REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

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FIRST LEPANTO - TAISHO INSURANCE CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

C.T.A. CASE NO. 6199

Members:

ACOSTA, *Chairperson*
BAUTISTA, and
CASANOVA, *JJ.*

Promulgated:

MAR 03 2009 1:00pm

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DECISION

BAUTISTA, ***J.:***

This case seeks the cancellation and withdrawal of Assessment Notice Nos. ST-INC-96-0161-2000 for deficiency income tax, ST-WT-96-0162-2000 for deficiency expanded withholding tax, ST-WT-96-0163-2000 for deficiency withholding tax on compensation, ST-WT-96-0164-2000 for deficiency final withholding tax, ST-VAT-96-0165-2000 for deficiency value-added tax, and ST-DST-96-0166-2000 for deficiency documentary stamp tax, in the amounts of P2,764,821.97, P327,486.49, P517,489.28, P368,888.61, P14,549,626.83, and P21,593,085.28, respectively, inclusive of surcharges and interests for taxable year ended December 31, 1996.

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First Lepanto-Taisho Insurance Corporation (Petitioner) is a non-life insurance corporation duly organized and existing under the laws of the Philippines. Respondent, on the other hand, is the duly appointed Commissioner of Internal Revenue, vested by law to implement and enforce the provisions of the National Internal Revenue Code (NIRC) and other tax laws and in particular, to decide disputed assessments.

For taxable year ended December 31, 1996, petitioner filed its Corporate Income Tax Return on April 15, 1997. Consequently, a Letter of Authority dated May 19, 1998 was issued to petitioner for the examination of its books of accounts and other accounting records for all internal revenue taxes for the period from January 1 to December 31, 1996.[1]

On December 29, 1999, the following deficiency tax assessments were issued against petitioner:

a. ST-INC-96-0161-2000 for deficiency income taxes in the amount of P2,764,821.97, inclusive of twenty percent (20%) interest and compromise penalty;

b. ST-WT-96-0162-2000 for deficiency expanded withholding taxes in the amount of P327,486.49, inclusive of twenty five percent (25%) surcharge, 20% interest, and compromise penalty;

c. ST-WT-96-0163-2000 for deficiency withholding tax on compensation in the amount of P517,489.28, inclusive of 20% interest and compromise penalty;

d. ST-WT-96-0164-2000 for deficiency final withholding tax in the amount of P368,888.61, inclusive of 25% surcharge, 20% interest, and compromise penalty;

e. ST-VAT-96-0165-2000 for deficiency value-added taxes in the amount of P14,549,626.83, inclusive of 20% interest and compromise penalty; and

f. ST-DST-96-0166-2000 for deficiency documentary stamp tax in the amount of P21,593,085.28, inclusive of 25% surcharge, 20% interest, and compromise penalty.

[1] Par. 5, Joint Stipulation of Facts, Docket, p. 105

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Petitioner duly protested the aforementioned assessments on February 24, 2000.[2] Due to respondent's inaction and before it could be barred by prescription, petitioner filed this instant Petition for Review on November 20, 2000.

Respondent filed his Answer[3] on January 17, 2001, raising the following Special and Affirmative Defenses:

"5. He reiterates and repleads the preceding paragraphs of this Answer as part of his Special and Affirmative Defenses.

6. The assessments in question were issued in accordance with law and pertinent regulations.

7. Under Section 29 (j) of the National Internal Revenue Code (NIRC), any amount paid shall be allowed as a deduction only if it is shown that the tax required has been deducted and withheld. Verification disclosed that the following expenses were not subject to withholding tax:

Salaries and Wages	P 3,260.30
Travelling (Transportation)	198,000.00
Travelling (Lodging/Subsistence)	720,604.31
Commissions	1,586,078.15
Direct Loss Expense	435,640.04
Rentals	259,739.87
Occ. Cost/Rep. and Maint./Others	330,228.61
Misc. UW Expense	236,956.00

8. Under Section 76 of Revenue Regulations No. 2, expenses, liabilities, or deficit of one year cannot be used to reduce the income of a subsequent year. A taxpayer has the right to deduct all authorized allowances and it follows that if he does not within any year deduct certain expenses, losses, interests, taxes or other charges, he can not deduct them from the income of the next or any succeeding year. Verification disclosed that the following expenses were prior year's expense, hence, should be disallowed:

Profit Commission Expense	P 882,775.94
Interest Expense	256,999.15

9. Petitioner claimed as deduction a premium tax expense of P6,865.36. With the passage of Republic Act No. 7716, gross receipts of non-life insurance companies were included in the value-added tax system effective January, 1996, thus, the disallowance.

[2] Par. 8, Joint Stipulation of Facts, Docket, p. 106
[3] Docket, pp. 68-74

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10. According to the investigation, there was an overstatement of non-taxable income of P104,797.00 since there was an erroneous computation of non-taxable income thus the disallowance of the overclaim non-taxable income:

Non-taxable income per ITR	P 43,915,539.00
Non-taxable income per audit	43,810,742.00
Overstated non-taxable income	104,797.00

11. Under Revenue Memorandum Circular No. 16-83, fixed or variable transportation, representation/entertainment and other allowances, which are given to an employee or officer of an employee shall be treated as compensation income subject to withholding. Furthermore, gross compensation income includes but is not limited to the following income items: a) salaries, wages, honoraria; b) bonuses; c) allowances and other income of similar nature. Verification showed that the following taxable compensation income were not included in the computation of the correct compensation tax due from the various officers of the petitioner:

Directors' Bonus	P 500,000.00
Fixed Transportation Allowance	198,000.00
Lodging/Subsistence Allowance	720,604.31

12. Under Revenue Regulation No. 12-94, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from certain items of income payments to persons residing in the Philippines. Reconciliation of the income payments subject to withholding tax per income tax return and withholding tax return showed an under withholding on the following accounts:

Commissions – Direct Business	P 1,161,083.59
Profit Com. Exp.	424,994.56
Direct Loss Exp. – Adjusters' Fees	435,640.04
Occupancy costs – Office Premises	259,739.87
Rep. & Maint./Comm./Ads	330,228.61
Increase in Furniture, Fixture & Equip.	2,252,220.33
Services of Casuals Misc. UW Exp.	236,956.00

12.1 Withholding tax due amounting to P42,094.47 covering the month of December, 1995 was remitted only on March 25, 1996, while there was an under remittance of P1,500.57 net of the P42,094.97 withholding tax due for December, 1995 that was included in 1996 remittances, hence the penalties for late remittance.

13. The final withholding tax on dividends paid to non-resident foreign corporations amounting to P150,313.5 and due for remittance on August 26, 1996 was found to be remitted on May 27, 1997 and was under remitted by P3.50, hence, the penalties for late remittance.

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13.1 Reconciliation of the interest payments on ceded insurance premiums paid to domestic and foreign corporations per books and withholding tax return showed an under remittance amounting to P122,361.79.

14. Under Section 100 (a) of the NIRC, there shall be levied on every sale of goods, a value-added tax equivalent to 10% of the gross selling price of the goods sold. Furthermore, under VAT Ruling No. 217-89, the sales of used transportation equipment, machineries and scrap materials are subject to VAT. Investigation disclosed that an understatement arose from an erroneous computation of the gross receipts and failure to subject the following income to VAT:

Settling Fee/Salvage Recovery	P 852,998.14
Salvage Recovery – Loss Recovery	988,669.03
Salvage Recovery – Other Income	239,796.57
Sale of Depreciable Assets	280,000.00

14.1 An allocation of input tax amounting to P13,689.69 derived from personal and accident premiums (life and health insurance) was computed since this income is not subject to VAT.

15. Reconciliation of the documentary stamp tax (DST) payments on issuance of insurance policy with the inclusion of the cancelled policies in computing the DST due and the DST paid per returns showed a discrepancy amounting to P4,639,711.25. It was also verified that DST due (DST Payable Beg.) was not paid amounting to P2,868,599.00.

15.1 Petitioner failed to adopt the lump sum method of paying DST an amount sufficient to cover its expected DST liabilities for the month, hence, the imposition of 25% surcharge, 20% interest, and compromise penalty.

16. All presumptions are in favor of the correctness of tax assessments."

Upon the filing of the parties' respective Memorandum, this case was deemed submitted for decision on June 26, 2007.

However, in October 17, 2007, petitioner filed a Motion to Defer Resolution on the ground that it is contemplating on availing of the provisions of Republic Act No. 9480, otherwise known as the "Tax Amnesty Law of 2007". The Court granted the motion in a Resolution dated November 28, 2007.

On January 21, 2008, petitioner filed its Compliance and submitted therewith the documents proving its availment of the provisions of R.A. 9480, which documents were duly

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filed with the office of respondent on January 18, 2008. Subsequently, petitioner filed its Motion for Partial Withdrawal of Petition for Review considering that the Tax Amnesty law does not cover withholding taxes passed on or already collected for the customers' remittance to the Bureau of Internal Revenue.

On March 17, 2008, this Court issued the Resolution partially withdrawing this instant Petition for Review insofar as Assessment Notice Nos. ST-INC-96-0161-2000 for deficiency income tax in the amount of P2,764,821.97, ST-VAT-96-0165-2000 for deficiency value-added tax in the amount of P14,549,626.83, and ST-DST-96-0166-2000 for deficiency documentary stamp tax in the amount of P21,593,085.28, are concerned.

In the same Resolution, the case was then submitted for decision but only as regards the remaining deficiency withholding tax assessments.

The remaining issues for this Court's resolution are the following:

1. Whether or not there is late remittance of the expanded withholding tax referred to in Assessment Notice No. ST-WT-96-0162-2000;

2. Whether or not the director's bonus (P500,000.00), fixed transportation allowance (P198,000.00), and lodging and subsistence allowance (P720,604.31) referred to in Assessment Notice No. ST-WT-96-0163-2000 are subject to withholding tax on compensation;

3. Whether or not there was late remittance of the final withholding tax referred to in Assessment Notice No. ST-WT-96-0164-2000; and

4. Whether or not respondent's assessment that petitioner under remitted the final withholding tax on ceded insurance premium referred to in Assessment Notice No. ST-WT-0164-2000 has factual and legal basis.

The issues will be resolved *seriatim.*

DEFICIENCY EXPANDED WITHHOLDING TAX-ASSESSMENT NO. ST-WT-96-0162-2000

Respondent computed the 1996 assessment against petitioner for alleged deficiency expanded withholding tax in the amount of P327,486.49 in the following manner:

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Underwithholding			
Commissions			P 100,553.62
Direct Loss Expense (Adjuster's Fee)			21,782.00
Occupancy Cost			12,986.99
Services/Contractors			3,302.28
Services of Casuals			2,369.56
Purchases			22,522.20
Basic Deficiency Tax			P 163,516.66
Add:	Penalties (including late remittance)		
	25% Surcharge	P 10,898.38	
	20% Interest up to 1/31/2000	133,371.45	
	Compromise	19,700.00	163,969.83
TOTAL AMOUNT DUE			**P 327,486.49**

Respondent based his assessment on: (a) the purported underwithholding of tax on the following income payments made by petitioner: commissions, direct loss expense (adjusters fees), occupancy cost, services/contractors, services of casuals and purchases; and (b) the alleged late remittance on March 25, 1996 of the amount of P42,094.97, representing withholding tax for the month of December 1995.

The fact that petitioner correctly withheld and remitted the withholding tax on the income payments referred to under Assessment No. ST-WT-96-0162-2000 had already been admitted by the parties.[4] Hence, the assessment for deficiency expanded withholding tax on the said income payments should be cancelled.

What remains to be resolved now is whether or not there is late remittance of the expanded withholding taxes for taxable year 1996.

Respondent assessed petitioner of surcharge and interest for the late remittance of expanded withholding tax in the amount of P42,094.97; however, this pertains to petitioner's expanded withholding tax (EWT) for taxable year 1995. In view of the fact that the Letter of Authority[5] was issued only to cover taxable year 1996, the Court believes that the amount of P42,094.97 clearly covering a different taxable year cannot be made part of the assessment for taxable year 1996.

[4] Par. 15, Joint Stipulation of Facts, Docket, p. 107
[5] BIR Records, p. 4

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DEFICIENCY WITHHOLDING TAX ON COMPENSATION-ASSESSMENT NO. ST-WT-96-0163-2000

Respondent assessed petitioner of deficiency withholding tax on compensation in the amount of P517,489.72, computed as follows:

Compensation & other benefits per FS	P 12,315,572.64
Less: Non-taxable items	1,200,818.08
Deductions subject to WT	P11,114,754.56
Less: compensation per Alpha list	11,111,494.26
Deductions NOT subjected to WT	**P 3,260.30**
Composite tax rate	17.60%
Deficiency WT	P 573.81
Add: under withholding	**312,107.00**
Basic deficiency WT	P 312,680.81
Add: interest (20% pa from 1/24/97 to 1/31/2000)	188,808.91
Compromise penalty	16,000.00
Total amount due	**P 517,489.72**

The said assessment was based on the examiner's findings that:

a) there was alleged discrepancy of P3,260.30 between the compensation and other benefits found per petitioner's income tax return *vis-à-vis* the amounts reflected in the alpha list of employees; and

b) petitioner under withheld tax in the amount of P312,107.00 on: a) director's bonus in the amount of P500,000.00; b.) fixed transportation allowance in the amount of P198,000.00; and c.) lodging and subsistence allowance in the amount of P720,604.31. The under withheld tax of P312,107.00 was computed as follows:[6]

Employee/Officer	Diaz, C.	Watada, M.	Ueda, N.	Yong, M.	Bausa, R.	Gonzales, V.	TOTAL
Taxable Comp./ALE	P 823,652.85	P 692,000.00	P282,000.00	P 650,000.00	-	-	P 2,447,652.85
Director's Bonus	100,000.00	100,000.00	-	100,000.00	P 100,000.00	P 100,000.00	500,000.00
Transportation Allowance	72,000.00	78,000.00	48,000.00				198,000.00
Lodging/Subsistence Allowance	-	480,604.31	240,000.00				720,604.31
Total	P 995,652.85	P1,350,604.31	P570,000.00	P 750,000.00	P 100,000.00	P 100,000.00	P 3,866,257.16
Tax Due	P 295,653.50	P 419,887.00	P146,675.00	P 209,675.00	P 13,675.00	P 13,675.00	P 1,099,240.50
Tax Withheld:							
Compensation	P 235,453.50	P 189,375.00	P 58,955.00	P 188,500.00			
EWT	35,000.00	35,000.00		35,000.00	P 10,000.00	P 35,000.00	
Total	P 270,453.50	P 224,375.00	P 58,955.00	P 223,500.00	P 10,000.00	P 35,000.00	
Deficiency	**P 25,200.00**	**P 195,512.00**	**P 87,720.00**	**-**	**P 3,675.00**	**-**	**P 312,107.00**

[6] BIR Records, p. 417

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Petitioner admits that the employees' compensation in the amount of P3,260.30 was not subjected to withholding tax because of oversight.[7] As to the supposed underwithholding of tax on the P500,000.00 directors' bonuses, petitioner argues that it subjected the same to expanded withholding tax[8] and not to the withholding tax on compensation, inasmuch as the directors who received the bonuses were not employees of petitioner.[9] Since there was admission from petitioner that it failed to pay its withholding tax on compensation, petitioner should be assessed of the corresponding deficiency withholding tax.

As regards the other argument, a scrutiny of petitioner's 1996 Alphalist of Employees[10] shows that the names of Constancio Diaz, Mutsuo Watada and Micky Yong, who are also under the category of petitioner's directors, were included therein. Clearly, these directors/officers are employees of petitioner. While the names of Rodolfo Bausa and Voltaire Gonzales do not appear in the Alphalist, petitioner failed to submit proof that these were not its employees. Considering so, the directors' bonuses in the amount of P500,000.00 should be subject to withholding tax on compensation and not to the expanded withholding tax, pursuant to Section 2(2) of Revenue Regulations No. 12-86, which provides:

> "2. *Gross compensation income.* — (a) In general. — For purposes of withholding tax, the term 'compensation' means all remuneration for services performed by an employee for his employer unless specifically excepted under Sections 29 and 90 of the National Internal Revenue Code.
>
> The name by which the remuneration for services is designated is immaterial. Thus salaries, wages, emoluments and honoraria, bonuses, allowances (such as transportation, representation, entertainment and the like), fringe benefits (monetary and non-monetary), fees, including directors fees, taxable pensions and retirement pay, and other income of a similar nature constitute compensation income.

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[7] Petition for Review, Annex "D", page 5
[8] Exhibits "Y" and J[10]-2
[9] Petition for Review, Annex "D", page 5
[10] BIR Records, pp. 244-245

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The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes a compensation. Thus it may be paid on the basis of piecework or a percentage of profits; and may be paid hourly, daily, weekly, monthly, or annually.

Compensation may be paid in money or in some medium other than money, as, for example, stocks, bonds, or other forms of property. If services are paid for in a medium other than money, the fair market value of the thing taken in payment is the amount to be included as compensation subject to withholding. If the services are rendered at a stipulated price, in the absence of evidence to the contrary such price will be presumed to be the fair market value of the remuneration received. If a corporation transfers to its employees its own stock as remuneration for services rendered by the employee, the amount of such remuneration is the fair market value of the stock at the time of the transfer. If a person receives as remuneration for services rendered a salary and in addition thereto living quarters or meals, the value to such person of the quarters and meals so furnished shall be added to the remuneration otherwise paid for the purpose of determining the amount of compensation subject to withholding. If, however, living quarters or meals are furnished to an employee to the convenience of the employer, the value thereof need not be included as compensation subject to withholding."

Petitioner further avers that the alleged underwithholding of tax on fixed transportation allowance in the amount of P198,000.00 and lodging and subsistence allowance in the amount of P720,604.31 is not proper, considering that the same are not in the nature of compensation income subject to withholding tax. Petitioner contends that these were allowances subject to liquidation by the recipients and that in fact they were fully liquidated by their recipients.

This Court does not agree.

Pursuant to Revenue Audit Memorandum Order 1-87, transportation, representation and other allowances, which are received by an employee in addition to the regular compensation fixed for his position or office, **is compensation subject to withholding tax**. However, reimbursement for transportation, representation or entertainment expenses shall not constitute taxable compensation if: (a) it is for necessary travelling and representation or entertainment expenses paid or incurred by the employee in the pursuit of the trade or business of the employer; and (b) the employee is required to, and does, make

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an accounting/liquidation for such expense in accordance with the specific requirements of substantiation for each category or expense. Advances in excess of actual expenses, if not returned to the employer constitutes taxable compensation.

An examination of the Summary of Transportation Expense[11] and the supporting check vouchers, cash invoices and official receipts[12] showed petitioner's transportation reimbursements to the subject employees in 1996 in the total amount of P199,180.00. However, a close scrutiny of the supporting cash invoices and official receipts reveals that the same are not registered under the name of petitioner, in violation of Section 238 of the NIRC of 1977, as amended, except for the following:

Exhibit	Particulars	Amount
LL-2	OR No. 1612 dated Oct. 29, 1996	P 3,346.00
MM-4	OR No. 1677 dated Nov. 13, 1996	6,692.00
NN-2	OR No. 1678 dated Nov. 13, 1996	2,872.00
	Total	**P12,910.00**

Thus, out of the P198,000.00 transportation reimbursements, only the amount of P12,910.00 validly represents company expense, while the remaining amount of P185,090.00 pertains to employees' compensation income subject to withholding tax.

With reference to the lodging and subsistence allowance in the amount of P720,604.31, petitioner failed to submit proof that these are valid company expenses. Hence, the amount of P720,604.31 shall be treated as employees' compensation income subject to withholding tax.

In sum, respondent's assessment for the alleged underwithheld tax of P312,107.00 should be reduced to P307,588.00, computed as follows:

Employee/Officer	Diaz, C.	Watada, M.	Ueda, N.	Yong, M.	Bausa, R.	Gonzales, V.	TOTAL
Taxable Comp./ALE	P 823,652.85	P 692,000.00	P282,000.00	P 650,000.00	-	-	P 2,447,652.85
Director's Bonus	100,000.00	100,000.00	-	100,000.00	P 100,000.00	P 100,000.00	500,000.00
Transportation Allowance	72,000.00	78,000.00	48,000.00				198,000.00
Substantiated reimbursements		(12,910.00)					(12,910.00)

[11] Exhibit "AA"

[12] Exhibits "CC" to "NN", "PP" to "AAA", "CCC" to "JJJ", inclusive of submarkings

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Lodging/Subsistence Allowance	-	480,604.31	240,000.00				720,604.31
Total	P 995,652.85	P1,337,694.31	P570,000.00	P 750,000.00	P 100,000.00	P 100,000.00	P 3,853,347.16
Tax Due	P 295,653.50	P 415,368.00	P146,675.00	P 209,675.00	P 13,675.00	P 13,675.00	P 1,099,240.50
Tax Withheld:							
Compensation	P 235,453.50	P 189,375.00	P 58,955.00	P 188,500.00			
EWT	35,000.00	35,000.00		35,000.00	P 10,000.00	P 35,000.00	
Total	P 270,453.50	P 224,375.00	P 58,955.00	P 223,500.00	P 10,000.00	P 35,000.00	
Deficiency	**P 25,200.00**	**P 190,993.00**	**P 87,720.00**	-	**P 3,675.00**	-	**P307,588.00**

Consequently, petitioner's assessment for deficiency withholding tax on compensation should be in the amount of P571,450.19, computed as follows:

Compensation & other benefits per FS	P 12,315,572.64
Less: Non-taxable items	1,200,818.08
Deductions subject to WT	P 11,114,754.56
Less: compensation per Alpha list	11,111,494.26
Deductions NOT subjected to WT	P 3,260.30
Composite tax rate	17.60%
Deficiency WT	P 573.81
Add: under withholding	307,588.00
Basic deficiency WT	P 308,161.81
Add: 25% Surcharge	77,040.45
20% Interest (1/24/97 to 1/31/2000)	186,247.93
Total amount due	**P 571,450.19**

On the other hand, respondent's assessment of a compromise penalty is not in order. Records show that there was no compromise agreement between the parties, thus, the inclusion of the compromise penalty in the amount of P16,000.00 should be cancelled. A twenty five percent (25%) surcharge, however, should be imposed in addition to the basic tax due pursuant to Section 248(a)(3) of the NIRC of 1977, as amended.

DEFICIENCY FINAL WITHHOLDING TAX - ASSESSMENT NO. ST-WT-96-0164-2000

Respondent computed the 1996 assessment for deficiency final withholding tax in the amount of P368,888.61, as follows:

Tax due per audit (Dividend & Interest)		P 1,214,753.56
Tax Remitted		1,092,388.27
Basic Deficiency Tax		P 122,365.29
Add: Penalties (including late remittance)		
25% Surcharge	P 37,578.38	

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20% Interest up to 1/31/2000	176,944.94	
Compromise	32,000.00	246,523.32
TOTAL AMOUNT DUE		**P 368,888.61**

As stated in the Details of Discrepancies[13], the above assessment was based on the following findings:

1. **Penalties for late and under remittance** – The final withholding tax withheld on dividends paid to non-resident foreign corporation amounting to P150,313.5 and due for remittance on August 26, 1996 was found to be remitted on May 27, 1997 and was under remitted by P3.50, Sec. 50, NIRC. Penalties were imposed pursuant to the provisions of Sections 248(B), 249(B) and 204 of the NIRC as implemented by Revenue Regulations 12-99 and Revenue Memorandum Order 1-90.

2. **Under Withholding Tax** – Reconciliation of the interest payments on ceded insurance premiums paid to domestic and foreign corporations per books and withholding tax return showed an under remittance amounting to P122,361.79.

Similar to respondent's assessment on deficiency expanded withholding tax, the fact that there was no underwithholding of final withholding tax and that correct taxes were withheld and remitted have already been admitted by the parties.[14]

As to whether or not there was late remittance of final withholding tax on dividends, petitioner, in its protest letter dated February 22, 2000, admitted that it failed to remit the said final withholding tax due to oversight.[15]

In other words, the assessment for underwithholding of final withholding taxes should be cancelled. However, petitioner is liable to pay the amount of P60,228.35, representing deficiency surcharges and interest for late remittance of final withholding tax on dividends, computed as follows:

FWT on Dividends	P 150,313.50
Date Due: Aug. 26, 1996	
Date Remitted: May 27, 1997	

[13] Annex "C-7", Petition for Review, Docket, pp. 38-41
[14] Pars. 16 and 17, Joint Stipulation of Facts, Docket, p. 107
[15] Petition for Review, Annex "D", page 5, Docket, p. 46

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Penalties for late remittance	
25% Surcharge	P 37,578.38
20% Interest	22,649.98
Total	**P 60,228.35**

The compromise penalty of P32,000.00 shall also be cancelled in the absence of compromise agreement between the parties.

To recapitulate, the 1996 assessment for deficiency expanded withholding tax in the amount of P327,486.49 should be cancelled and withdrawn. However, petitioner should be held liable to pay deficiency withholding tax on compensation in the amount of P571,450.19 and deficiency increments on final taxes withheld on dividends in the amount of P60,228.35, totalling to P631,678.54.

WHEREFORE, premises considered, this instant Petition for Review is hereby **PARTIALLY GRANTED**. Accordingly, petitioner is hereby **ORDERED** to **PAY** the reduced amount of P631,678.54, representing petitioner's deficiency withholding tax on compensation plus interests and surcharges on final taxes withheld on dividends, computed as follows:

	Basic	Surcharge	Interest	Total
DEFICIENCY WITHHOLDING TAX ON COMPENSATION	P308,161.81	77,040.45	186,247.93	**P571,450.19**
DEFICIENCY FINAL WITHHOLDING TAX	-	37,578.38	22,649.98	**60,228.35**
TOTAL	P308,161.81	114,618.83	208,897.91	**P631,678.54**

In addition, petitioner is hereby **ORDERED** to **PAY** twenty percent (20%) delinquency interest on the total amount of P631,678.54 from January 31, 2000 until full payment thereof, pursuant to Section 249(c)(3) of the NIRC of 1977, as amended.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

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WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

CAESAR A. CASANOVA
Associate Justice

CERTIFICATION

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

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division

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