REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

MANILA GENESIS ENTERTAINMENT & MANAGEMENT, INC.,
Petitioner,

- versus -

HON. KIM JACINTO-HENARES, in her capacity as Commissioner of the Bureau of Internal Revenue, THE BUREAU OF INTERNAL REVENUE,
Respondent.

CTA Case No. 9259

Members:

CASTAÑEDA, JR., *Chairperson,*
CASANOVA, and
MANAHAN, *JJ.*

Promulgated:

AUG 3 1 2018
3:15 p.m.

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DECISION

CASTAÑEDA, JR., *J.:*

THE CASE

This is a Petition for Review[1] filed by Manila Genesis Entertainment & Management, Inc. pursuant to Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals (RRCTA), praying that judgment be rendered ordering the setting aside of the Commissioner

[1] Docket, Vol. I, pp. 10-32.

of Internal Revenue's (CIR) Decision dated January 7, 2016 and the reversal and setting aside of the deficiency income tax, value-added tax (VAT), expanded withholding tax (EWT), and final withholding tax (FWT) assessments against petitioner for taxable year 2008 in the aggregate amount of **NINE MILLION NINE HUNDRED NINE THOUSAND THREE HUNDRED SEVEN PESOS AND 60/100 (₱9,909,307.60),** inclusive of surcharges, interests, and penalties.

THE FACTS

Petitioner Manila Genesis Entertainment & Management, Inc. is allegedly a domestic corporation organized and existing under and by virtue [of the laws of] the Republic of the Philippines, with present office address at Unit 906 AIC Burgundy Empire Tower, ADB Avenue cor. Sapphire and Garnet Road, Ortigas Center, [Pasig City].[2]

Respondent Commissioner of Internal Revenue (CIR) is the head of the BIR, vested under the appropriate laws with the authority to carry out the functions, duties and responsibilities of said office including, *inter alia*, the power to decide disputed assessments and to cancel and abate tax liabilities, pursuant to the pertinent provisions of the National Internal Revenue Code (NIRC) of 1997, as amended, and other tax laws, rules and regulations. She holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

On January 16, 2012, petitioner received a copy of a Formal Letter of Demand (FLD) dated January 13, 2012.[3] The Regional Director gave the following details of discrepancies on each particular deficiency, thus:[4]

"A. **<u>On Deficiency Income Tax</u>**

a. *Non-deductible Donations and Contributions (P1,289,663.00)* – 'Verification disclosed that the company was net loss at the end of the taxable year wherein no Donations and Contributions can be claimed deductible for income tax purposes xxx.'

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[2] Petition for Review, Docket, Vol. I, pp. 10-11.
[3] Par. 2, Stipulation of Facts, Joint Stipulation of Facts and Issues (JSFI), Docket, Vol. II, p. 783.
[4] Par. 3, Stipulation of Facts, JSFI, Docket, Vol. II, pp. 783-785.

b. *Unaccounted salaries, wages and other benefits (P270,116.06)* – 'Verification disclosed the discrepancy of salaries, wages and other benefits per Alphalist and those declared in the financial statements xxx wherein the total difference is considered as unaccounted source of cash that led to the inference that part of your income have not been declared xxx.'

c. *Income payments not subjected to (expanded) withholding tax (P663,858.82)* – The Regional Director came up with a purported 'discrepancy' from the amount reflected as Professional Fees in the Alphalist to the amount in petitioner's Financial Statements equivalent to P663,858.82 which it derived from a formula that MANILA GENESIS had never seen before, when the truth of the matter is that the amount of Professional Fees reflected in both records are actually the same.

d. *Disallowed Depreciation Expense (P140,651.00)* – The Regional Director disallowed this for the reason that it was failed to have been proven (sic).

e. *Disallowed Expenses (P175,712.06)* – The Regional Director found that the Real Property Tax payment (P1,314.06) and Gas & Oil expenses (P174,398.00) were not business-related.

f. *Royalty Expense not subject to Final Withholding [T]ax (P10,000.00)*

g. *Unaccounted Advances from Affiliate and Accounts Payable (P7,216,639.00)* – The Regional Director considered all these advances and accounts payable as income saying that these, including the accounts payables were not supported by necessary documents which led to the inference that part of the income of MANILA GENESIS is underdeclared.

h. *Disallowed Creditable Withholding Tax (P1,589,551.00)* – The Regional Director stated that MANILA GENESIS failed to submit appropriate documents to validate the claimed Creditable Withholding Tax and hence disallowed all withheld taxes actually paid by MANILA GENESIS at source without as much as a bat of an eyelash.

B. **On Deficiency Value-Added Tax** – The Regional Director considered the Income in the Financial Statements amounting to P2,476,367.33 as Income that should have been subjected to the 12% VAT, even as it was clearly indicated in the Financial [S]tatements that this was a dollar denominated sale of service performed outside of the Philippines, which is zero-rated, and thus should have been subjected to a zero-percent VAT rate."

On February 14, 2012, petitioner filed a protest letter dated February 3, 2012 against the FLD.[5] In response, Regional Director Jonas DP. Amora (RD Amora), of BIR Revenue Region No. 7 wrote a letter to petitioner dated March 30, 2012 stated, among others, as follows:[6]

> "x x x Please be informed that this case will be forwarded to the Revenue District Office No. 43, Pasig City, for appropriate action. Please address succeeding communications to the said office."

On April 20, 2012, petitioner received a letter from Revenue District Officer Florante R. Aninag (RDO Aninag) of BIR Revenue District Office (RDO) No. 43A – Pasig City informing petitioner that they have authorized Revenue Officer Edilberto Nacnac (RO Nacnac) under the supervision of Antonino Ilagan to continue the audit and investigation of petitioner's all internal revenue taxes for the year 2008 pursuant to Letter of Authority No. 000030934 dated June 23, 2009.[7]

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[5] Par. 4, Stipulation of Facts, JSFI, Docket, Vol. II, p. 785.
[6] *Id.*
[7] Par. 5, Stipulation of Facts, JSFI, Docket, Vol. II, p. 785.

On June 3, 2014, petitioner received a final decision dated June 2, 2014 issued by RD Amora.[8]

On July 2, 2014, a Motion for Reconsideration was filed by petitioner before the Commission[er] of Internal Revenue.[9]

On January 14, 2016, petitioner received the Final Decision of the Commissioner of Internal Revenue dated January 7, 2016 denying petitioner's protest.[10]

On February 15, 2016, petitioner filed the present Petition for Review.

On March 14, 2016, respondent filed a Motion to Direct Petitioner to Amend Petition for Review and for Extension of Time to File Answer.[11]

In a Resolution[12] dated March 18, 2016, this Court ordered petitioner to comment on respondent's Motion to Direct Petitioner to Amend Petition for Review and for Extension of Time to File Answer.

On March 22, 2016, petitioner filed a Manifestation with attached Amended Petition for Review.[13]

In a Resolution[14] dated April 18, 2016, this Court granted respondent's Motion to Direct Petitioner to Amend Petition for Review and for Extension of Time to File Answer, noted petitioner's Manifestation, and admitted petitioner's Amended Petition for Review.

Within the extended time granted by the Court, respondent filed his Answer.[15]

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[8] Par. 6, Stipulation of Facts, JSFI, Docket, Vol. II, p. 785.
[9] Par. 7, Stipulation of Facts, JSFI, Docket, Vol. II, p. 785.
[10] Par. 8, Stipulation of Facts, JSFI, Docket, Vol. II, p. 786.
[11] Docket, Vol. I, pp. 253-256.
[12] *Id.*, p. 258.
[13] *Id.*, pp. 259-285.
[14] *Id.*, pp. 489-490.
[15] *Id.*, pp. 495-501.

Pre-trial conference for the case was held on July 7, 2016.[16] Petitioner filed its Pre-Trial Brief[17] on July 4, 2016 while respondent filed his Pre-Trial Brief[18] on July 7, 2016.

On August 1, 2016, the parties filed their Joint Stipulation of Facts and Issues[19], which this Court approved and adopted in the Pre-Trial Order[20] dated August 9, 2016.

During trial, petitioner presented the following as its witnesses: (1) Ms. Maria Gina T. Lucena, petitioner's Accounting Manager;[21] and (2) Ms. Sarah T. Fontamillas, petitioner's external auditor.[22]

In a Resolution dated March 14, 2017,[23] petitioner was deemed to have waived its right to formally offer its exhibits and to have rested its case, considering the report of the Records Division of this Court dated March 9, 2017,[24] stating that petitioner's counsel failed to comply with the Order of this Court dated February 6, 2017.

On March 24, 2017, petitioner filed an Omnibus Motion (Motion for Reconsideration and Motion for Additional Settings for Commissioner's Hearing). This Motion was granted by this Court in a Resolution dated May 12, 2017.[25]

On July 12, 2017, petitioner filed its Formal Offer of Exhibits.[26]

On September 8, 2017, this Court issued a Resolution[27] admitting, as petitioner's evidence, Exhibits "P-1", "P-1-A", "P-1-B", "P-1-C", "P-1-D", "P-1-E", "P-1-F", "P-2", "P-3", "P-4", "P-5", "P-6", "P-8", "P-8-A", "P-8-A-1" to "P-8-A-31", "P-8-A-33", "P-8-A-35", "P-8-A-37", "P-8-A-39", "P-8-A-41", "P-8-A-43", "P-8-A-45", "P-8-A-47", "P-8-A-49", "P-8-A-51", "P-8-A-53", "P-8-A-55", "P-8-A-57", "P-8-A-59", "P-8-

[16] Minutes of the Hearing dated July 7, 2016, Docket, Vol. I, p. 523.
[17] Docket, Vol. I, pp. 504-514.
[18] *Id.*, pp. 515-521.
[19] Docket, Vol. II, pp. 783-787.
[20] *Id.*, pp. 792-796.
[21] Minutes of the Hearing dated August 22, 2016, Docket, Vol. II, p. 809; Minutes of the Hearing dated February 6, 2017, Docket, Vol. II, p. 862.
[22] Minutes of the Hearing dated October 19, 2016, Docket, Vol. II, p. 837.
[23] Docket, Vol. II, p. 871.
[24] *Id.*, p. 869.
[25] *Id.*, pp. 883-885.
[26] *Id.*, pp. 903-944.
[27] *Id.*, p. 1186-1188.

A-61", "P-8-A-63", "P-8-A-65", "P-8-A-67", "P-8-A-69", "P-8-A-71", "P-8-A-73", "P-8-A-74", "P-8-A-76", "P-8-A-78", "P-8-A-80", "P-8-A-82", "P-8-A-84", "P-8-A-86", "P-8-A-88", "P-8-A-90", "P-8-A-92", "P-8-A-93", "P-11-1" to "P-11-5", "P-11-7" to "P-11-15", "P-11-19", "P-11-21", "P-11-22", "P-11-24", "P-11-25", "P-11-26", "P-11-27", "P-11-28", "P-11-30", "P-11-31", "P-11-32", "P-11-33", "P-11-35", "P-11-37", "P-11-39", "P-11-41", "P-11-43", "P-11-44", "P-11-45", "P-11-47", "P-11-49", "P-11-51", "P-11-53", "P-11-54", "P-11-55", "P-11-56", "P-11-58", "P-11-59", "P-11-60", "P-11-62" to "P-11-67", "P-11-69", "P-11-72", "P-11-79", "P-11-80", "P-15", "P-15-A", "P-16", "P-16-A", "P-20" and "P-20-A", subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case. On the other hand, this Court denied the admission of Exhibits "P-7", "P-7-A", "P-7-B", "P-7-C", "P-9", "P-9-A", "P-10", "P-10-A", "P-10-B", "P-10-C", "P-10-D", "P-11", "P-11-A", "P-11-B", "P-11-C", "P-11-D", "P-11-16", P-11-17", "P-11-18", "P-11-20", "P-11-23", "P-11-29", "P-11-36", "P-11-38", "P-11-40", "P-11-48", "P-11-50", "P-11-57", "P-11-61", "P-11-70", "P-11-71", "P-11-73", "P-11-74", "P-11-75", "P-12", "P-12-A", "P-12-B", "P-12-C", "P-13", "P-13-A" to "P-13-N", "P-17", "P-18", and "P-19", for failure to present the originals for comparison.

Respondent presented as his sole witnesses, Mr. Edilberto R. Nacnac, Revenue Officer III of the BIR Revenue District Office No. 38 – North Quezon City.[28]

On November 16, 2017, respondent filed his Formal Offer of Evidence.[29]

In a Resolution[30] dated January 5, 2018, the Court admitted Exhibits "R-1", "R-2", "R-3", "R-4", "R-5", "R-6", "R-7", "R-8", "R-9", "R-10", "R-11", and "R-11-A", subject to the Court's final evaluation and/or appreciation of their purposes, materiality, relevancy, and probative value to the issues involved in this case. In the same Resolution, the Court granted the parties a period of thirty (30) days within which to file their memoranda. Jr

[28] Minutes of the Hearing dated October 30, 2017, Docket, Vol. III, p. 1221.
[29] Docket, Vol. III, pp. 1225-1228.
[30] *Id.*, pp. 1237-1238.

Within the extended period granted by this Court, petitioner filed its Memorandum on March 26, 2018.[31] Respondent, on the other hand, filed his Memorandum on March 28, 2018.[32]

Accordingly, the present case was considered submitted for decision in a Resolution dated April 5, 2018.[33]

THE ISSUES

The parties agreed that the main issues to be resolved by this Court are the following:[34]

> "I. WHETHER OR NOT THE DONATIONS MADE BY PETITIONER TO SHINING LIGHT FOUNDATION, INC[.], SHOULD BE DISALLOWED.
>
> II. WHETHER OR NOT THERE IS BASIS FOR DISALLOWING PETITIONER'S DEPRECIATION EXPENSE.
>
> III. WHETHER OR NOT GAS AND OIL EXPENSES MAY BE APPRECIATED IN FAVOR OF PETITIONER.
>
> IV. WHETHER OR NOT THERE IS BASIS FOR DISALLOWING CREDITABLE WITHHOLDING TAXES OF PETITIONER.
>
> V. WHETHER OR NOT ADVANCES INTENDED FOR CONCERT PRODUCTION MAY BE CONSIDERED AS INCOME SUBJECT TO INCOME TAX.
>
> VI. WHETHER OR NOT THERE IS BASIS IN IMPOSING THE 12% VAT ON ZERO[-]RATED SALE OF SERVICES RENDERED ABROAD.

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[31] Docket, Vol. III, pp. 1247-1275.
[32] *Id.*, pp. 1276-1285.
[33] *Id.*, p. 1286.
[34] Stipulation of the Issues, JSFI, Docket, Vol. II, p. 786.

VII. WHETHER OR NOT IT IS CORRECT TO CONSIDER THE SALARIES, WAGES, AND OTHER BENEFITS IN THE AMOUNT OF ₱270,116.06 AS UNACCOUNTED.

VIII. WHETHER OR NOT THE FORMULA USED BY RESPONDENT IN COMPUTING THE PROFESSIONAL FEE WAS CORRECT."

THE COURT'S RULING

I. Deficiency Income Tax

Based on Formal Letter of Demand (FLD) received by petitioner on January 16, 2012,[35] respondent assessed petitioner of deficiency income tax liability in the amount of ₱5,007,874.98, computed as follows:

Taxable income(loss) per ITR			₱ -
Add: Adjustments per investigation			
Non-deductible donations and contributions		₱ 1,289,663.00	
Unaccounted salaries, wages and other benefits		270,116.06	
Income payments not subjected to withholding tax		663,858.82	
Disallowed depreciation expense		140,651.00	
Disallowed expenses		175,712.06	
Royalty expenses not subjected to final withholding tax		10,000.00	
Unaccounted advances from affiliate and accounts payable		7,216,639.00	9,766,639.94
Taxable income per investigation			₱ 9,766,639.94
Income tax due thereon (MCIT)			₱ 3,418,323.98
Add: Disallowed tax credit/payments			
Prior year's excess credit other than MCIT		₱ 5,306,967.00	
Creditable withholding tax claimed		1,589,551.00	
Total		₱ 6,896,518.00	
Less: Excess MCIT over NIT carried over to the next period	₱ 175,141.00		
Excess tax credit to be carried over to the next period	6,721,377.00		
Disallowed creditable tax withheld	1,589,551.00	8,486,069.00	1,589,551.00
Deficiency Income Tax			**₱ 5,007,874.98**

[35] Exhibit "P-1-F", Docket, Vol. II, pp. 951-954.

The foregoing arose from the following items found by respondent's examiner, which shall be discussed hereafter:

A. Non-deductible donations and contributions	₱ 1,289,663.00
B. Unaccounted salaries, wages and other benefits	270,116.06
C. Income payments not subjected to withholding tax	663,858.82
D. Disallowed depreciation expense	140,651.00
E. Disallowed expenses	175,712.06
F. Royalty expenses not subjected to final withholding tax	10,000.00
G. Unaccounted advances from affiliate and accounts payable	7,216,639.00
H. Disallowed creditable tax withheld	1,589,551.00
I. Excess MCIT over NIT carried over to the next period	175,141.00
J. Excess tax credit to be carried over to the next period	6,721,377.00

A. Non-deductible donations and contributions— ₱1,289,663.00

Respondent disallowed petitioner's donations and contributions claimed amounting to ₱1,289,663.00 for the reason that the latter showed a net loss for the taxable year 2008, hence no donations and contributions can be claimed for income tax purposes pursuant to Section 34(H) of the NIRC of 1997, as amended, to wit:

> **Section 34.** *Deductions from Gross Income.* – xxx xxx xxx
>
> xxx xxx xxx
>
> (H) *Charitable and Other Contributions.* -
>
> (1) *In General.* – Contributions or gifts actually paid or made within the taxable year to, or for the use of the Government of the Philippines or any of its agencies or any political subdivision t hereof exclusively for public purposes, or to accredited domestic corporation or associations organized and operated exclusively for religious, charitable, scientific, youth and sports development, cultural or educational purposes or for the rehabilitation of veterans, or to social welfare institutions, or to nongovernment organizations, in accordance with rules and regulations promulgated by the Secretary of finance, upon recommendation of the Commissioner, no part of the net income of which inures to the benefit of any private stockholder or individual in an amount not in excess of ten percent (10%) in the case of an individual, and five percent (5%) in the case of a corporation, of the taxpayer's taxable income derived from

trade, business or profession as computed without the benefit of this and the following subparagraphs.

(2) *Contributions Deductible in Full.* – Notwithstanding the provisions of the preceding subparagraph, donations to the following institutions or entities shall be deductible in full;

(a) *Donations to the Government.* – Donations to the Government of the Philippines or to any of its agencies or political subdivisions, including fully-owned government corporations, exclusively to finance, to provide for, or to be used in undertaking priority activities in education, health, youth and sports development, human settlements, science and culture, and in economic development according to a National Priority Plan determined by the National Economic and Development Authority (NEDA), in consultation with appropriate government agencies, including its regional development councils and private philanthropic persons and institutions: *Provided*, That any donation which is made to the Government or to any of its agencies or political subdivisions not in accordance with the said annual priority plan shall be subject to the limitations prescribed in paragraph (1) of this Subsection;

(b) *Donations to Certain Foreign Institutions or International Organizations.* – Donations to foreign institutions or international organizations which are fully deductible in pursuance of or in compliance with agreements, treaties, or commitments entered into by the Government of the Philippines and the foreign institutions or international organizations or in pursuance of special laws;

(c) *Donations to Accredited Nongovernment Organizations.* – The term 'nongovernment organization' means a non-profit domestic corporation:

(1) Organized and operated exclusively for scientific, research, educational, character-building and youth and sports development, health, social welfare, cultural or charitable purposes, or a combination thereof, no part of the net income of which inures to the benefit of any private individual;

(2) Which, not later than the 15th day of the third month after the close of the accredited nongovernment organizations taxable year in which contributions are received, makes utilization directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated, unless an extended period is granted by the Secretary of Finance in accordance with the rules and regulations to be promulgated, upon recommendation of the Commissioner; gr

(3) The level of administrative expense of which shall, on an annual basis, conform with the rules and regulations to be prescribed by the Secretary of Finance, upon recommendation of the Commissioner, but in no case to exceed thirty percent (30%) of the total expenses; and

(4) The assets of which, in the event of dissolution, would be distributed to another nonprofit domestic corporation organized for similar purpose or purposes, or to the state for public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgment of said court shall best accomplish the general purpose for which the dissolved organization was organized.

Subject to such terms and conditions as may be prescribed by the Secretary of Finance, the term 'utilization' means:

(i) Any amount in cash or in kind (including administrative expenses) paid or utilized to accomplish one or more purposes for which the accredited nongovernment organization was created or organized.

(ii) Any amount paid to acquire an asset used (or held for use) directly in carrying out one or more purposes for which the accredited nongovernment organization was created or organized.

An amount set aside for a specific project which comes within one or more purposes of the accredited nongovernment organization may be treated as a utilization, but only if at the time such amount is set aside, the accredited nongovernment organization has established to the satisfaction of the Commissioner that the amount will be paid for the specific project within a period to be prescribed in rules and regulations to be promulgated by the Secretary of Finance, upon recommendation of the Commissioner, but not to exceed five (5) years, and the project is one which can be better accomplished by setting aside such amount than by immediate payment of funds.

(3) *Valuation.* – The amount of any charitable contribution of property other than money shall be based on the acquisition cost of said property.

(4) *Proof of Deductions.* – Contributions or gifts shall be allowable as deductions only if verified under the rules and gc

regulations prescribed by the Secretary of Finance, upon recommendation of the Commissioner.

The subject donations of ₱1,289,663.00 were made to Shining Light Foundation (SLF), broken down as follows:[36]

Month	Amount
January	₱ 128,735.00
February	76,816.00
March	240,234.00
April	106,163.71
May	63,245.00
June	91,829.00
July	165,826.00
August	100,183.00
September	132,239.00
October	78,652.00[37]
November	65,715.00
December	40,025.00
TOTAL	**₱1,289,662.71**

Petitioner avers that SLF is an accredited nongovernment organization for the upliftment of the marginalized and vulnerable sector of the society. However, the certifications issued by the Philippine Council for NGO Certification (PCNC), the Bureau of Internal Revenue (BIR) and the Department of Social Welfare and Development (DSWD)[38] were denied admission as evidence by the Court for failure to present their originals for comparison in a Resolution dated September 8, 2017.[39] Consequently, petitioner's donations to SLF would fall under Section 34(H)(1), which limits deductible donations to 5% of petitioner's taxable income as computed without the benefit of the said deduction.

Although petitioner submitted BIR Forms No. 2322 Certifications of Donation[40] to substantiate its charitable contributions to SLF, the Court cannot determine the amount of deductible donations since petitioner's amended annual income tax return and the accompanying

[36] Exhibit "P-8", Docket, Vol. II, p. 984.
[37] Includes a donation in the amount of ₱5,000.00 to Ma. Victoria Dalanon.
[38] Exhibits "P-7-A", "P-7" and "P-7-C", Docket, Vol. II, pp. 980-981 & 983.
[39] Docket, Vol. II, pp. 1186-1188.
[40] Exhibits "P-8-A" to "P-8-A-93", Docket, Vol. II, pp. 985-1049.

audited financial statements for the year 2008[41] were not admitted as evidence for failure to present the originals thereof.[42]

Thus, the Court is constrained to uphold the disallowance of petitioner's donations and contributions to SLF in the amount of ₱1,289,663.00.

B. Unaccounted salaries, wages and other benefits— ₱270,116.06

Respondent alleged that petitioner has an unaccounted source of cash when the comparison of the salaries and wages account per financial statements and alphalist yields a difference of ₱270,116.06, computed as follows:[43]

Salaries, wages and other benefits:	
Per Alphalist	₱ 7,498,800.06
Per FS	7,228,684.00
Difference	**₱ 270,116.06**

Petitioner argues that the foregoing lacks factual basis. The breakdown of the foregoing computation shows:[44]

Accounts	FS	Alphalist	Difference
Salaries & wages	₱ 6,694,982.00	₱ 6,694,982.76	₱ 0.76
13th month pay	516,486.00	516,486.65	0.65
SSS, PHIC, HDMF contribution		287,330.65	287,330.65
Employee benefits	17,216.00		(17,216.00)
TOTAL	**₱7,228,684.00**	**₱7,498,800.06**	**₱ 270,116.06**

It is noted that respondent's examiner failed to include in the computation the SSS, PHIC and HDMF contributions as reflected in petitioner's financial statements. However, the Court cannot determine the correct amount of salaries, wages and other benefits per financial statements because petitioner's audited financial statements are not

[41] Exhibits "P-9" and "P-9-A", Docket, Vol. II, pp. 1050-1073.
[42] See Note 38.
[43] Exhibit "P-1-F", Docket, Vol. II, p. 953.
[44] Petition for Review, Docket, Vol. I, p. 29.

admitted as evidence.[45] While it is true that the same documents could be found in the BIR Records[46] they still cannot be considered into evidence because they were not formally offered as evidence. On this point, the following ruling of the Supreme Court in *Pilipinas Shell Petroleum Corporation v. Commissioner of Customs*[47] is, *mutatis mutandis*, instructive:

> "**As a matter of fact, even if the aforesaid documentary evidence was included as part of the BOC Records submitted before the CTA in compliance with a lawful order of the court, this does not permit the trial court to consider the same in view of the fact that the Rules prohibit it.** The reasoning forwarded by the CTA in Division in its Resolution dated 24 February 2009, that the apparent purpose of transmittal of the records is to enable it to appreciate and properly review the proceedings and findings before an administrative agency, is misplaced. **Unless any of the party formally offered in evidence said Memorandum, and accordingly, admitted by the court *a quo*, it cannot be considered as among the legal and factual bases in resolving the controversy presented before it**." *(Emphasis supplied and citations omitted)*

Thus, respondent's findings of unaccounted source of cash resulting from the difference of salaries, wages and other benefits between petitioner's financial statements and alphalist is upheld.

C. Income payments not subjected to withholding tax—₱663,858.82, and Deficiency Expanded Withholding Tax—₱89,334.65

Respondent disallowed income payments amounting to ₱663,858.82 that were allegedly not subjected to withholding tax, thus:[48] *gr*

[45] See Notes 38 and 39.
[46] BIR Records, pp. 142-166.
[47] G.R. No. 195876, December 5, 2016, 812 SCRA 1, 47-48.
[48] Exhibit "P-1-F", Docket, Vol. II, p. 953.

	Per FS	Per Alphalist	Difference
Professional fees	₱ 1,277,060.00		
Talent fees	1,093,594.00		
Total	₱ 2,370,654.00	₱ 1,787,134.69	₱ 583,519.31
Honorarium & Commission	145,956.00	143,456.49	2,499.51
Advertising & Promotions	77,840.00	-	77,840.00
Income payments not subjected to WT			**₱ 663,858.82**

The amount of ₱1,787,134.69 is computed as follows:[49]

Professional fees subjected to 10%	₱ 175,151.40
Divide by should be tax rate	15%
Professional fees deemed subjected to withholding	₱ 1,167,676.00
Professional fees subjected to 15%	619,458.69
Professional fees per [alphalist]	**₱ 1,787,134.69**

Petitioner counters that the foregoing formula is misleading as there are actual figures reported in the financial statements and that the amounts appearing in the alphalist as professional fees and talent fees are equal to the amount reported in the financial statements.[50]

However, the subject financial statements[51] and alphalist[52] were not admitted as evidence by the Court for petitioner's failure to submit the original documents for comparison.[53]

Thus, the Court affirms the disallowance of ₱663,858.82 due to non-withholding.

Consequently, petitioner is liable for deficiency expanded withholding tax in the amount of ₱89,334.65, computed as follows:

Professional fees	₱ 583,519.31	15%	₱ 87,527.90
Honorarium & commission	2,499.51	10%	249.95
Advertising & promotions	77,840.00	2%	1,556.80
Deficiency expanded withholding tax			**₱ 89,334.65**

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[49] *Id.*
[50] Petition for Review, Docket, Vol. I, p. 30.
[51] Exhibit "P-9-A", Docket, Vol. II, pp. 1051-1073.
[52] Exhibits "P-13" to "P-13-N", Docket, Vol. II, pp. 1159-1173.
[53] See Note 38.

D. Disallowed depreciation expense—₱140,651.00

Petitioner's depreciation expense of ₱140,651.00 is disallowed by respondent for the former's alleged failure to prove that it is a valid deduction.

Section 34(F) of the NIRC of 1997, as amended, clearly provides for the depreciation deduction of a reasonable allowance for the exhaustion, wear and tear (including reasonable allowance for obsolescence) of property used in the trade or business. However, like other deductions from gross income, it must be substantiated.[54]

But then again, the Court upholds the disallowance of petitioner's depreciation expense amounting to ₱140,651.00 for the reason that the Court cannot ascertain whether or not petitioner's claim is valid because there is no admitted evidence to prove the claim.

E. Disallowed expenses—₱175,712.06

Respondent disallowed the following expenses for being not business related:[55]

Real property tax-Cainta	₱ 1,314.06
Gas and oil	174,398.00
Disallowed expense	**₱ 175,712.06**

Petitioner avers that the disallowance has no basis. It is represented that gas and oil expenses will have to be incurred in the furtherance of petitioner's primary purpose "to engage in the business of television, commercial, live performance, concert or other entertainment productions xxx." Petitioner cited the requisites for the deductibility of ordinary and necessary expenses as enumerated in the case of *Commissioner of Internal Revenue v. Isabela Cultural Corporation*,[56] thus:

[54] Section 34(A)(1)(b) of the NIRC of 1997, as amended.
[55] Exhibit "P-1-F", Docket, Vol. II, p. 953.
[56] G.R. No. 172231, February 12, 2007, citing *Commissioner of Internal Revenue v. General Foods (Phils.), Inc.*, G.R. No. 143672, April 24, 2003, 401 SCRA 545, 551.

(a) the expense must be ordinary and necessary;
(b) it must have been paid or incurred during the taxable year;
(c) it must have been paid or incurred in carrying on the trade or business of the taxpayer; and
(d) it must be supported by receipts, records or other pertinent papers.[57]

Further, Ma. Gina T. Lucena, petitioner's accounting manager, testified:[58]

> "23. Q: Going back to the Assessment, what can you [sic] about the disallowed gas and oil expenses for 2008?
>
> A: We do not agree. We claimed a total amount P174,389.00 for one year or about Php14,532.41 per month or an average of Php484/day. We believe these are reasonable amounts considering that the company owns an automobile which is reflected in the 2008 Audited Financial Statements and we have receipts to back up the claim."

However, petitioner did not submit the receipts to prove that it complied with the previously mentioned requisites and its audited financial statements were denied admission. Thus, the disallowance should be maintained.

F. Royalty expenses not subjected to final withholding tax—₱10,000.00 and Deficiency Final Withholding Tax—₱2,000.00

This particular disallowance of royalty expense is unrefuted by petitioner. Hence, the Court should not disturb the same.

Accordingly, the Court likewise upholds the deficiency final withholding tax assessment amounting to ₱2,000.00 (₱10,000.00 x 20%).

With regard to the compromise penalty of ₱700.00 imposed by respondent, the Court finds it proper to cancel the imposition thereof. Pursuant to Revenue Memorandum Order (RMO) No. 01-90, as

[57] Paragraph 36, Memorandum for the Petitioner, Docket, Vol. III, pp. 1264-1265.
[58] Exhibit "P-15", Docket, Vol. II, p. 803.

amended by RMO No. 19-07, compromise penalties are only suggested in settlement of criminal liability and may not be imposed or exacted on the taxpayer in the event that a taxpayer refuses to pay the same. Such penalties imply mutual agreement between the taxpayer and the respondent. Without the taxpayer's consent to the payment of compromise penalties, the same should not be imposed. In the case of *De San Agustin v. Commissioner of Internal Revenue*,[59] the Supreme Court held that:

> "The Court of Tax Appeals correctly held that the compromise penalty of ₱20,000.00 could not be imposed on petitioner, **a compromise being, by its nature, mutual in essence. The payment made under protest by petitioner could only signify that there was no agreement that had effectively been reached between the parties**." *(Emphasis supplied)*

G. Unaccounted advances from affiliate and accounts payable —₱7,216,639.00

Respondent's examiner found that the following are not supported by necessary documents, which is assessed as undeclared income:[60]

Advances from Affiliate	₱ 2,044,113.00
Accounts Payable	5,172,526.00
Unaccounted Advances from Affiliate and Accounts Payable	**₱ 7,216,639.00**

Petitioner argues that the foregoing cannot be considered income and should not be subject to income tax pursuant the basic concept of income and jurisprudence, citing the doctrine of ownership, the flow of wealth test, economic benefit principle and the claim of right doctrine.[61]

[59] G.R. No. 138485, September 10, 2001, 364 SCRA 802, 811.
[60] Exhibit "P-1-F", Docket, Vol. II, p. 954.
[61] Petition for Review, Docket, Vol. I, pp. 26-27.

Petitioner's accounting manager thus explained:[62]

> "24. Q. What can you say about the accounts payable that was allegedly unsubstantiated per BIR investigation in the total amount of Php7,216,639 [sic] which were treated as income and had been subjected to VAT?
>
> A: That is not true. In Manila Genesis' 2008 Financial Statements, the accounts payables in the amount of P5,172,526.00 were referred to as "liabilities" to pay for goods or services that have been received or supplied but have not been paid, invoices or formally agreed with the suppliers. We have presented an itemized summary of accounts payable with the BIR.
>
> 25. Q: What can you say about the account Advances from Affiliates amounting to PHp2,044,113 [sic] which were disallowed and treated as income subjected to VAT?
>
> A: These are Advances from Affiliates amounting to P2,044,113.00 were likewise defined as advances for operating fund and capital expenditures, and these advances to Manila Genesis made by its officers were intended for concert production in pursuit of its business. We have limited capital and we need to source funds from other affiliates like G.V. Productions, Inc. which were more liquid, to finance the operations."

However, no supporting documents were submitted to substantiate the foregoing allegations. The Court is constrained to uphold the assessment.

H. Disallowed creditable tax withheld—₱1,589,551.00

Petitioner's creditable withholding taxes of ₱1,589,551.00 for the taxable year 2008 are disallowed by respondent for petitioner's alleged failure to validate the claimed CWT.

To refute the said findings, petitioner submitted its Schedules of Withholding Tax Credits and Certificates of Creditable Tax Withheld at Source (BIR Forms No. 2307). However, some of these documents are denied admission for petitioner's failure to present the originals for

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[62] Exhibit "P-15", Docket, Vol. II, pp. 803-804.

comparison.[63] Thus, only creditable taxes withheld in the amount of ₱997,957.37 are considered:[64]

Exh.	Period Covered		Payor	CWT
P-11-1	7/22/2008	7/22/2008	AB Food & Beverages Phils., Inc.	₱ 158,823.53
P-11-2	12/1/2008	12/31/2008	ABC Development Corp.	784.31
P-11-3	11/1/2008	11/30/2008	ABC Development Corp.	1,176.47
P-11-4	1/1/2008	12/31/2008	ABS-CBN Broadcasting Corp.	341,801.35
P-11-5	1/1/2008	12/31/2008	ABS-CBN Film Productions, Inc.	15,454.83
P-11-7	1/1/2008	3/31/2008	Ace Saatchi & Saatchi Advertising, Inc.	29,117.65
P-11-8	1/1/2008	3/31/2008	Aguas de Marco Unlimited, Inc.	14,117.65
P-11-9	7/1/2008	7/31/2008	Avon Cosmetics	1,411.77
P-11-10	1/1/2008	12/31/2008	Axantis Productions, Inc.	2,117.65
P-11-11	4/1/2008	6/30/2008	Banco de Oro Unibank, Inc.	1,666.66
P-11-12	7/1/2008	9/30/2008	Bloomworks Inc.	17,647.06
P-11-13	9/23/2008	9/23/2008	BPI Family Savings Bank	2,823.53
P-11-14	4/1/2008	4/30/2008	Bell Pepper, Inc.	5,000.00
P-11-15	4/30/2008	4/30/2008	BPI Family Savings Bank	1,764.71
P-11-19	1/1/2008	12/31/2008	Creative Programs Inc.	22,276.87
P-11-21	1/1/2008	12/31/2008	Donita Rose Cavett	1,511.90
P-11-22	2/7/2008	2/7/2008	Enav Logistics Mgt Services, Inc.	392.16
P-11-24	3/1/2008	3/31/2008	Ever Bilena Cosmetics, Inc.	2,222.22
P-11-25	1/1/2008	3/31/2008	Fortune Medicare Inc.	2,142.86
P-11-26	4/1/2008	6/30/2008	GE Money Bank Inc.	1,000.00
P-11-27	1/1/2008	12/31/2008	GMA Network, Inc.	60,602.15
P-11-28	1/1/2008	10/31/2008	Golden ABC, Inc.	17,647.06
P-11-30	1/1/2008	3/31/2008	Golden ABC, Inc.	36,317.65
P-11-31	7/1/2008	9/30/2008	Golden ABC, Inc.	35,435.30
P-11-32	1/1/2008	1/31/2008	Hewlett Packard Phils. Corp.	20,840.25
P-11-33	1/1/2008	12/31/2008	Harrison Communications, Inc.	9,705.88
P-11-35	1/1/2008	12/31/2008	In-Depth Direct Marketing Consultancy, Inc.	14,117.65
P-11-37	1/1/2008	12/31/2008	Jericho Rosales	11,845.24
P-11-39	9/1/2008	9/30/2008	Henares, Victoria	10,000.00
P-11-41	4/1/2008	6/30/2008	Kumon Philippines, Inc.	2,470.60
P-11-43	10/1/2008	10/31/2008	Lyceum of the Philippines University	4,419.64
P-11-44	1/1/2008	12/31/2008	Manila Alpha Genesis Publishing Company	2,343.75
P-11-45	1/1/2008	12/31/2008	Manna Entertainment Productions Inc.	7,589.29
P-11-47	1/31/2008	12/31/2008	Maverick Films, Inc.	12,352.94
P-11-49	2/1/2008	2/29/2008	Megaworld Corporation	160.71
P-11-51	9/1/2008	9/30/2008	Omniessence Incorporated	517.86
P-11-53	3/1/2008	3/31/2008	PAGCOR - CF - Pavilion	3,705.88
P-11-54	6/1/2008	6/30/2008	PAGCOR	1,666.67
P-11-55	6/1/2008	6/21/2008	PAGCOR	3,777.77

[63] Resolution dated September 8, 2017, Docket, Vol. II, pp. 1186-1188.
[64] Docket, Vol. II, pp. 1084-1154; Exhibits "P-11-79" and "P-11-80" are duplicates of Exhibits "P-11-4" and "P-11-5", respectively.

P-11-56	1/1/2008	3/31/2008	PAGCOR	1,333.33
P-11-58	4/1/2008	6/30/2008	PLDT	1,785.71
P-11-59	11/1/2008	11/30/2008	Prince of Peace Entertainment Co. Inc.	2,823.53
P-11-60	4/1/2008	6/30/2008	Red Events & Communications, Inc.	2,823.52
P-11-62	10/1/2008	12/31/2008	RFM Corporation	20,294.11
P-11-63	9/1/2008	9/30/2008	Select Media, Inc.	4,235.29
P-11-64	7/1/2008	7/31/2008	Strategic Works, Inc.	2,888.89
P-11-65	1/1/2008	12/31/2008	Television and Production Exponents Inc.	2,888.88
P-11-66	4/1/2008	6/30/2008	Unilever Philippines, Inc.	21,176.47
P-11-67	10/1/08/	12/31/2008	Unilever Foods Philippines, Inc.	4,235.29
P-11-69	10/1/2008	12/31/2008	United Laboratories Inc.	17,110.35
P-11-72	10/1/2008	12/31/2008	Viva Communications, Inc.	37,592.53
			TOTAL	**₱ 997,957.37**

Hence, the disallowed creditable taxes withheld is adjusted to the amount of ₱591,593.63 (₱1,589,551.00 less ₱997,957.37).

At this point, it is worthy to note the citation made by the Supreme Court in the case of *Commissioner of Internal Revenue v. Hon. Raul M. Gonzalez, Secretary Of Justice, L. M. Camus Engineering Corporation (Represented by Luis M. Camus and Lino D. Mendoza)*,[65] which reads:

> "As we held in *Marcos II v. Court of Appeals*:
>
> > 'The taxpayer has the duty of proving otherwise. In the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. Even an assessment based on estimates is *prima facie* valid and lawful where it does not appear to have been arrived at arbitrarily or capriciously. **The burden of proof is upon the complaining party to show clearly that the assessment is erroneous. Failure to present proof of error in the assessment will justify the judicial affirmance of said assessment.** x x x'" *(Emphasis supplied)*

[65] G.R. No. 177279, October 13, 2010, 633 SCRA 139, 171.

Petitioner contends that the basis of the Court's evaluation should be the BIR Records which have been submitted to the Court. "While [it] failed to present original copies of some of the material documents to prove its claim as they have been transmitted to the BIR as per testimony of its Accounting Manager Ma. Gina T. Lucena, petitioner was able to establish by testimonial evidence and other related exhibits that have been admitted."[66]

It should be emphasized that cases filed before the CTA are litigated *de novo.* The Supreme Court ruled:[67]

> Under Section 8 of RA 1125, the CTA is described as a court of record. As cases filed before it are litigated *de novo,* **party litigants should prove every minute aspect of their cases. No evidentiary value can be given the purchase invoices and receipts submitted to the BIR as the rules on documentary evidence require that these documents must be formally offered before the CTA**. *(Emphasis supplied)*

Thus, petitioner's contention is untenable.

I. Excess MCIT over NIT carried over to the next period— ₱175,141.00

J. Excess tax credit to be carried over to the next period— ₱6,721,377.00

Respondent's Details of Discrepancies attached to the FLD[68] does not show any explanation why the foregoing excess MCIT over NIT and excess tax credit carried over to the next period are disallowed. This Court can only surmise that the disallowance must be to recapture the benefit of the tax credit against the income tax liability for the succeeding taxable period. However, any tax benefit from the said carry-over redounds to the succeeding year, which is beyond the scope of respondent's Letter of Authority (LOA) that covers the year 2008 only. This is pursuant to Revenue Memorandum Order No. 19-2009 which states: *fr*

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[66] Paragraph 60, Memorandum for the Petitioner, Docket, Vol. III, pp. 1273-1274.
[67] *Commissioner of Internal Revenue vs. Manila Mining Corporation,* G.R. No. 153204, August 31, 2005, 468 SCRA 571, 588-589.
[68] Exhibit "P-1-F", Docket, Vol. II, pp. 951-954.

II. COVERAGE

The 2009 Audit Program shall cover the audit/investigation of 2008 internal revenue tax returns, including tax returns of fiscal period taxpayers whose taxable year ended on July 31, 2008 up to June 30, 2009.

xxx xxx xxx

IV. POLICIES AND PROCEDURES

xxx xxx xxx

1. The policy on the simultaneous investigation of all liabilities of the taxpayer shall be followed. **One LA/TVN shall be issued for each taxable year or period to include all internal revenue tax liabilities of the taxpayer** and shall remain to be valid and enforceable even without the mark of the BIR dry seal as long as the LA/TVN is authentic and duly issued by the authorized revenue official. *(Emphasis supplied)*

Hence, the exclusion of petitioner's excess MCIT over NIT and excess tax credit carried over to the next period in the amounts of ₱175,141.00 and ₱6,721,377.00, respectively, is not in order.

Nevertheless, petitioner is not liable for deficiency income tax for the year 2008 as shown hereafter:

Taxable income(loss) per ITR		₱ -
Add: Adjustments per investigation		
Non-deductible donations and contributions	₱ 1,289,663.00	
Unaccounted salaries, wages and other benefits	270,116.06	
Income payments not subjected to withholding tax	663,858.82	
Disallowed depreciation expense	140,651.00	
Disallowed expenses	175,712.06	
Royalty expenses not subjected to final withholding tax	10,000.00	
Unaccounted advances from affiliate and accounts payable	7,216,639.00	9,766,639.94
Taxable income per investigation		₱ 9,766,639.94
Income tax due thereon (MCIT)		₱ 3,418,323.98
Add: Disallowed tax credit/payments		
Prior year's excess credit other than MCIT	₱ 5,306,967.00	
Creditable withholding tax claimed	1,589,551.00	
Total	₱ 6,896,518.00	
Less: Disallowed creditable tax withheld	591,593.63	6,304,924.37
Deficiency Income Tax		**₱(2,886,600.39)**

II. Deficiency Value-Added Tax

Respondent found that petitioner has deficiency VAT for the taxable year 2008 amounting to ₱1,224,818.41, computed thus:

Sales/Receipts per VAT returns		₱ 14,787,332.67
Add: Adjustment per investigation		
Sales/Receipts not subjected to VAT	₱ 2,476,367.33	
Unaccounted Salaries, wages and other benefits	270,116.06	
Unaccounted Advances from affiliate and accounts payable	7,216,639.00	9,963,122.39
Taxable sales per investigation		₱ 24,750,455.06
Output tax due thereon		₱ 2,970,054.61
Less: Allowable credits/payments		
Input tax claimed	₱ 579,921.95	
Payments	1,194,557.97	
Total	₱ 1,774,479.92	
Less: Disallowed input	29,243.72	1,745,236.20
Deficiency Value Added Tax		**₱ 1,224,818.41**

The deficiency VAT assessment arose from the following items, which will be discussed hereafter:

A. Sales/Receipts not subjected to VAT	₱ 2,476,367.33
B. Unaccounted Salaries, wages and other benefits	270,116.06
C. Unaccounted Advances from affiliate and accounts payable	7,216,639.00
D. Disallowed input	29,243.72

A. Sales/Receipts not subjected to VAT—₱2,476,367.33

To arrive at the alleged sales/receipts not subjected to VAT, respondent's examiner compared petitioner's sales/receipts per financial statements/ITR with the VAT returns, to wit:[69]

Sales/receipts per financial statements/ITR (including other income)	₱ 17,263,700.00
Sales/receipts per VAT returns	14,787,332.67
Sales/receipts not subjected to value-added tax	**₱ 2,476,367.33**

Jc

[69] Exhibit "P-1-F", Docket, Vol. II, p. 954.

Petitioner countered that ₱2,086,172.00 of its sales/receipts were dollar-denominated sale of services done abroad and were not subjected to VAT as professed by its accounting manager, to wit:[70]

> "26. Q: What can you say about the VAT assessment of Php2,476,367.33?
>
> A: This is wrong because the management fees in the amount of P2,086,172.00 that have not been subjected to VAT was a dollar-denominated sale of services done abroad, and thus, must be zero-rated in output VAT.

Corollary thereto, petitioner's external auditor stated:[71]

> 23. Q: What can you say about the VAT assessment of Php2,476,367.33?
>
> A: We know for a fact that Manila Genesis had booked income earned from abroad which were paid in dollars. Hence, there should no VAT [sic] from these income."

However, aside from the foregoing testimonies, petitioner did not submit supporting documents to prove its allegation that the subject sales/receipts qualify for zero-rating under Section 108(B)(2) of the NIRC of 1997, as amended. Thus, the Court is constrained to uphold respondent's assessment.

B. Unaccounted Salaries, wages and other benefits— ₱270,116.06

C. Unaccounted Advances from affiliate and accounts payable—₱7,216,639.00

As discussed previously in the income tax assessment, it is found that petitioner failed to substantiate these items and thereby overturn the assessment. Likewise, the Court finds no reason to cancel the assessment pertaining to VAT.

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[70] Exhibit "P-15", Docket, Vol. II, p. 804.
[71] Exhibit "P-16", Docket, Vol. II, pp. 540-541.

D. Disallowed input—₱29,243.72

Petitioner did not dispute this disallowance of input taxes, hence, the same should be maintained.

In sum, petitioner should be liable for deficiency VAT as assessed by respondent in the amount of ₱1,224,818.41.

WHEREFORE, the present Petition for Review is **PARTIALLY GRANTED**. Accordingly, the deficiency income tax assessment issued against petitioner for taxable year 2008 is **CANCELLED** and **SET ASIDE**.

However, the deficiency VAT, EWT, and FWT assessments issued against petitioner for taxable year 2008 are **UPHELD**. Accordingly, petitioner is **ORDERED TO PAY** deficiency VAT, EWT and FWT for the taxable year 2008 in the aggregate amount of ₱8,703,966.21, inclusive of 25% surcharge imposed under Section 248(A) of the NIRC of 1997, as amended, and deficiency and delinquency interest imposed under Section 249(B) and (C) of the NIRC of 1997, as amended, until December 31, 2017, computed as follows:

<table>
<tr><th></th><th>VAT</th><th>EWT</th><th>FWT</th><th>Total</th></tr>
<tr><td>Basic</td><td>₱ 1,224,818.41</td><td>₱ 89,334.65</td><td>₱ 2,000.00</td><td>₱ 1,316,153.06</td></tr>
<tr><td>Surcharge</td><td>306,204.60</td><td>22,333.66</td><td>500.00</td><td>329,038.27</td></tr>
<tr><td>TOTAL</td><td>₱1,531,023.01</td><td>₱111,668.31</td><td>₱ 2,500.00</td><td>₱1,645,191.33</td></tr>
<tr><td colspan="5">Deficiency Interest</td></tr>
<tr><td>From 1/25/2009[72] to 12/31/2017 (P1,224,818.41 x 20% x 8.9370 yrs.)</td><td>2,189,240.43</td><td></td><td></td><td rowspan="3">2,352,992.49</td></tr>
<tr><td>From 1/15/2009[73] to 12/31/2017 (P89,334.65 x 20% x 8.9644 yrs.)</td><td></td><td>160,166.31</td><td></td></tr>
<tr><td>From 1/15/2009[74] to 12/31/2017 (P2,000.00 x 20% x 8.9644 yrs.)</td><td></td><td></td><td>3,585.76</td></tr>
<tr><td>Subtotal</td><td>₱3,720,263.44</td><td>₱271,834.62</td><td>₱ 6,085.76</td><td>₱3,998,183.82</td></tr>
<tr><td colspan="5">Delinquency Interest</td></tr>
</table>

[72] Sec. 4.114-1(A) of Revenue Regulations No. 16-2005.
[73] Sec. 2.58 of Revenue Regulations No. 2-98, as amended by Revenue Regulations No. 17-03.
[74] *Id.*

From 2/13/2012[75] to 12/31/2017 (P3,720,263.44 x 20% x 5.8849 yrs.)	4,378,675.66			4,705,782.39
From 2/13/2012[76] to 12/31/2017 (P271,834.62 x 20% x 5.8849 yrs.)		319,943.91		
From 2/13/2012[77] to 12/31/2017 (P6,085.76 x 20% x 5.8849 yrs.)			7,162.82	
TOTAL	**₱8,098,939.10**	**₱591,778.53**	**₱ 13,248.58**	**₱8,703,966.21**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of 12%, which is double the legal interest rate for loans or forbearance of any money, on the total unpaid amount including basic deficiency VAT, expanded withholding tax and final withholding tax, surcharge and deficiency interest as computed above in the aggregate amount of ₱3,998,183.82, computed from January 1, 2018[78] until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN).

SO ORDERED.

JUANITO C. CASTAÑEDA, JR.
Associate Justice

WE CONCUR:

CAESAR A. CASANOVA
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

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[75] Exhibit "P-1-A", Docket, Vol. II, p. 946.
[76] Exhibit "P-1-E", Docket, Vol. II, p. 950.
[77] Exhibit "P-1-B", Docket, Vol. II, p. 947.
[78] Republic Act No. 10963, Section 87.

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ROMAN G. DEL ROSARIO
Presiding Justice