REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

COMPOSITE MATERIALS, INC., Petitioner,	**CTA CASE NO. 8306**
	Members:
-versus -	**BAUTISTA,** *Chairperson,* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAY 11 2015 2:25 p.m.

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AMENDED DECISION

RINGPIS-LIBAN, *J.*:

For this Court's resolution is petitioner's **Motion for Reconsideration (Re: Decision dated October 10, 2014)** filed on October 30, 2014, without respondent's comment as per Records Verification dated December 1, 2014.

Petitioner moves for the reconsideration of the Decision promulgated on October 10, 2014, the dispositive portion of which reads:

> "**WHEREFORE**, the instant Petition for Review is hereby **DENIED** for lack of merit. The assessments issued by respondent against petitioner covering deficiency income tax and EWT for calendar year 2007 are hereby **AFFIRMED**. Accordingly, petitioner is **ORDERED** to **PAY** respondent the amount of ₱3,499,243.57, inclusive of the twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the NIRC of 1997, as amended, computed as follows:

Deficiency Tax	Basic	Surcharge	Total
Income Tax	₱ 2,465,285.73	₱ 616,321.43	₱ 3,081,607.16
Expanded Withholding Tax	334,109.13	83,527.28	417,636.41
Total	**₱2,799,394.86**	**₱699,848.71**	**₱3,499,243.57**

In addition, petitioner is **ORDERED** to **PAY** the following:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax of ₱2,465,285.73 computed from April 15, 2008 and on the basic deficiency EWT of ₱334,109.13 computed from January 15, 2008 until full payment thereof pursuant to Section 249(B) of the NIRC of 1997, as amended; and

(b) Delinquency interest at the rate of 20% per annum on the total deficiency taxes of ₱3,499,243.57 and on the 20% deficiency interest which have accrued as afore-mentioned in (a), computed from July 28, 2010 until full payment thereof pursuant to Section 249(C)(3) of the NIRC of 1997, as amended.

SO ORDERED."

Petitioner anchors its motion on the following grounds:

1. Respondent's assessment is null and void for failure to provide petitioner sufficient information on the factual and legal bases thereof;

2. Respondent's assessment against petitioner is void on the ground that the officer who conducted the examination of petitioner's records was not the one authorized in the Letter of Authority (LOA);

3. Petitioner's expenses for commissions and professional fees for CY 2007 are valid expenses deductible from its gross income; and

4. Petitioner's purchases for CY 2007 are not overstated and are substantiated by proper documentation.

Petitioner's allegation that the assessment failed to provide sufficient information as to its factual and legal bases was already addressed in the assailed Decision.

According to petitioner, respondent merely notified petitioner of its deficiency tax assessment but was not sufficiently informed of the factual and legal bases of the assessment.

Petitioner maintains that in computing the deficiency income tax assessed, respondent's examiners simply compared the purchases per Income Tax Return (ITR) and the purchases per audit where the difference does not necessarily result in an "overstatement of purchases" as certain purchases are treated differently in various accounts and presented in the ITR in various items. Petitioner claims that the assessment failed to disclose: (a) purchases considered and found overstated, and (b) type of purchases considered and audited for purposes of, and as bases for, the assessment. Petitioner concludes that respondent's method in computing the "overstated purchases" is arbitrary, inadequate, and without any factual basis. Thus, the Court should have nullified the assessment for deficiency income tax arising from the said disallowance.

As to the deficiency expanded withholding tax (EWT), petitioner alleges that respondent failed to specify the recipients of the commissions from which petitioner allegedly failed to withhold taxes. Also, petitioner avers that respondent failed to disclose when these alleged commissions were paid and which particular EWT return was found deficient. Thus, petitioner contends that respondent failed to disclose the facts and the law by and from which she based her deficiency income tax and EWT assessments for the calendar year 2007.

Consequently, petitioner claims that the assessments are null and void for respondent's alleged failure to state in the Formal Letter of Demand (FLD) and Final Assessment Notice (FAN) the facts and the law on which the same were based.

Perusal of the foregoing shows that they are the same arguments raised by petitioner in its Memorandum[1] which have been sufficiently resolved and passed upon by the Court in the assailed Decision[2]. Accordingly, a discussion addressing the said arguments is deemed unnecessary.

It is now too late in the day for petitioner to challenge respondent's authority to assess.

Petitioner assails the authority of Revenue Officer Mary Anne P. Cruz (RO Cruz), who conducted the examination of petitioner's records, alleging that RO Cruz was not authorized under LOA No. 200800008746.

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[1] Docket, vol. II, pp. 964-1001.
[2] Docket, pp. 1032-1033.

According to petitioner, it was not informed of the re-assignment of the original officers named in the LOA in a violation of Revenue Memorandum Order (RMO) No. 08-06 and its right to due process of law. It avers that the referral memorandum[3] was merely an internal document of the BIR and was not sent to petitioner.

The records of the case proved otherwise. Although RO Cruz is not one of those named in the LOA, the case was referred to her for re-assignment and continuance of audit pursuant to RTAO No. 196-2008 dated September 29, 2008 as per Referral Memorandum No. 043-AS-12-23-2008-939[4].

Furthermore, RO Cruz testified through Judicial Affidavit that she was authorized to continue the audit and investigation pursuant to LOA No. 0008746 dated September 9, 2008.[5] She testified that petitioner was informed of the re-assignment of the case. This was never controverted by petitioner.

Notably, the supposed lack of authority was raised only before this Court, at the judicial level, and was not mentioned in petitioner's protest letter[6] at the administrative level. The issue was neither raised in the Petition for Review nor in the Joint Stipulation of Facts and Issues. Clearly, it was a mere afterthought in trying to justify petitioner's prayer to nullify the assessments. Verily, it is deemed to have waived its right to question the same in view of the "well-entrenched rule that issues not raised below cannot be resolved on review in higher courts"[7]. It is now too late in the day for petitioner to challenge respondent's authority to assess.

Let it be stressed that in the determination of the tax liability of petitioner, the Court is guided by the rule that "tax assessments by tax examiners are presumed correct and made in good faith. The taxpayer has the duty to prove otherwise. In the absence of proof of any irregularities in the performance of duties, an assessment duly made by a Bureau of Internal Revenue examiner and approved by his superior officers will not be disturbed."[8]

Petitioner failed to prove that expenses for commissions and professional fees for calendar year 2007 are deductible from its gross income.

[3] Exhibit "2", BIR Records, p. 131a.
[4] *Ibid.*
[5] Exhibit "14", Judicial Affidavit of Ms. Mary Anne P. Cruz, docket, vol. II, pp. 890-898.
[6] Exhibit "B", docket, vol. I, pp. 449-451.
[7] *Villanueva vs. Salvador*, G.R. No. 139436, January 25, 2006.
[8] *Commissioner of Internal Revenue vs. Bank of the Philippine Islands*, G.R. No. 134062, April 17, 2007, citing the case of *Sy Po vs. Court of Tax Appeals*, G.R. No. L-81446, August 18, 1988.

Petitioner further insists that its commissions and professional fees for calendar year 2007 are valid deductible expenses from its gross income.

According to petitioner, the findings of respondent that Polymer Products Philippines Incorporated (Polymer) and petitioner are affiliated are pure assumptions and baseless conclusions merely founded on RO Cruz's testimony that it is a "common knowledge" and "both companies share the same office"[9]. Petitioner posits that respondent failed to examine its Articles of Incorporation, General Information Sheet or petitioner itself, to verify whether Polymer and petitioner are affiliates.

Contrary to petitioner's claim, RO Cruz testified that aside from "common knowledge" and "both companies share the same office", she likewise based her findings on a SEC Certificate and from petitioner's accountant.[10] Incidentally, petitioner's Certificate of Filing of Amended Articles of Incorporation[11] shows that petitioner was formerly "Polymer Marketing Corporation".

Considering the foregoing, the Court finds relevant Section 6 of the National Internal Revenue Code (NIRC) of 1997, as amended, which provides that the Commissioner of Internal Revenue (CIR) has the power to make assessments and prescribe additional requirements for tax administration and enforcement. Among such powers are those provided in paragraph (b) thereof, as follows:

> (B) *Failure to Submit Required Returns, Statements, Reports and other Documents.* – When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by laws or rules and regulations or when there is reason to believe that any such report is false, incomplete or erroneous, the Commissioner shall assess the proper tax on the best evidence obtainable.
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> In case a person fails to file a required return or other document at the time prescribed by law, or willfully or otherwise files a false or fraudulent return or other document, the Commissioner shall make or amend the return from his own knowledge and from such information as he can obtain through testimony or otherwise, which shall be *prima facie* correct and sufficient for all legal purposes.

This provision applies when the CIR undertakes to perform her administrative duty of assessing the proper tax against a taxpayer, to make a

[9] Transcript of Stenographic Notes (TSN) dated May 27, 2013, p. 18.
[10] TSN dated May 27, 2013, pp. 17-18.
[11] Exhibit "Q", docket, pp. 743-750.

return in case a taxpayer failed to file one, or to amend a return already filed in the BIR.

Respondent may avail herself of the best evidence or other information or testimony by exercising her power or authority under paragraphs (A) to (D) of Section 5 of the NIRC of 1997, to wit:

> (A) To examine any book, paper, record, or other data which may be relevant or material to such inquiry;
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> (B) To obtain on a regular basis from any person other than the person whose internal revenue tax liability is subject to audit or investigation, or from any office or officer of the national and local governments, government agencies and instrumentalities, including the Bangko Sentral ng Pilipinas and government-owned or-controlled corporations, any information such as, but not limited to, costs and volume of production, receipts or sales and gross incomes of taxpayers, and the names, addresses, and financial statements of corporations, mutual fund companies, insurance companies, regional operating headquarters of multinational companies, joint accounts, associations, joint ventures or consortia and registered partnerships, and their members;
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> (C) To summon the person liable for tax or required to file a return, or any officer or employee of such person, or any person having possession, custody, or care of the books of accounts and other accounting records containing entries relating to the business of the person liable for tax, or any other person, to appear before the Commissioner or his duly authorized representative at a time and place specified in the summons and to produce such books, papers, records, or other data, and to give testimony;
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> (D) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry; xxx

Moreover, in the case of *Commissioner of Internal Revenue vs. Hantex Trading Co., Inc.*[12], the High Court ruled as follows:

> The law allows the BIR access to all relevant or material records and data in the person of the taxpayer. It places no limit or condition on the type or form of the medium by which the record subject to the order of the BIR is kept. The purpose of the law is to enable the BIR to get at the taxpayer's records in

[12] G.R. No. 136975, March 31, 2005.

> whatever form they may be kept. Such records include computer tapes of the said records prepared by the taxpayer in the course of business. In this era of developing information-storage technology, there is no valid reason to immunize companies with computer-based, record-keeping capabilities from BIR scrutiny. *The standard is not the form of the record but where it might shed light on the accuracy of the taxpayer's return.*
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> In *Campbell, Jr. v. Guetersloh*, the United States (U.S.) Court of Appeals (5th Circuit) declared that it is the duty of the Commissioner of Internal Revenue to **investigate any circumstance which led him to believe that the taxpayer had taxable income larger than reported**. Necessarily, this inquiry would have to be outside of the books because they supported the return as filed. He may take the sworn testimony of the taxpayer; **he may take the testimony of third parties; he may examine and subpoena, if necessary, traders' and brokers' accounts and books and the taxpayer's book accounts. The Commissioner is not bound to follow any set of patterns**. The existence of unreported income may be shown by any practicable proof that is available in the circumstances of the particular situation. Citing its ruling in *Kenney v. Commissioner*, the U.S. appellate court declared that where the records of the taxpayer are manifestly inaccurate and incomplete, **the Commissioner may look to other sources of information to establish income made by the taxpayer during the years in question.** (*Emphasis supplied*)

Clearly, in assessing the proper tax against a taxpayer, respondent may avail of the best evidence or other information or testimony by exercising her power or authority under Section 5 of the NIRC of 1997. Respondent is not bound to follow a set of patterns and her inquiry is not confined to the books or records of the taxpayer. Thus, the argument that respondent's officer failed to examine petitioner's Articles of Incorporation or General Information Sheet or petitioner itself to verify whether Polymer and petitioner are affiliates does not necessarily make the assessment reliant on a mere presumption.

Meanwhile, petitioner contends that it presented sufficient evidence to prove that its payments for commissions and professional fees for calendar year 2007 are ordinary and necessary for the conduct of its business.

Petitioner reiterates that it requires the services of agents who can convince customers to buy its products rather than those of its competitors, negotiate on the price, and coordinate with customers on matters such as the volume of the order and time of delivery. Petitioner claims that it might suffer serious financial losses due to insufficient sales without these agents.

According to petitioner, granting petitioner and Polymer are indeed affiliates, such circumstance does not warrant this Court's conclusion that the transactions between these two entities are dubious and not done in arm's length. Petitioner likewise points out that the Court tacitly applied the doctrine of piercing the veil of corporate personality in petitioner's case when it concluded that petitioner and Polymer are affiliates. Consequently, the Court readily concluded that there is no need for sales agents to sell petitioner's products to Polymer since the two are affiliates.

The Court finds the said arguments bereft of merit.

The assessment was upheld against petitioner for failure to prove by substantial evidence that the commissions and professional fees claimed as deductible expenses are "ordinary" and "necessary" in carrying on petitioner's trade or business.

To reiterate, the records do not show that the commissions in the amount of ₱3,805,872.73 and professional fees in the amount of ₱544,313.20 totaling ₱4,350,185.93 were appropriate and helpful in the realization of petitioner's income for calendar year 2007, the said expenses **cannot** be deemed "ordinary" and "necessary" in carrying on petitioner's trade or business as contemplated under Section 34(A)(1)(a) of the NIRC of 1997.

In relation thereto, Section 34(A)(1)(a)(b) of the NIRC of 1997 provides:

> SEC. 34. *Deductions from Gross Income.* — Except for taxpayers earning compensation income arising from personal services rendered under an employer-employee relationship where no deductions shall be allowed under this Section other than under Subsection (M) hereof, in computing taxable income subject to income tax under Sections 24(A); 25(A); 26; 27(A), (B) and (C); and 28(A)(1), there shall be allowed the following deductions from gross income:
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> (A) *Expenses.* —
> (1) *Ordinary and Necessary Trade, Business or Professional Expenses.* —
> (a) *In General.* — There shall be allowed as deduction from gross income all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to, the development, management, operation and/or conduct of the trade, business or exercise of a profession, including:
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> xxx xxx xxx

> (b) *Substantiation Requirements.* — No deduction from gross income shall be allowed under Subsection (A) hereof unless **the taxpayer shall substantiate with sufficient evidence, such as official receipts or other adequate records: (i) the amount of the expense being deducted, and (ii) the direct connection or relation of the expense being deducted to the development, management, operation and/or conduct of the trade, business or profession of the taxpayer.** (*Emphasis supplied.*)

From the foregoing, petitioner must substantiate with sufficient evidence, all its ordinary and necessary expenses that were claimed as deductions from its gross income for the year under consideration, not only the amount thereof, but also **the direct connection or relation of the same, to the development, management, operation and/or conduct of respondent's trade, business or profession.**

As already found by the Court, there is no reason for petitioner to employ agents to sell to a "customer" who happens to be its affiliate and who even shares the same office with the petitioner.

Even assuming that Polymer is not an affiliate of petitioner, the Court, still, is not convinced that petitioner needs to employ agents to sell to only "one customer" located in the same office as theirs.

The alleged necessity of employing sales agents to sell petitioner's products is further negated by the fact that petitioner does not have any ending or beginning inventory[13] which only proves that it has the capacity to sell all its imports within the year it was bought, and thus, not in danger of having excessive stocks due to scant sales volume requiring the employ of agents or brokers.

The Court also found that other than the vouchers and a journal entry[14], petitioner did not provide any information as to which sales these commissions and professional fees pertain to. The vouchers did not specify the percentage used in computing these commissions. In the case of *H. Tambunting Pawnshop, Inc. vs. Commissioner of Internal Revenue*,[15] the management and professional fees were disallowed as these were supported merely by cash vouchers found to have scant probative value. The Supreme Court held:

> Tambunting did not discharge its burden of substantiating its claim for deductions due to the inadequacy of its documentary

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[13] Petitioner's claimed purchases in the amount of ₱28,896,877.07 was also reflected as cost of sales in its 2007 ITR, Exhibit "4", line 16C., BIR Records, p. 15.

[14] Exhibits "R-71" to "R-89", docket, vol. I, pp. 531-548.

[15] G.R. No. 173373, July 29, 2013.

> support of its claim. Its reliance on withholding tax returns, cash vouchers, lessor's certifications, and the contracts of lease was futile because such documents had scant probative value. As the CTA *En Banc* succinctly put it, the law required Tambunting to support its claim for deductions with the corresponding official receipts issued by the service providers concerned.

Thus, the Court correctly upheld the disallowance of petitioner's expense for commission and professional fees for failure to comply with Section 34 (A)(1)(a)(b) of the NIRC of 1997.

As to the alleged application of the doctrine of "piercing the veil of corporate fiction," it must be emphasized that "under the said doctrine, the court looks at the corporation as a mere collection of individuals or an aggregation of persons undertaking business as a group, disregarding the separate juridical personality of the corporation unifying the group. Another formulation of this doctrine is that when two business enterprises are owned, conducted and controlled by the same parties, both law and equity will, when necessary to protect the rights of third parties, disregard the legal fiction that two corporations are distinct entities and treat them as identical or as one and the same."[16]

In this case, there was no discussion in the assailed Decision which treated petitioner and Polymer as one and the same entity. To clarify, the Court's ruling is only confined to the determination of petitioner's compliance with the requisites for the deductibility of expenses as provided under Section 34(A)(1)(a)(b) of the NIRC of 1997. Thus, there is nothing in the said ruling which would show the application of the doctrine of "piercing the veil of corporate fiction" in resolving this case.

The request for reconsideration of its denied documentary exhibits must still be denied.

Petitioner avers that its purchases for calendar year 2007 are not overstated and are substantiated by proper documentation. It insists that if not due to the denial of some documentary evidence relating to its purchases, it would be able to fully substantiate its total purchases for 2007. In this regard, petitioner requests that the denied documentary evidence (Exhibits "S-70 to S-75, S-74-a, S-81-a, S-76 to S-107, and S-108 to S-118") be admitted as secondary evidence pursuant to Section 5, Rule 130 of the Rules of Court. Petitioner emphasizes that respondent never interposed any objection on the

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[16] *Kukan International Corporation vs. Reyes,* G.R. No. 182729, September 29, 2010 citing *Pantranco Employees Association (PEA-PTGWO) vs. National Labor Relations Commission,* G.R. No. 170689, March 17, 2009.

denied exhibits when it was formally offered. Thus, petitioner concludes that the Court should have admitted in evidence the said exhibits.

The admissibility of the denied exhibits was already addressed and resolved in the Resolution dated March 19, 2013[17]. The grounds for the denial of the said exhibits were likewise reiterated in the assailed Decision[18].

The denied exhibits as "mere photocopies xxx have no probative weight"[19] and "where the accuracy of the taxpayer's return is being checked the government is entitled to use the original records rather than be forced to accept purported copies which present the risk of error or tampering"[20]. In the case of *Imani vs. Metropolitan Bank &Trust Company*[21], the Supreme Court held that "a photocopy of a document has no probative value and is inadmissible in evidence"[22]. Thus, even if the Court considers the said exhibits as part of petitioner's documentary evidence, the same will not affect the ruling of this Court in the assailed Decision since the said denied exhibits have no probative value.

Petitioner failed to overturn the presumption of correctness of the deficiency tax assessments.

At this juncture, it must be reiterated that "when such assessments are assailed, the burden of proof is upon the complaining party"[23] (petitioner). It is petitioner's duty to "clearly show that the assessment was erroneous, in order to relieve himself from it"[24].

As cases filed before this Court are "litigated *de novo*, party-litigants shall prove every minute aspect of their cases"[25]. In the case of *Republic Cement Corporation vs. Commissioner of Internal Revenue*,[26] this Court sitting *En Banc* ruled that unlike tax assessments that enjoy the presumption of regularity, taxpayers' claims of no liability against deficiency taxes should be sufficiently established x x x.

[17] Docket, vol. II, pp. 840-843.
[18] Docket, vol. II, p.1040.
[19] *Commissioner of Internal Revenue vs. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005.
[20] *Ibid.*
[21] G.R. No. 187023, November 17, 2010.
[22] *Ibid.*
[23] *Commissioner of Internal Revenue vs. Construction Resources of Asia, Inc.,* G.R. No. L-68230, November 25, 1986 citing *Collector of Internal Revenue vs. Bohol Land Trans. Co.*, (107 Phil. 965, 974); *Interprovincial Autobus Co., Inc. vs. Collector of Internal Revenue*, 98 Phil., 290; 52 Off. Gaz., [2] 791.
[24] *Ibid.*
[25] *Dizon vs. Court of Tax Appeals,* G.R. No. 140944, April 30, 2008.
[26] CTA EB Case No. 821, July 18, 2012.

Considering that petitioner failed to present sufficient evidence to overturn the presumption of correctness of respondent's assessments, the Court correctly upheld the deficiency income tax and EWT assessments.

Petitioner's partial payment equivalent to 40% of its basic deficiency tax assessment.

According to petitioner, it paid on February 14, 2014 the amounts of ₱986,114.29, representing 40% of the basic deficiency income tax, and ₱859,004.42, representing the amount of deficiency EWT with interest and penalties computed until February 14, 2014. To support the alleged payment, petitioner presented and formally offered copies of the payment forms[27] allegedly showing the due payment of deficiency income tax and EWT for calendar year 2007.

Considering the payment forms presented by petitioner, its deficiency income tax and EWT liabilities that are still due and payable for the calendar year 2007 as of February 14, 2014 shall be computed as follows:

DEFICIENCY INCOME TAX	
Basic deficiency income tax	₱ 2,465,285.73
Add: 25% Surcharge	616,321.43
20% Deficiency interest from April 15, 2008 to July 27, 2010	
(₱2,465,285.73 x 20% x 833/365)	1,125,250.97
20% Deficiency interest from July 28, 2010 to Feb. 14, 2014	
(₱2,465,285.73 x 20% x 1298/365)	1,753,392.26
20% Delinquency interest from July 28, 2010 to Feb. 14, 2014	
On basic deficiency income tax and 25% surcharge	
([₱2,465,285.73 + ₱616,321.43] x 20% x 1298/365)	2,191,740.33
On deficiency interest from Apr. 15, 2008 to July 27, 2010	
(₱1,125,250.97 x 20% x 1298/365)	800,315.48
Total amount due as of February 14, 2014	₱ 8,952,306.20
Less: Payment made on February 14, 2014	
Basic deficiency income tax (40% of ₱2,465,285.73)	986,114.29
Amount still due as of February 14, 2014	**₱7,966,191.91**

DEFICIENCY EWT	
Basic deficiency EWT	₱ 334,109.13
Add: 25% Surcharge	83,527.28
20% Deficiency interest from Jan. 15, 2008 to July 27, 2010	
(₱334,109.13 x 20% x 924/365 days)	169,159.91
20% Deficiency interest from July 28, 2010 to Feb. 14, 2014	
(₱334,109.13 x 20% x 1298/365 days)	237,629.40
20% Delinquency interest from July 28, 2010 to Feb. 14, 2014	

[27] Exhibits "Y", "Z", "AA", "BB", "CC", and "CC-a".

On basic deficiency income tax and 25% surcharge	
([₱334,109.13 + 83,527.28] x 20% x 1298/365 days)	297,036.75
On deficiency interest from Jan. 15, 2008 to July 27, 2010	
(₱169,159.91 x 20% x 1298/365 days)	120,312.09
Total amount due as of February 14, 2014	₱ 1,241,774.56
Less: Payment made on February 14, 2014	
Basic deficiency EWT	₱ 334,109.13
Interest ([₱503,269.04 - ₱334,109.13] + ₱355,735.38)	524,895.29
Total	₱ 859,004.42
Amount still due as of February 14, 2014	**₱ 382,770.14**

WHEREFORE, petitioner's **Motion for Reconsideration** is **PARTIALLY GRANTED**. Accordingly, the assailed Decision promulgated on October 10, 2014 is hereby **AFFIRMED** with some **MODIFICATIONS**. Petitioner is **ORDERED TO PAY** the amount of **EIGHT MILLION THREE HUNDRED FORTY EIGHT THOUSAND NINE HUNDRED SIXTY TWO PESOS & 5/100 (₱8,348,962.05)**, representing the unpaid balance as of February 14, 2014 of its deficiency income tax and EWT liabilities for calendar year 2007, inclusive of increments, computed as follows:

Deficiency Income Tax	₱ 7,966,191.91
Deficiency EWT	382,770.14
Total Amount Due as of February 14, 2014	**₱ 8,348,962.05**

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

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax of ₱1,479,171.44[28] computed from February 15, 2014 until full payment thereof, pursuant to Section 249(B) of the NIRC of 1997, as amended;

(b) Delinquency interest at the rate of twenty percent (20%) per annum: (i) on the amount of ₱2,095,492.87, representing basic deficiency income tax of ₱1,479,171.44 and 25% surcharge of ₱616,321.43[29], and (ii) on the amount of ₱83,527.28 representing 25% surcharge on basic deficiency EWT of ₱334,109.13, computed from February 15, 2014 until full payment thereof, pursuant to Section 249 (C) of the NIRC of 1997;

[28] ₱2,465,285.73 less ₱986,114.29.
[29] Based on the basic deficiency income tax of ₱2,465,285.73.

(c) Delinquency interest at the rate of twenty percent (20%) per annum on the deficiency interest of ₱1,125,250.97 (*see above computations*) due on the deficiency income tax, computed from February 15, 2014 until full payment thereof, pursuant to Section 249 (C) of the NIRC of 1997.

SO ORDERED.

Ma. Belen

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 Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, is it 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