "K-1,"* 103+8=111 employees.
[2] *Exhibits "P-1-44," "P-1-116," "P-1-119," "P-1-120," "P-1-121," "P-1-142," "P-1-143," "P-1-176," and "P-1-177."*
[3] *Motion for Partial Reconsideration, page 9, 3rd par.*

provided under *Section 2.78.1(B)(11)*[4] *of RR No. 02-98,* as amended, in relation to *Section 32(B)(7)(e)*[5] *of the 1997 NIRC,* as amended.

While it is true that petitioner submitted an Alpha List of employees for the year 2005, it does not contain the required details on uniform allowance, unused leaves paid in cash and OT allowance. Petitioner may have submitted overwhelming evidence to dispute the assessment, but this does not mean that the same are relevant to disprove the assessment.

What this Court requires is a schedule detailing the names of the employees as well as the amount and the type of benefits given to each employee to corroborate the supporting documents presented, which the petitioner failed to provide. It must be noted that petitioner itself admitted that the exact amount and type of benefits received by each

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[4] Sec. 2.78.1. *Withholding of Income Tax on Compensation Income.*

xxx xxx xxx

(B) *Exemptions from withholding tax on compensation.* the following income payments are exempted from the requirement of withholding tax on compensation:

xxx xxx xxx

(11) *Thirteenth (13th) month pay and other benefits.* —

(a) xxx

(b) Other benefits such as Christmas bonus, productivity incentives, loyalty award, gift in cash or in kind and other benefits of similar nature actually received by officials and employees of both government and private offices, including the Additional Compensation Allowance (ACA) granted and paid to all officials and employees of the National Government Agencies (NGAs) including State Universities and Colleges (SUCs), Government-Owned and Controlled Corporations (GOCCs), Government Financial Institutions (GFIs) and Local Government Units (LGUs).

The above stated exclusions (a) and (b) shall cover benefits paid or accrued during the year provided that the total amount shall not exceed thirty thousand pesos (P30,000.00) which may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering, among others, the effect on the same of the inflation rate at the end of the taxable year.

[5] SEC. 32. *Gross Income.* —

xxx xxx xxx

(B) *Exclusions from Gross Income.* — The following items shall not be included in gross income and shall be exempt from taxation under this title:

xxx xxx xxx

(7) *Miscellaneous Items.*

xxx xxx xxx

(e) *13th Month Pay and Other Benefits.* — Gross benefits received by officials and employees of public and private entities: Provided, however, That the total exclusion under this subparagraph shall not exceed Thirty thousand pesos (P30,000) which shall cover: (i) Benefits received by officials and employees of the national and local government pursuant to Republic Act No. 6686; (ii) Benefits received by employees pursuant to Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986; (iii) Benefits received by officials and employees not covered by Presidential Decree No. 851, as amended by Memorandum Order No. 28, dated August 13, 1986; and (iv) Other benefits such as productivity incentives and Christmas bonus: Provided, further, That the ceiling of Thirty thousand pesos (P30,000) may be increased through rules and regulations issued by the Secretary of Finance, upon recommendation of the Commissioner, after considering among others, the effect on the same of the inflation rate at the end of the taxable year.

employee was NOT specified in the supporting documents[6] and that the amount of Php8,398.28 was merely assumed by dividing the total amount of Php932,209.10 among the 111 employees.[7]

Although this Court agrees with petitioner that only the amount in excess of Php3,000.00 *per* annum on uniform and clothing allowance should be subjected to WTC, as provided in *RR No. 02-98*, the excess amounts on a *per* employee basis cannot be determined based on the evidence presented. Without the schedule detailing the employee benefits, this Court cannot determine whether the benefit provided to each employee exceeded or did not exceed the ceilings provided by law. Thus, the findings on uniform allowance as well as unused leaves paid in cash and OT allowance remains.

2. Other *de minimis*

Petitioner claims that some of the items pertain to Philhealth in the total amount of Php3,750.00, which can be verified by looking at the specific vouchers presented, as reviewed by the ICPA and included in his report.

The Court finds merit it petitioner's contention. With respect to the Court's findings on "Other *de minimis* - Payroll" amounting to Php188,957.95, only the amount of Php3,750.00[8] paid to Philhealth is excluded from payment of withholding tax, the remaining amount of Php185,207.95 remains because the supporting documents were BPI checks or check vouchers indicating the final salary or payroll for a certain branch or merely employee benefits. With the information indicated therein, the Court cannot verify whether the said amounts qualify for *de minimis*. It must be noted that salaries are subject to WTC.

The same holds true with respect to "Other *de minimis* - Reclassification Adjustment" amounting to Php91,357.39, the supporting documents presented were journal vouchers[9] without the names of the employees and the type of benefits given. Mere accounting entries will not suffice for the Court to verify whether the said amounts qualify as *de minimis*.

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[6] *Motion for Partial Reconsideration, page 9, 2nd par.*
[7] *Motion for Partial Reconsideration, page 9, 3rd par.*
[8] *Exhibits "P-1-25," "P-1-39," "P-1-62," "P-1-74," "P-1-96," "P-1-107," "P-1-124," "P-1-135," "P-1-150," "P-1-164," and "P-1-184."*
[9] *Exhibits "P-1-58," "P-1-146," and "P-1-186."*

3. Christmas bonus, Employee awards and 13th Month Pay

Petitioner claims that it submitted an Alpha List detailing the names of its employees and several vouchers showing the amount and type of benefits, but the Court finds the same unmeritorious.

The Christmas Bonus amounting to Php1,541,369.72 were not indicated in the Alpha List of Employees[10] and its supporting document is a journal voucher[11], a mere accounting entry. To reiterate, the details of Christmas bonus on a *per* employee basis were not provided. The same is true with employee awards amounting to Php132,500.00, it was not indicated in the Alpha List of Employees[12], the supporting documents were BPI Checks[13] which were to paid a certain Gonzalo Cotoco III. For the 13th Month Pay, the subject of the assessment is only the difference of Php70,520.00 between the amount indicated in the Alpha List of Employees[14] (Php1,554,577.15) and the amount in the Audited FS[15] (Php1,625,097.75), which the petitioner failed to account for.

In sum, the amount of Php5,302,438.45 compensation not subjected to withholding tax found by this Court is upheld but in the reduced amount of Php5,298,688.45. Below is the comparison between the original and amended findings:

	Original Findings	Amended Findings
Compensation not subjected to withholding tax per respondent's audit	₱ 5,980,554.94	₱ 5,980,554.94
Less: De minimis benefits		
Financial assistance	₱ 100,000.00	₱ 100,000.00
OT allowance	78,343.52	78,343.52
Medical expense	73,625.00	73,625.00
Bowling alley fee - Sportsfest for employees	43,636.36	43,636.36
Meal allowances	20,490.69	20,490.69
Other de minimis benefits	337,960.62	**341,710.62**[16]
Employee compensation contribution	24,060.30	24,060.30
Compensation not subjected to withholding tax per this Court's verification	**₱ 5,302,438.45**	**₱ 5,298,688.45**

Applying the effective rate of 18.14%, petitioner is liable to pay basic deficiency WTC for taxable year 2005 in the amount of Php961,182.08, computed as follows:

[10] *Exhibit "K-1."*
[11] *Exhibit "P-1-185."*
[12] *Exhibit "K-1."*
[13] *Exhibits "P-1-1," "P-1-180," and "P-1-182."*
[14] *Exhibit "K-1."*
[15] *Exhibit "J."*
[16] Allowed an additional Php3,750.00 for Philhealth payments.

	Original Finding	Amended Finding
Compensation not subjected to withholding tax per this Court's verification	₱ 5,302,438.45	₱ 5,298,688.45
Multiply by Effective tax rate	18.14%	18.14%
Basic deficiency WTC	**₱ 961,862.33**	**₱ 961,182.08**

Expanded Withholding Tax

1. Representation Expenses

Petitioner argues its representation expenses pertain to payments of association/monthly dues to recreational clubs and sponsorship exceeding Php10,000.00, and are not for any specific purchase of services.

This Court upholds its findings.

While the evidence presented[17] reveals that some of the representation expenses are indeed for association/monthly dues to recreational clubs and sponsorships exceeding Php10,000.00, such payments, being in the nature of purchases of services, are subject to 2% EWT under *Section 2.57.2(M) of RR No. 02-98*, as amended.

2. Promotional and Technical Dues

Petitioner's argument is a mere repetition of its previous argument, thus, the Court's finding stays.

A perusal of the supporting documents[18] disclose that the "Promotional and technical development" account included income payments exceeding Php10,000.00 or made from a regular supplier, which are in the nature of purchases of services, thus, subject to 2% EWT.

Petitioner further insists that its payment to Insurance Institute for Asia and Pacific, Inc. should not be subject to 2% EWT because it is a non-stock, non-profit organization. However, petitioner failed to prove the same.

[17] *Exhibits "P-2-4-1" to "P-2-4-486."*
[18] *Exhibits "P-2-5-1" to "P-2-5-95."*

3. Transportation and Travel

Petitioner maintains that this account includes purchases of plane tickets through the internet, hence, it cannot withhold tax at the time of purchase; and that it cannot be presumed that said purchases were made from regular suppliers.

The Court's findings remain. A verification of the evidence submitted[19] shows that the income payments exceeding Php10,000.00 and income payments below Php10,000.00 but for which no supporting invoices/receipts were presented to prove that the same were made from non-regular suppliers, being in the nature of purchases of services, are subject to 2% EWT. Petitioner submitted only an internally generated excel file summary of petty cash purchases.

4. Other Expenses - Association and Pool Dues

Petitioner avers that this item involves fixed amounts paid by members monthly regardless of and separate from the actual consumption of goods and services offered, hence, not a purchase of services subject to EWT.

The Court sustains respondent's imposition of EWT on association and pool dues thereon at the rate of 2%. As clarified under *RMC No. 72-04*, this expense is considered as payments for services subject to 2% EWT under *RR No. 02-98*, as amended by *RR No. 17-03*[20].

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[19] *Exhibits "P-2-6-1" to "P-2-6-390."*

[20] REVENUE MEMORANDUM CIRCULAR NO. 72-04

xxx xxx xxx

IV. OTHER CLARIFICATION

Q18. Is payment of interest on bank loans by the TTC/GO/LT and other fees paid to the bank subject to the 2% EWT?

A18. Yes. However, payment of interest to OBUs/FCDUs shall be subject to final withholding tax of 10%.

Q23. Is the payment for membership dues of the TTC/GO/LT to country clubs and/or sports club and the like considered service subject to the 2% EWT under RR 17-2003?

A23. Yes, membership fees are considered services subjected to the 2% EWT. However, when the payee-club or organization is a non-stock, non-profit organization not subject to income tax, hence, payment is not subject to EWT upon presentation of proof of exemption issued by the BIR.

5. **Increase in Deferred Acquisition Costs amounting to Php15,561,120.00.**

This is a mere rehash of its previous arguments, thus, the Court's finding remains. For reference, below is the portion of the assailed Decision relating to this issue:

> The ICPA stated that the increase in deferred acquisition costs amounting to Php15,561,120.00 is not an actual payment but an item in the tax return to reconcile accounting income with the taxable income and is not covered by *RR No. 02-98*, as amended[21].
>
> A perusal of petitioner's audited balance sheets[22] as of December 31, 2005 and 2004 shows that the amount of Php15,561,120.00 represents the increase in value of petitioner's Deferred Acquisition Costs from the amount of Php49,398,012.00 as of December 31, 2004 to the amount of Php64,959,132.00 as of December 31, 2005.
>
> Note 2 of petitioner's audited AFS for 2005 and 2004 defines Deferred Acquisition Costs as follows[23]:
>
> **Acquisition Costs**
>
> Costs that vary with and are primarily related to the acquisition of new and renewal insurance contracts such as commissions, certain underwriting and policy issue costs, and inspection fees are deferred and charged to expense in proportion to the premium revenue recognized.
>
> The resulting net unamortized acquisition costs are accounted for as Deferred Acquisition Costs and shown in the Assets section of the balance sheets.
>
> From the foregoing, it may be inferred that the amount of Php15,561,120.00 represents costs such as commissions, certain underwriting and policy issue costs and inspection fees incurred and/or paid by petitioner relative to acquiring new customers in the year 2005 but such costs remained unamortized as of the end of 2005. Since petitioner failed to present documents that would show the actual nature of these costs, the same shall be considered as purchases of services

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[21] *Exhibit "S," par. 10.2.(b).*
[22] *Exhibit "J."*
[23] *Id.*

subject to 2% EWT under *Section 2.57.2(M) of RR No. 02-98*, as amended.

6. **Increase in Other Assets amounting to Php460,903.00 subjected to expanded withholding tax**

Petitioner argues that the said amount representing certificates of tax withheld is not subject to EWT under *RR No. 02-98*; that it pertains to taxes withheld by the policy holders, and not by petitioner; that it admittedly issued Certificates of Creditable Tax Withheld at Source (BIR Form No. 2307)[24] to its policy holders; and that even without the said BIR Form No. 2307, the deficiency EWT imposed by respondent must be cancelled.

The Court disagrees. To emphasize, cases brought before this Court are decided based on the merits of the evidence presented. It is the duty of the opposing parties to provide relevant evidence to support/corroborate its arguments. Based on the evidence presented by petitioner, it failed to disprove said assessment.

7. **Other Professional Fees - 15% EWT on the amount of Php2,783,500.00 representing fees paid to Villaraza & Angangco**

Petitioner argued that the 15% EWT on the fees paid to Villaraza & Angangco amounting to Php2,783,500.00 must be cancelled on the basis of *Section 26 of the 1997 NIRC*, amended, in relation to *Section 2.57.5 of RR No. 02-98*, as amended by *RR No. 14-02*, which explicitly exempts income payments made to general professional partnerships ("GPP") from EWT; that payments made to Villaraza & Angangco, although reported under "Other Professional Fees" in its audited FS, it is a common knowledge that these are in fact fees paid to a GPP; and that at the very least, the BIR cannot presume that it is a taxable entity.[25]

The Court finds merit in petitioner's argument, hence, the related assessment is cancelled.

8. **Commission Expense per IC Report**

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[24] *Motion for Partial Reconsideration, par. 37.*
[25] *Id., par. 40.*

Petitioner argues that withholding taxes on Commission expenses were already paid.

The Court maintains that petitioner failed to provide documentary evidence to disprove respondent's finding that the commissions it paid was not subjected to 10% EWT in the amount of Php8,604,705.82. However, the amount is reduced to Php6,711,199.10 because it was proven that the amount per Alphalist is Php60,257,427.00.[26] On this merit, the EWT on Commission expense is reduced to Php6,711,199.10, computed as follows:

Commissions		
Direct business	₱	120,831,527.00
Reinsurance		17,045,078.00
Total	₱	137,876,605.00
Commission payable - beginning		17,734,530.00
Commission payable - ending		(22,542,142.00)
Total	₱	133,068,993.00
Per Alpha list		60,257,427.00
Discrepancy	₱	72,811,566.00
BIR adjustment		(5,699,575.00)
Adjusted discrepancy	₱	67,111,991.00
Tax rate		10%
Basic tax deficiency	**₱**	**6,711,199.10**

To recapitulate, petitioner is liable to pay basic deficiency EWT for taxable year 2005 in the reduced amount of Php7,507,789.71, computed as follows:

		Original Finding		Amended Finding
On Purchases of Goods and Services	₱	774,520.70	₱	774,520.70
On Professional Fees		439,594.91		**22,069.91**[27]
On Commissions		8,604,705.82		**6,711,199.10**
Total Basic Deficiency EWT	**₱**	**9,818,821.43**	**₱**	**7,507,789.71**

Deficiency VAT Withholding

Petitioner avers that *RR No. 4-07*, which clarified that non-life reinsurance premiums are not subject to VAT and took effect on April 6, 2007, applies to its taxable year 2005 based the exception to the rule of non-retroactive application of rulings under *Section 246 of the 1997 NIRC*.

[26] *Exhibit "P-5."*
[27] Less Php417,525.00 (Php2,783,500.00 x 15%)

Despite the foregoing argument of petitioner, the Court still finds that it failed to present evidence of actual payment of VAT on the said reinsurance premiums being assessed. Hence, the related assessment in the amount of Php17,535,343.50 is hereby upheld.

<u>Deficiency Interest and Delinquency Interest</u>

Petitioner alleges that the imposition of both deficiency and delinquency interest is incorrect since the *1997 NIRC* only provides for one interest.

The pertinent provision on interest is *Section 249(A)(B)(C) of the 1997 NIRC*, to wit:

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

It can be gathered from the above that deficiency interest of 20% *per annum* shall be assessed and collected from the date prescribed for its payment until the full payment thereof; and that delinquency interest of 20% *per annum* shall be assessed and collected in case of failure to pay a deficiency tax, or any surcharge or interest thereon, and that this delinquency interest shall form part of the tax.

Clearly, if a taxpayer fails to pay a deficiency tax, or any surcharge or interest thereon, on the due date appearing in the notice or demand, delinquency interest and deficiency tax interest are to be simultaneously assessed and collected. Hence, the Court finds no basis for petitioner's argument.

As to respondent's MR, the Court finds no merit therein since it was a mere reiteration of the allegations in the Memorandum and it did not raise any new argument that would warrant a reconsideration of the said Decision.

In view of the foregoing, respondent's "Motion for Partial Reconsideration (Re: Decision promulgated 7 March 2016)" is hereby **DENIED** for lack of merit; and petitioner's "Motion for Partial Reconsideration" is hereby **PARTIALLY GRANTED**. The assessments issued by respondent for taxable year 2005 covering deficiency WTC, EWT and final withholding VAT are hereby **UPHELD IN PART**. Accordingly, petitioner is hereby **ORDERED TO PAY** deficiency WTC, EWT and final withholding VAT in the total amount of **Thirty Two Million Five Hundred and Five Thousand Three Hundred Ninety-Four and 12/100 Pesos (Php32,505,394.12)**, inclusive of the 25% surcharge imposed under *Section 248(A)(3) of the 1997 NIRC*, as amended, computed as follows:

Type of Tax	Basic Tax	25% Surcharge	Total
Withholding Tax on Compensation	₱ 961,182.08	₱ 240,295.52	₱ 1,201,477.60
Expanded Withholding Tax	7,507,789.71	1,876,947.43	9,384,737.14
Final Withholding VAT	17,535,343.50	4,383,835.88	21,919,179.38
Total	**₱ 26,004,315.29**	**₱ 6,501,078.83**	**₱ 32,505,394.12**

In addition, petitioner is also **ORDERED TO PAY**:

1. Deficiency interest at the rate of twenty percent (20%) *per annum* on the basic deficiency WTC, EWT and final withholding VAT computed from the dates indicated

below until full payment thereof pursuant to *Section 249(B) of the 1997 NIRC*, as amended:

Tax Type	**Basic Tax**	**Deficiency Interest Computed from**
Withholding Tax on Compensation	₱ 961,182.08	January 15, 2006
Expanded Withholding Tax	7,507,789.71	January 15, 2006
Final Withholding VAT	17,535,343.50	January 10, 2006

2. Delinquency interest at the rate of twenty percent (20%) *per annum* on the amount of Php32,505,394.12 representing the basic deficiency WTC, EWT and final withholding VAT and the corresponding twenty five percent (25%) surcharge; and on the twenty percent (20%) deficiency interest which have accrued as aforestated in Item (1), computed from October 31, 2012 until full payment thereof pursuant to *Section 249(C) of the 1997 NIRC, as amended.*

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
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.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to *Section 13 of Article VIII of the Constitution* and the Division Chairperson's Attestation, 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's Division.

ROMAN G. DEL ROSARIO
Presiding Justice