REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

THIRD DIVISION

CARGILL TEXTURIZING SOLUTIONS PHILIPPINES, INC., *Petitioner,*	**CTA CASE NO. 8172** Re: *Assessment*
	Members:
-versus-	**Bautista**, Chairperson, **Fabon-Victorino**, and **Ringpis-Liban** *JJ.*
COMMISSIONER OF INTERNAL REVENUE *Respondent.*	Promulgated: AUG 1 2014 2:50p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

This is a Petition for Review[1] challenging the assessment for deficiency income tax in the amount of ₱2,499,169.30, inclusive of interest, appearing in the Formal Assessment Notice[2] (FAN) and Assessment Notice[3] issued by Respondent and seeking that the said assessment for the taxable year 2006 be cancelled and withdrawn in favor of petitioner.

THE FACTS

Petitioner Cargill Texturizing Solutions Philippines, Inc., is a corporation duly organized and existing under the laws of the Republic of the Philippines, with principal place of business at the 29th Floor, Citibank Tower, 8741 Paseo de Roxas, Makati City.[4]

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[1] Petition for Review dated October 5, 2010, pursuant to Section 4(a) of Rule 8 of the Revised Rules of the Court of Tax Appeals, in relation to Rule 4 hereof; Docket, pp. 1 to 11, with attachments.
[2] Exhibit "E", pp. 432 to 434 with "Details of Discrepancies" both dated January 15, 2010.
[3] Assessment No. IT-LA63372-06-10-0052 dated January 15, 2010 covering the calendar year 2006.
[4] Joint Stipulation of Facts and Issues; Docket, p. 133, par. 1.

Respondent is the Commissioner of Internal Revenue (CIR) who is the official authorized under Section 4 of the National Internal Revenue Code of 1997, as amended ("Tax Code"), to assess and collect internal revenue taxes, as well as to decide disputed assessments, among others, subject to the exclusive appellate jurisdiction of this Court.[5] Her office is located at the Bureau of Internal Revenue (BIR) National Office Building, Diliman, Quezon City.

On December 10, 2009, petitioner received a Preliminary Assessment Notice[6] (PAN) dated December 7, 2009 from the BIR Revenue Region No. 8, Makati City, covering the alleged deficiency income tax and expanded withholding tax for the taxable year 2006 in the aggregate amount of Three Million Ninety Two Thousand Seven Hundred Forty Two Pesos (₱ 3,092,742.00), inclusive of interest, broken down as follows:

<u>**Income Tax**</u>		
Taxable Income per Return		17,343,131.00
Add: Adjustments		
Disallowance due to non-withholding (Schedule 1)		1,004,166.15
Adjusted Taxable Income		**18,347,297.15**
Tax Due		6,421,554.00
Less: Tax Credits/Payments		
Creditable Tax Withheld	1,589,747.00	
Payments per Return	4,480,348.91	
Total	6,070,095.91	
Less: Unsupported 2307	1,589,747.00	4,480,348.91
Basic Deficiency Tax		1,941,205.09
Add: Interest (04-16-07 to 02-24-10)		1,043,464.22
Total Amount Due		**2,984,669.31**

<u>**Expanded Withholding Tax**</u>	
Basic Deficiency Tax	68,081.69
Add: Interest (01-16-07 to 12-23-09)	39,991.00
Total Amount Due	**108,072.69**

On December 15, 2009, petitioner filed with BIR Revenue Region No. 8, its Reply[7] to the foregoing PAN. Petitioner explained that *(a)* the withholding tax certificates for Creditable Withholding Tax (CWT) were already received by the BIR, and *(b)* the expense payments subject to Expanded Withholding Tax (EWT), including interest, were already paid and hence, petitioner requests that the aforestated items be excluded in the BIR's findings for deficiency income tax.

[5] Joint Stipluation of Facts and Issues; Docket, p. 134, par. 2.
[6] Exhibit "C"; Docket, pp. 423 to 426, with Details of Discrepancies.
[7] Exhibit "D"; Docket, pp. 428 to 430.

On February 24, 2010, petitioner received a copy of the FAN[8] from the BIR for alleged deficiency income tax for the taxable year 2006 in the amount of Two Million Four Hundred Ninety Nine Thousand One Hundred Sixty Nine and 30/100 Pesos (₱2,499,169.30). The details of the FAN are as follows:

Income Tax		
Taxable Income per Return		**17,343,131.00**
Tax Due		6,070,095.85
Less: Tax Credits/Payments		
Creditable Tax Withheld	1,589,747.00	
Payments per Return	4,480,348.91	
Total	6,070,095.91	
Less: Unsupported 2307	1,589,747.00	4,480,348.91
Basic Deficiency Tax		1,589,746.94
Add: Interest (04-16-07 to 02-24-10)		909,422.36
Total Amount Due		**2,499,169.30**

In the Details of Discrepancies[9] attached to the FAN, respondent stated his findings on the alleged deficiency income tax, as follows:

> "**INCOME TAX**
>
> **Disallowance due to non-withholding, P1,004,166.15** – Since you voluntary *(sic)* paid your deficiency expanded withholding tax, the disallowed income payments due to non-withholding amounting to P1,004,166.15 were allowed as deduction from income pursuant to Section 34(k) of the NIRC, as amended.
>
> **Unsupported Creditable Tax Withheld, P1,589,747.00** – The amount of P1,589,747.00 creditable tax withheld was disallowed due to your failure to submit supporting documents thereto, in violation of Section 2.58.3 (C) and 2.58.5 of Revenue Regulation No. 2-98, as amended.
>
> **EXPANDED WITHHOLDING TAX**
>
> **Basic Tax Due P68,081.69** – Verification disclosed that you failed to pay the corresponding expanded withholding tax from your income payments, hence, the same was subjected to expanded withholding tax, as shown under Income Tax, pursuant to Section 2.57.2 of Revenue Regulation 2-98, as amended.

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[8] *Ibid.*
[9] *Ibid.*

> Since you voluntary *(sic)* paid your deficiency expanded withholding tax, assessment on expanded withholding tax is hereby cancelled."

In addition to the unsupported creditable tax withheld, respondent stated in the FAN that:

> "x x x. Moreover, the documents submitted to support your claimed Creditable Tax Withheld amounting to P1,589,747.00 which was disallowed under Income Tax is likewise acknowledged, however, a reinvestigation is necessary to determine the validity, hence, since you failed to execute [a] Waiver of Defense of Prescription as contemplated under Section 203 and 222 of the National Internal Revenue Code which we have already requested in our Preliminary Assessment Notice, the Formal Assessment Notice (FAN) has been issued to protect the interest of the government."

On March 9, 2010, petitioner filed its protest[10] of the FAN addressed to the Regional Director, Revenue Region No. 8. In the said protest-letter, petitioner stated the factual and legal bases supporting its arguments against the subject assessment and requested that it be withdrawn and cancelled.

On October 5, 2010, petitioner filed the instant Petition for Review[11] in view of the inaction of respondent in failing to rule on the disputed assessment within the period prescribed by law.

In her Answer filed December 16, 2010[12] by registered mail, respondent averred the following special and affirmative defenses, as follows:

> "7. Under Section 228 of the 1997 Tax Code, it is partly provided that:
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>> "Sec. 228. Protesting of Assessment. – Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been

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[10] Docket, pp. 435 to 444, with petitioners original Annual Income Tax Return for the calendar year 2006 filed on April 12, 2007, attached as Annex "A".
[11] *Ibid.*
[12] Received by this Court on January 3, 2011.

submitted; otherwise, the assessment shall become final."

In the instant case, there is no allegation on the date of receipt by the Petitioner of the Formal Assessment Notice, hence, there is the need for verification of such fact in order to determine whether or not said assessment has already become final and executory and this Honorable Court is vested with jurisdiction to entertain the appeal;

9. Failure to protest the assessment within the 30-day period provided in Section 228 of the National Internal Revenue Code shall render the assessment final and unappealable and there arose the presumption of correctness when the petitioner failed to protest the assessment. (See CIR vs. BPI, G.R. No. 13426, April, 2007).

10. The assessment issued against Petitioner for deficiency income tax for taxable year 2006 was made in accordance with laws and regulations.

11. All presumptions are in favour of the correctness of tax assessments issued by respondent."

THE ISSUES

On May 27, 2011, the parties submitted their Joint Stipulation of Facts and Issues and pegged the issues of the case, as follows:

I. Whether, as alleged in the FAN, Petitioner failed to support its Creditable Withholding Tax ("CWT") for taxable year 2006 in the amount of ₱1,589,747.00; and

II. Whether Petitioner seasonably filed its protest against the FAN.

THE RULING OF THE COURT

Before going into the merits and substantiation of the petitioner's CWT, the Court will address the issue on the timeliness of petitioner's administrative protest and judicial appeal.

Petitioner seasonably filed its protest against the FAN

Respondent's contention rests solely on the premise that petitioner made no allegation as to the date when the FAN was received. She maintains that there is a need to verify such fact in order to determine whether the FAN has attained finality after the lapse of the period to protest the same and, consequently, whether this Court has jurisdiction to entertain the appeal.[13]

Respondent's contention deserves scant consideration.

Section 228 of the Tax Code is categorical on the matter of timeliness and provides that an assessment may be administratively protested within a period of thirty (30) days from the receipt of the same by the taxpayer, to wit:

> **"SEC. 228.** ***Protesting of Assessment.*** - When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings:
>
> x x x
>
> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final." *(Underscoring ours)*

It is clear from the above that the thirty (30) day period to file a protest shall commence from the taxpayer's receipt of an assessment. In *Allied Banking Corporation vs. Commissioner of Internal Revenue*,[14] the Supreme Court stated that an "assessment" sent by the BIR refers to the Formal Letter of Demand (FLD) and Assessment Notices. Thus, the proper recourse of a taxpayer is to dispute the FLD and FAN by filing a protest the within thirty (30) days from receipt of the same.

Furthermore, to uphold its validity, the taxpayer shall state in its protest the facts, the applicable law, rules and regulations, or jurisprudence on which his protest is based, otherwise, the same shall be considered void and without force and effect.[15]

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[13] Respondent's Answer, filed December 16, 2010 and receive by this Court on January 3, 2011; Docket, pp.45 to 47.
[14] G.R. No. 175097, February 5, 2010.
[15] Section 3.1.5 of Revenue Regulation 12-1999 in relation to Section 228 par. 2 of the Tax Code.

Contrary to respondent's assertion, petitioner received the FAN and Assessment Notice[16] on February 24, 2010 as evidenced by a stamp[17] "received" bearing the said date, name of petitioner and signature of recipient. As such, petitioner had thirty (30) days from receipt of the FAN or until March 26, 2010 within which to file its protest. The records of this case show that petitioner filed its Protest[18] to the FAN on March 9, 2010 at BIR Revenue Region No. 8, Makati City. Undoubtedly, petitioner filed its protest within the prescribed period from its receipt of the assessment for deficiency income tax pertaining to the taxable year 2006.

Petition for Review was Timely Filed; Court has Jurisdiction

Petitioner claims to have filed the appeal due to the inaction of respondent and her failure to rule on the disputed assessment within the period prescribed by law.

Given our finding that petitioner's protest was filed in a timely manner, we uphold our jurisdiction over the same in accordance with Section 3(a)(2) of Rule 4 of the Revised Rules of the Court of Tax Appeals[19] in relation to Section 228 of this Code.

The last paragraph of Section 228 of the Tax Code, provides as follows:

> "If the protest is denied in whole or in part, <u>or is not acted upon within one hundred eighty (180) days from submission of documents</u>, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals <u>within thirty (30) days from receipt of the said decision, or</u> *<u>from the lapse of the one</u>*

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[16] *Ibid.*

[17] Exhibit *"E-1"*; Docket, p. 431.

[18] Exhibit *"F"*; Docket, pp. 435 to 438.

[19] SEC. 3. Cases within the jurisdiction of the Court in Division. – The Court in Division shall exercise:

(a) Exclusive original over or appellate jurisdiction to review by appeal the following:

x x x

(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code or other applicable laws provides a specific period of action: *Provided*, that in case of disputed assessments, the inaction of the Commissioner of Internal Revenue within the one hundred eighty day-period under Section 228 of the National Internal Revenue Code shall be deemed a denial for purposes of allowing the taxpayer to appeal his case to the Court and does not necessarily constitute a formal decision of the Commissioner of Internal Revenue on the tax case; *Provided, further*, that should the taxpayer opt to wait the final decision of the Court of the Commissioner of Internal Revenue on the disputed assessment beyond the one hundred eighty day-period abovementioned, the taxpayer may appeal such final decision to the Court under Section 3(a), Rule 8 of these Rules; and *Provided, still further*, that in the case of claims for refund of taxes erroneously or illegally collected, the taxpayer must file a petitioner for review with the Court prior to the expiration of the two-year period under Section 229 of the National Internal Revenue Code;

> *hundred eighty (180)-day period*; otherwise, the decision shall become final, executory and demandable." *(Underscoring and emphasis ours)*

From the foregoing, it is clear that in the event of inaction on the part of the CIR to decide on a submitted protest by a taxpayer, the petition for review appealing the said protest must be filed within 30 days from the lapse of the 180-day period provided by law for the CIR to act on the same.

As established by petitioner, a timely filing of the protest against the FAN was made on March 9, 2010. In the said protest, petitioner stated that copies of supporting documents relevant to its request to cancel or withdraw the assessment had already been submitted with the BIR as early as December 15, 2009 when it filed its reply to the PAN.

Applying Section 228, the 180-day period for the CIR to decide commenced on March 9, 2010 and ended on September 5, 2010. As the 30-day period to file an appeal with this Court would have prescribed on October 5, 2010, the present petition filed on October 5, 2010 was indeed timely. Hence, this Court is clothed with jurisdiction to take cognizance of the petition.

Petitioner's CWT for the taxable year 2006 in the amount of ₱1,589,747.00 was duly supported by CWT Certificates.

Respondent maintains that the creditable tax withheld amounting to ₱1,589,747.00 should be disallowed due to petitioners failure to submit supporting documents to substantiate its protest in violation of Sections 2.58.3 (C) and 2.58.5 of Revenue Regulation No. 2-98, as amended.

Our thorough consideration of the evidence proves otherwise.

A perusal of the FAN itself shows that respondent acknowledged therein the receipt of the documents submitted to substantiate petitioner's claim that the creditable tax withheld is duly supported by CWT certificates, *to wit*:

> "x x x Moreover, the documents submitted to support your claimed Creditable Tax Withheld amounting to P1,589,747.00 which was disallowed under Income Tax is likewise acknowledged, however, a reinvestigation is necessary to determine its validity, hence, since you failed to execute [a] Waiver of Defense of Prescription as contemplated under Section 203 and 222 of the National Internal Revenue Code which have already requested in our Preliminary Assessment Notice, this

Formal Assessment Notice (FAN) has been issued to protect the interest of the government."(*Underscoring ours*)

From the foregoing, respondent issued the FAN because there was a need to investigate the CWT certificates and petitioner failed to execute a waiver. Petitioner maintains, however, that there was sufficient time for respondent to verify the validity of the certificates to justify non-issuance of the FAN.

Petitioner's contention is meritorious.

In accordance with Section 203 of the Tax Code, respondent had until April 15, 2010 to issue the FAN. Any deficiency tax due should have been assessed within three (3) years after the actual filing of the return. After the lapse of such three (3) year period, the BIR would have lost the right to assess and collect the tax due as assessed in the FAN.

Section 203 Tax Code provides as follows:

> "Section 203. *Period of limitation upon assessment and collection.* — Except as provided in the succeeding section, internal revenue taxes shall be assessed within three years after the return was filed, and no proceedings in court without assessment for the collection of such taxes shall be begun after expiration of such period: *Provided*, That in a case where a return is filed beyond the period prescribed by law, the three-year period shall be counted from the day the return was filed. For the purposes of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day."

Records show that copies of the CWT Certificates were submitted to Respondent as early as December 15, 2009 when petitioner filed its letter-reply to the PAN. Respondent then had a reasonable period of four (4) months or until April 15, 2010 to conduct an investigation and ascertain the validity of the certificates in question.

In order to establish that petitioner's creditable tax withheld for the taxable year 2006 was supported by CWT certificates and that the same was filed together with petitioner's quarterly and annual income tax returns for the same year, petitioner presented original CWT certificates and photocopies of CWT Certificates bearing the original receiving stamp of the BIR in the total amount of ₱1,589,747.00, as follows:

Quarter	Exhibit	Amount (Php)
First	"H" to "O"[20]	₱ 221,605.97
Second	"Q" to "DD"[21]	₱ 491,425.84
Third	"FF" to "UU"[22]	₱ 411,687.94
Fourth	"WW" to "NNN"[23]	₱ 465,127.00

However, in a resolution dated June 26, 2012[24], this Court denied admission of the photocopies of certain CWT certificates for the taxable year 2006 bearing the original receiving stamp of the BIR for failure to present the originals for comparison.

Petitioner filed a Motion for Reconsideration [25] praying for reconsideration of the Resolution dated June 26, 2014 or, in the alternative, to allow petitioner to re-open the case in order to present evidence to qualify the exhibits as secondary evidence, which was granted[26] by this Court.

To qualify the exhibits as secondary evidence pursuant to Section 3[27] and Section 5[28], Rule 130 of the Revised Rules of Court, petitioner presented Mr. Richard Radier, Atty. Mary Elizabeth M. Belmonte, and Mr. Ronald Allan Casio to prove (i) the existence of the original exhibits; (ii) the original documents' loss, destruction or unavailability not due to the petitioner's bad faith; and (iii) reasonable diligence and good faith in the search for or attempt to produce the original.

Furthermore, petitioner presented the following documents to support the qualification of the Exhibits as secondary evidence:

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[20] Docket, pp. 448 to 455.
[21] Docket, pp. 467 to 481.
[22] Docket, pp. 484 to 501.
[23] Docket, pp. 511 to 530.
[24] Docket, pp. 862 to 864.
[25] Docket, pp. 865 to 879.
[26] Resolution by CTA First Division, dated November 14, 2012; Docket, pp. 908 to 914.
[27] SEC. 3. Original document must be produced; exceptions. – When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

a. When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
b. When the original is in the custody or control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
c. When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the facts sought to be established from them is only is only the general result of the whole; and
d. When the original is a public record in the custody of a public officer or is recorded in a public office.

[28] SEC. 5. When original is unavailable. – When the original document is lost or destroyed or cannot be produced in court, the offeror, upon proof of execution or existence and the cause of its unavailability without bad faith on its part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of the witnesses in the order stated.

Exhibit	Description
P-1	Petitioner's Quarterly ITR for the Second Quarter of CY 2006 Manually filed with the BIR on August 31, 2006
EE-2	Petitioner's Quarterly ITR for the Third Quarter of CY 2006 manually filed with the BIR on November 29, 2006
VV	Petitioner's Annual ITR for CY 2006 manually filed with the BIR on April 12, 2007
VVV	Letter request addressed to Mr. Jaime B. Santiago, the Regional Director of Revenue Region No. 8 of the BIR dated May 20, 2011.
VVV-1	Atty. Belmonte's signature appearing on the last page of the letter dated May 20, 2011.
WWW	Certification dated June 29, 2011 issued by the Assistant Revenue District Officer of the BIR Revenue Region No. 8, Ms. Rhodora G. Icaranom.

In its Resolution[29] dated July 16, 2013, this Court admitted as secondary evidence the exhibits, as follows:

> "In view of the foregoing, petitioner having sufficiently established the unavailability of the originals of the subject documents, which appear to have been received by the BIR, and in accordance with Section 5, Rule 130 of the Rules of Court, Exhibits R to W, Y to CC, FF to MM, OO to UU, YY to ZZ, BBB to EEE, and HHH to NNN, are hereby **ADMITTED**, as secondary evidence."

The admitted exhibits are described with specificity below:

Exhibit	Description
R	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Universal Robina Corporation to Petitioner for the period from 1 January 2006 to 31 March 2006 covering withholding tax credits in the amount of ₱1,861.36
S	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sysu International Inc. to Petitioner for the period from 1 January 2006 to 31 March 2006 covering withholding tax credits in the amount of

[29] Docket, pp. 1077 to 1079.

	₱3,545.96
T	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by McCormick Philippines Inc. to Petitioner for the period from 1 January 2006 to 31 March 2006 covering withholding tax credits in the amount of ₱198.86
U	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Suncrest Foods Incorporated to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱42,013.39
V	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Kraft Foods (Philippines) Inc. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱5,799.95
W	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Healthy & Young Multi-Foods Corp. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱4,241.07
Y	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Healthy & Young Multi-Foods Corp. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱3,303.57
Z	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Healthy & Young Multi-Foods Corp. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱3,303.57
AA	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Healthy & Young Multi-Foods Corp. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱437.50
BB	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sensient Technogies Philippines Inc. to Petitioner for the

	period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱2,713.27
CC	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Magnolia Inc. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱4,486.61
FF	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Philippines Bio-Industries Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱316,275.96
GG	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Wyeth Philippines Inc. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱289.77
HH	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Delfi Foods Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱2,321.43
II	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Delfi Foods Inc. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱1,964.29
JJ	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Magnolia Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱8,125.00
KK	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Nestle Philippines Inc. to Petitioner for the period from 1 April 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱5,847.73
LL	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sysu International Inc. to Petitioner for the period

	from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱2,185.27
MM	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by McCormick Philippines Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱198.66
OO	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Suncrest Foods Incorporated to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱46,437.46
PP	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Liberty Commodities Corporation to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱229.91
QQ	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Mix Plant Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱904.02
RR	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Universal Robina Corporation to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱21,874.95
SS	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Mix Plant Inc. to Petitioner for the period from 1 April 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱904.02
TT	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Kraft Foods Philippines Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱2,633.93
UU	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Ecco Foods

	Corporation to Petitioner for the period from 1 June 2006 to 30 June 2006 covering withholding tax credits in the amount of ₱558.04
YY	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Universal Robina Corporation to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱12,500.00
ZZ	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Universal Robina Corporation to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱25,000.00
BBB	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Suncrest Foods Incorporated to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱18,504.45
CCC	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Suncrest Foods Incorporated to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱23,571.41
DDD	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sensient Technogies Philippines Inc. to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱1,718.76
EEE	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Magnolia Inc. to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱8,402.48
HHH	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sensient Technogies Philippines Inc. to Petitioner for the period from 1 July 2006 to 30 September 2006 covering withholding tax credits in the amount of

	₱721.12
III	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Filtrite Incorporated to Petitioner for the period from 1 September 2006 to 30 September 2006 covering withholding tax credits in the amount of ₱959.82
JJJ	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Sysu International Inc. to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱5,165.18
KKK	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Mc Cormick Philippines Inc. to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱1,218.75
LLL	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Century Canning Corporation to Petitioner for the period from 1 July 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱4,159.82
MMM	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Century Canning Corporation to Petitioner for the period from 1 July 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱1,785.71
NNN	Certificate of Creditable Tax Withheld at Source (BIR Form No. 2307) issued by Kraft Foods Philippines Inc. to Petitioner for the period from 1 October 2006 to 31 December 2006 covering withholding tax credits in the amount of ₱1,888.39

In view of the foregoing, petitioner has shown this Court that its Creditable Withholding Tax for the taxable year 2006 is indeed duly supported by CWT Certificates.

WHEREFORE, premises considered, the petition for review is hereby **GRANTED**. Accordingly, Assessment Notice No. IT-LA63372-06-10-005 for deficiency income tax, covering the taxable year 2006 in the amount of ₱2,499,169.30 is hereby **CANCELLED** and **SET ASIDE** for lack of basis in law and in fact.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

LOVELL R. BAUTISTA
Associate Justice

ESPERANZA R. FABON-VICTORINO
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, it is hereby certified that the above Decision has been reached in consultation with the members of the Court in Division before the case was assigned to the writer of the opinion of this Court.

ROMAN G. DEL ROSARIO
Presiding Justice