REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

THIRD DIVISION

PRIME STEEL MILL, INCORPORATED, Petitioner,	**CTA CASE NO. 8818**
- versus -	Present: **BAUTISTA,** *Chairperson* **FABON-VICTORINO,** *and* **RINGPIS-LIBAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: JAN 2 3 2017 4:25 p.m.

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DECISION

RINGPIS-LIBAN, *J.*:

The Case

This Petition for Review[1] filed by Prime Steel Mill, Incorporated seeks the cancellation of its alleged income and value-added tax deficiencies for taxable year 2005, as well as compromise penalties, interests and surcharges, in the aggregate amount of ₱37,675,379.58.

The Facts

Petitioner Prime Steel Mill, Incorporated is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with office address located at F. Felix Avenue, Cainta, Rizal.[2] It is registered with the Bureau of Internal Revenue (BIR), with Taxpayer Identification No. 000-359-087-000.

[1] Docket, pp. 14-22.
[2] Par. 4, Facts Admitted, Joint Stipulation of Facts and Issues (JSFI), docket, p. 144; Exhibit "P-17", docket, pp. 322-327.

On the other hand, respondent is the Commissioner of the Bureau of Internal Revenue, vested by law with authority to perform the duties of said office, including, among others, the power to assess and collect all national internal revenue taxes, fees and charges, and to enforce all forfeitures, penalties, and fines connected therewith. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On January 7, 2009, petitioner received a Preliminary Assessment Notice[3] (PAN) dated December 19, 2008, assessing petitioner for alleged deficiency income, value-added tax (VAT), and expanded withholding tax (EWT) for taxable year 2005. Thereafter, on January 22, 2009, petitioner filed a letter dated January 21, 2009 to protest the PAN.[4]

On February 12, 2009, petitioner received the Formal Letter of Demand (FLD) with Details of Discrepancies[5] and Final Assessment Notices (FAN)[6] dated January 14, 2009 from respondent, assessing petitioner for alleged deficiency income tax, VAT, and EWT covering taxable year 2005.

Consequently, petitioner sent a letter[7] dated March 5, 2009 to respondent on March 6, 2009 to dispute the FLD and the FAN.

On April 14, 2014, petitioner received a Final Decision on Disputed Assessment[8] (FDDA) dated April 14, 2014, signed by Jonas DP. Amora, Regional Director of Revenue Region No. 7, maintaining the finding against petitioner for income tax and VAT deficiencies in the aggregate amount of ₱37,675,379.58, inclusive of interests and compromise penalties, for the taxable year 2005.[9] The assessed deficiency income tax and VAT are detailed as follows:

I. DEFICIENCY INCOME TAX		
Taxable income per ITR		₱ 4,607,453.34
Add: Adjustments per investigation		
Unaccounted source of cash		25,587,799.58
Taxable income per investigation		**₱ 30,195,252.92**
Income tax due thereon		₱ 9,813,457.20
Add: Disallowed payments/tax credits		
Payments	₱ 1,307,673.06	
Creditable withholding tax	189,749.27	1,497,422.33

[3] Exhibits "P-6" and "P-6-A", docket, pp. 277-280.
[4] Exhibit "P-7", docket, pp. 281-283.
[5] Exhibits "P-8" and "P-8-A", docket, pp. 284-287.
[6] Exhibits "P-9", "P-9-A" and "P-9-B", docket, pp. 288-290.
[7] Exhibit "P-10", docket, pp. 291-294.
[8] Exhibit "P-11", docket, pp. 295-296; Exhibit "R-9", docket, pp. 457-458.
[9] Par. 2, Facts Admitted, JSFI, docket, p. 143.

Deficiency Income tax		₱ 8,316,034.87
Add: 20% interest p.a. (from 04.18.2006 to 04.30.2014)	₱13,555,136.84	
Compromise penalty	50,000.00	13,605,136.84
TOTAL AMOUNT DUE		**₱ 21,921,171.71**

II. DEFICIENCY VALUE-ADDED TAX		
Sales per VAT returns		₱ 80,757,793.30
Add: Adjustments per investigation		
Unaccounted source of cash		25,587,799.58
Taxable sales per investigation		**₱106,345,592.88**
Output tax due		₱ 10,634,559.29
Less: Payments/tax credits		
Payments	₱ 916,060.89	
Input tax	7,485,355.90	
Total	₱ 8,401,416.79	
Less: Disallowed input tax	3,636,370.41	4,765,046.38
Deficiency Value-Added Tax		₱ 5,869,512.91
Add: 20% interest p.a. (from 01.26.2006 to 04.30.2014)	₱ 9,834,694.96	
Compromise penalty	50,000.00	9,884,694.96
TOTAL AMOUNT DUE		**₱ 15,754,207.87**

In the FDDA, respondent finds that petitioner had unaccounted and undeclared sources of cash receipts that were not subjected to income tax, in the amount of ₱25,587,799.58. The Details of Discrepancy attached to the FDDA illustrates how the revenue examiners arrived at the foregoing amount:[10]

Total cash receipts per books		₱ 482,278,728.69
Less: Total cash receipts per bank		
Cash deposited to the bank	₱ 98,450,385.79	
Fund transfer	32,000,000.00	
Loan Proceeds	217,000,000.00	
Beginning Balance	22,583,143.25	
Auto Transfer	86,657,400.07	456,690,929.11
Unaccounted source of cash		₱ 25,587,799.58

Petitioner filed the instant Petition for Review before this Court on May 14, 2014.[11]

Within the extended time granted by the Court,[12] respondent filed his Answer[13] on July 14, 2014 and interposed the following defenses:

[10] Exhibit "P-11", docket, p. 296.
[11] Docket, pp. 14-22.
[12] Order dated June 16, 2014, docket, p. 29.
[13] Docket, pp. 31-33.

4. The subject assessments are not yet barred by prescription since the same were issued on 14 January 2009, well within the three (3) year period mandated by Section 203 of the National Internal Revenue Code (NIRC) of 1997, as amended.

5. The income and VAT deficiencies for calendar year 2005 has factual and legal basis.

> Deficiency Income Tax
>
> Unaccounted source of cash (P25,587,799.58) - Verification disclosed that the following discrepancies are considered as unaccounted source of cash and leads to the inference that part your income have not been declared as enunciated by the Court in the case of Perez vs. CTA & CIR, L-10507 dated May 30, 1958. Therefore, the amount is added in your reported taxable income pursuant to Section 31 of the NIRC of 1997, as amended.
>
> Deficiency Value-Added Tax (VAT)
>
> Unaccounted source of cash (P25,587,799.58) - Verification disclosed that the aforementioned amount was considered as unaccounted source of cash, as discussed in item I.a above, hence, the same shall also be subjected to VAT pursuant to Sections 106 and 108 of the NIRC of 1997, as amended.
>
> Disallowed input tax (P3,636,370.41) - Verification disclosed that aforementioned amount which refers to input taxes related to purchases from South Lotus Business Corporation shall be disallowed as deduction from VAT liability in violation of invoicing requirements set forth under Section 113 (A) of the NIRC of 1997, as amended, in relation to Revenue Regulations (RR) No. 16-2005.

6. Finally, well-settled is the rule that tax assessments by tax examiners are presumed correct and made in good faith (*Cagayan Robina Sugar Milling Co. vs. Court of Appeals, 342 SCRA 671*). It is the taxpayer and not the Bureau of Internal Revenue who has the duty of proving otherwise. Equally settled is the rule that in the absence of proof of any irregularities in the performance of official duties,

> an assessment will not be disturbed. All presumptions are in favor of tax assessments. Dereliction on the part of petitioner to satisfactorily overcome the presumption of regularity and correctness of the assessment will justify the judicial upholding of said assessment notices.

Both the petitioner's Pre-Trial Brief[14] and the respondent's Pre-Trial Brief[15] were filed on October 3, 2014. The Pre-Trial Conference was held on October 9, 2014.[16]

On October 14, 2014, the parties filed their Joint Stipulation of Facts and Issues[17]. This was adopted by the Court in the Pre-Trial Order[18] issued on November 10, 2014, which also terminated the pre-trial.

Upon motion of petitioner, the Court commissioned Mr. Glenn Ian D. Villanueva as Independent Certified Public Accountant (ICPA) on January 29, 2015.[19]

During trial, petitioner presented the following witnesses: Ms. Cecilia B. Tongco[20], its Company Accountant; Ms. Regina C. Dionzon[21], its Sales, Purchasing and Administration Assistant; and Mr. Glenn Ian D. Villanueva[22], the ICPA.

Subsequently, petitioner filed its Formal Offer of Evidence[23] on May 6, 2015. In the Resolution[24] dated June 10, 2015, the Court admitted petitioner's Exhibits "P-1", "P-1-A", "P-1-B", "P-2", "P-2-A", "P-2-B", "P-3", "P-3-A", "P-3-B", "P-4", "P-4-A", "P-4-B", "P-4-C", "P-4-D", "P-4-E", "P-5", "P-5-A", "P-5-C", "P-5-D", "P-6", "P-6-A", "P-7", "P-8", "P-8-A", "P-9", "P-9-A", "P-9-B", "P-10", "P-11", "P-11-A", "P-11-B", "P-11-C", "P-12", "P-13", "P-14", "P-15", "P-16" to "P-16-M", "P-17", "P-18", "P-19", "P-19-A", "P-20", "P-20-A", "P-21", "P-21-A", "P-22", "P-23", "P-39", and "P-39-A". However, the Court denied the admission of Exhibits "P-24", "P-25", "P-26-1" to "P-26-10", "P-27", "P-27-A-1" to "P-27-A-29", "P-27-B-1" to "P-27-B-16", "P28", "P-28-A-

[14] Docket, pp. 129-136.
[15] Docket, pp. 137-140.
[16] Minutes of the Hearing dated October 9, 2014, docket, p. 141.
[17] Docket, pp. 143-149.
[18] Docket, pp. 160-167.
[19] Oath of Commission, docket, p. 194.
[20] Minutes of the Hearing dated November 13, 2014, docket, p. 176; Exhibit "P-19", docket, pp. 329-335.
[21] Minutes of the Hearing dated December 4, 2014, docket, p. 179; Exhibit "P-20", docket, pp. 336-347.
[22] Minutes of the Hearing dated January 29, 2015, docket, p. 193; Exhibit "P-39", docket, pp. 388-393.
[23] Docket, pp. 245-262.
[24] Docket, pp. 397-398.

1" to "P-28-A-12", "P-28-B-1" to "P-28-B-14", "P-29-1" to "P-29-10", "P-30-1" to "P-30-17", "P-31-1" to "P-31-2", "P-32-1" to "P-32-26", "P-33-1" to "P-33-20", "P-34", "P-34-A", "P-34-B", "P-34-C", "P-35-1" to "P-35-19", "P-36-1" to "P-35-19", "P-37", "P-37-A", "P-37-B", and "P-38-1" to "P-38-12" for not being found in the records.

Petitioner filed a Motion for Reconsideration[25] on June 25, 2015, which was partially granted by the Court in the Resolution[26] dated September 2, 2015. Exhibits "P-24", "P-25", "P-26-1" to "P-26-10", "P-27-A-1" to "P-27-A-29", "P-27-B-1" to "P-27-B-16", "P-28-A-1" to "P-28-A-12", "P-28-B-1" to "P-28-B-14", "P-29-1" to "P-29-10", "P-30-1" to "P-30-17", "P-31-1" to "P-31-2", "P-32-1" to "P-32-26", "P-33-1" to "P-33-20", "P-34-A", "P-34-B", "P-34-C", "P-35-1" to "P-35-19", "P-36-1" to "P-36-12", "P-37-A", "P-37-B", and "P-38-1" to "P-38-12" were admitted. However, Exhibits "P-27", "P-28", "P-34", and "P-37" were still denied admission for not being found in the records.

Thereafter, respondent presented Revenue Officer Jhoy DG. Lentejas as his lone witness.[27]

On October 30, 2015, respondent filed his Formal Offer of Evidence[28]. This was resolved by the Court in the Resolution[29] dated November 25, 2015 and respondent's Exhibits "R-1", "R-2", "R-3", "R-4", "R-5", "R-6", "R-7", "R-8", "R-9", "R-10", "R-11", "R-12", "R-13", and "R-13-A" were admitted into evidence.

Petitioner filed its Memorandum[30] on December 28, 2015; while, respondent filed his Memorandum[31] on January 28, 2016. On February 2, 2016, the Court issued a Resolution[32] declaring the instant Petition for Review submitted for decision.

The Issues

The parties stipulated the following issues[33] for resolution of this Court:

[25] Docket, pp. 422-425.
[26] Docket, pp. 438-439.
[27] Minutes of the Hearing dated October 20, 2015, docket, p. 440; Exhibit "R-13", docket, pp. 399-405.
[28] Docket, pp. 444-447.
[29] Docket, pp. 467-468.
[30] Docket, pp. 469-485.
[31] Docket, pp. 486-492.
[32] Docket, p. 499.
[33] Issues, JSFI, docket, p. 144.

1. Whether or not petitioner has unaccounted source of cash in the amount of Php25,587,799.58 for the year 2005.

2. Whether petitioner is liable to pay the alleged income and value-added tax deficiencies against Petitioner for taxable year 2005, as well as other compromise penalties, interests and surcharges, aggregating Php37,675,379.58.

3. Whether the FAN and FLD issued for taxable year 2005 against Petitioner representing alleged Income and VAT deficiencies and the right of the Government through the Bureau of Internal Revenue to collect such alleged deficiency taxes had prescribed pursuant to Section 203 and 222 of the 1997 Tax Code, as amended.

4. Whether Revenue Regulations No. 16-2005 dated October 19, 2005 can be applied retroactively.

5. Whether Respondent violated the right of Petitioner to due process for not complying with BIR Rules and Regulations regarding the service of assessments, thus making the present assessment null and void.

The Ruling of the Court

The petition is partly meritorious.

Petitioner claims that the alleged income tax deficiency and VAT deficiency have no factual basis. It also argues that the FAN and the FLD were served beyond the period to assess provided under Section 203 of the NIRC of 1997, as amended, in relation to Sections 58 and 114 thereof. Moreover, petitioner asserts that the period to collect the alleged deficiency taxes pursuant to Section 222(c) of the NIRC of 1997, as amended, has already lapsed. Lastly, petitioner contends that the imposition of compromise penalty cannot be justified.

Respondent, on the other hand, argues that petitioner has unaccounted source of cash in the amount of ₱25,587,799.58 for the year 2005. He contends that petitioner is liable to pay deficiency income tax, VAT, and compromise penalty in the aggregate amount of ₱37,675,379.58 for taxable year 2005. Likewise, respondent insists that the FAN and the FLD issued for taxable year 2005 against petitioner representing income and VAT deficiencies and the right of the government through the BIR to collect the deficiency taxes has not yet prescribed pursuant to Sections 203 and 222 of the NIRC of 1997, as amended.

Jurisdiction of the Court of Tax Appeals

Before proceeding to the stipulated issues, the Court deems it proper to first determine the timeliness of the filing of the present petition.

Section 228 of the NIRC of 1997, as amended, provides:

> 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: *Provided, however,* That a preassessment notice shall not be required in the following cases:
>
> xxx xxx xxx
>
> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> 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.
>
> If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

Based on the foregoing, petitioner had thirty (30) days from receipt of the FDDA on April 14, 2014 or until May 14, 2014 within which to appeal such FDDA with the Court of Tax Appeals.

Since the instant Petition for Review was filed on May 14, 2014, the same was timely filed.

The Court shall now proceed to resolve the issues stipulated by the parties.

Right of respondent to assess petitioner

Petitioner contends that respondent's right to assess had already prescribed pursuant to Section 203 of the NIRC of 1997, as amended, in relation to Sections 58(A) and 114(A) of the same Code, which provide:

> SEC. 203. *Period of Limitation Upon Assessment and Collection.* – Except as provided in Section 222, **internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return**, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: *Provided*, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For 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. *(Emphasis supplied)*
>
> SEC. 58. *Returns and Payment of Taxes Withheld at Source.* –
> (A) *Quarterly Returns and Payments of Taxes Withheld.* – Taxes deducted and withheld under Section 57 by withholding agents shall be covered by a return and paid to, except in cases where the Commissioner otherwise permits, an authorized Treasurer of the city or municipality where the withholding agent has his legal residence or principal place of business, or where the withholding agent is a corporation, where the principal office is located.
>
> The taxes deducted and withheld by the withholding agent shall be held as a special fund in trust for the government until paid to the collecting officers.

The return for final withholding tax shall be filed and the payment made within twenty-five (25) days from the close of each calendar quarter, while the return for creditable withholding taxes shall be filed and the payment made not later than the last day of the month following the close of the quarter during which withholding was made: *Provided*, That the Commissioner, with the approval of the Secretary of Finance, may require these withholding agents to pay or deposit the taxes deducted or withheld at more frequent intervals when necessary to protect the interest of the government.

SEC. 114. *Return and Payment of Value-added Tax.* –

(A) *In General.* – **Every person liable to pay the value-added tax imposed under this Title shall file a quarterly return of the amount of his gross sales or receipts within twenty-five (25) days following the close of each taxable quarter prescribed for each taxpayer**: *Provided, however*, That VAT-registered persons shall pay the value-added tax on a monthly basis. *(Emphasis supplied)*

The Court finds petitioner's contention partially meritorious.

For income taxes, Section 77(B) of the NIRC of 1997, as amended, provides for the period to file the Quarterly and Annual Corporate Income Tax Returns, to wit:

SEC. 77. *Place and Time of Filing and Payment of Quarterly Corporate Income Tax.* –

xxx xxx xxx

(B) *Time of Filing the Income Tax Return.* – The corporate quarterly declaration shall be filed within sixty (60) days following the close of each of the first three (3) quarters of the taxable year. The final adjustment return shall be filed on or before the fifteenth (15th) day of April, or on or before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be.

It is long established in our jurisdiction that the first three (3) quarterly returns are mere installments of the annual tax due. These quarterly tax payments, which are computed based on the cumulative figures of gross receipts and deductions in order to arrive at a net taxable income, should be treated as advances or portions of the annual income tax due, to be adjusted at the end of the calendar or fiscal year.[34] The final adjustment return is the one truly reflective of the operations of an establishment. Thus, the **three-year period is reckoned from the fifteenth (15th) day of April** or the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year, as the case may be; **or the date of actual filing of the final adjustment return, whichever is later.**

In this case, petitioner filed its 2005 final adjustment return for income tax on April 12, 2006[35], which was later amended on June 22, 2006[36]. Applying Sections 77(B) and 203 of the NIRC of 1997, as amended, the BIR had until June 22, 2009 within which to issue the FLD and the FAN assessing petitioner for deficiency income tax for taxable year 2005.

Considering that the FLD was received by petitioner on February 12, 2009, the deficiency income tax assessment was validly issued within the three-year prescriptive period provided by law.

However, the same cannot be said as to the deficiency VAT assessment.

According to Section 114(A) of the NIRC of 1997, as amended, the running of the 3-year period within which the BIR can make an assessment is reckoned from the filing of the quarterly VAT returns. Unlike in corporate income tax, which is reported and paid on installment every quarter, but is eventually subjected to a final adjustment at the end of the taxable year, VAT is computed and paid on a purely quarterly basis without need for a final adjustment at the end of the taxable year.[37] Hence, each quarterly return has its own prescriptive period.

Applying the foregoing, the prescriptive periods for petitioner's quarterly VAT for taxable year 2005 are as follows:

VAT Returns[38]	Actual Date of Filing	Due Date per Sec. 114(A)	Date to Count 3-Year Prescriptive Period	3-Year Prescriptive Period per Sec. 203
1st Quarter	4/23/2005	4/25/2005	4/25/2005	4/25/2008
2nd Quarter	7/25/2005	7/25/2005	7/25/2005	7/25/2008
3rd Quarter	10/24/2005	10/25/2005	10/25/2005	10/27/2008[39]
4th Quarter	4/7/2006 (amended)	1/25/2006	4/7/2006	4/7/2009

[34] *Commissioner of Internal Revenue vs. TMX Sales, Inc.*, G.R. No. 83736, January 15, 1992.
[35] Annual Income Tax Return, Exhibit "P-5", docket, p. 273.
[36] Annual Income Tax Return, Exhibit "P-5-A", docket, p. 275.
[37] *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 141104 and 148763, June 8, 2007.
[38] Exhibits "P-1" to "P-4", with sub-markings, docket, pp. 263-272.
[39] October 25, 2008 being a Saturday.

Since the FLD was only received by petitioner on February 12, 2009, respondent's right to assess petitioner for deficiency VAT for the first (1st) to third (3rd) quarters of taxable year 2005 had already prescribed and only the deficiency VAT assessment for the fourth (4th) quarter is valid.

The Court shall now scrutinize the propriety of each item of the subject assessment.

I. Unaccounted source of cash – ₱25,587,799.58

Respondent's assessment for both deficiency income tax and VAT arose from the same finding – unaccounted source of cash – hence, they shall be resolved jointly.

Respondent's verification disclosed that the following discrepancies are considered as source of cash and leads to the inference that part of petitioner's income had not been declared. Therefore, the amount is added in petitioner's reported taxable income pursuant to Section 31 of the NIRC of 1997, as amended.[40]

Unaccounted cash receipts:		
Total cash receipts per books		₱ 482,278,728.69
Less: Total cash receipts per bank		
Cash deposited to the bank	₱ 98,450,385.79	
Fund transfer	32,000,000.00	
Loan proceeds	217,000,000.00	
Beginning balance	22,583,143.25	
Auto transfer	86,657,400.07	456,690,929.11
Unaccounted source of cash		**₱ 25,587,799.58**

Petitioner stressed that the amount of ₱482,278,728.69 allegedly representing Total Cash Receipts for taxable year 2005 was in fact the sum of debits in petitioner's Cash in Bank account. According to petitioner, it submitted copies of bank certifications to respondent's examiners to substantiate its claim. However, without any sound justification, respondent's examiners disregarded these supporting documents to sustain its erroneous findings.

With respect to the alleged "Total amount of cash per bank" as per Details of Discrepancy, petitioner presented the following explanations:

1. The amount alleged above as Cash Deposited to the Bank (₱98,450,385.79) failed to consider the amount of post-dated

[40] Details of Discrepancies, FDDA, Exhibit "P-11", docket, p. 296.

checks at the end of the year, which were returned and reclassified back into Accounts Receivables.

2. The amount alleged above as Fund Transfers (₱32,000,000.00) should actually amount to ₱38,000,000.00, which amount is fully substantiated by vouchers and deposit slips.

3. The amount alleged as Loan Proceeds (₱217,000,000.00) failed to account for the finance charges.

4. The amount alleged as Auto Transfers (₱86,657,400.07) should actually be higher.

Petitioner contends that the alleged unaccounted source of cash is totally unwarranted and completely lacking factual basis.[41]

The Court finds the arguments of petitioner partly meritorious.

Petitioner presented the following reconciliation of respondent's findings with the former's records and explained that the discrepancy is fully accounted for:[42]

	Per BIR	Per Prime Steel	Discrepancy	Remarks
Cash deposited to the bank	₱ 98,450,385.79	₱ 96,922,064.48	₱ 1,528,321.31	Summary of post-dated checks as at the end of the year / returned checks reclassed back to A/R
Fund transfer	32,000,000.00	38,000,000.00	(6,000,000.00)	Supported by vouchers & deposit slips
Loan proceeds	217,000,000.00	216,858,739.60	141,260.40	Supported by PN's and disclosure statements
Beginning balance	22,583,143.25	22,583,143.25	-	
Auto transfer	86,657,400.07	107,889,288.41	(21,231,888.34)	Supported by bank certification
Interest income	-	48,684.87	(48,684.87)	Supported by bank certification
Other deposits	-	12,809.79	(12,809.79)	Supported by deposit slips
Reversal entry	-	(36,001.71)	36,001.71	Supported by journal vouchers
	₱ 456,690,929.11	**₱ 482,278,728.69**	**₱ (25,587,799.58)**	

The Court-commissioned ICPA, Mr. Glenn Ian D. Villanueva of Reyes Tacandong & Co., verified each component of the assessment and the Court partially agrees with his findings after conducting its own examination of the records.

[41] Pars. 3, 4, and 6, petitioner's Memorandum, docket, pp. 474-475.
[42] Exhibit "P-15", docket, p. 307.

A. Discrepancy in cash deposited to the bank – ₱1,528,321.31

For the cash deposited to the bank, the discrepancy of ₱1,528,321.92 is composed of the following:

Post-dated checks	₱ 1,359,058.92
Returned checks	169,263.00
Total	**₱1,528,321.92**

The post-dated checks issued by its customers amounting to ₱1,359,058.92 comprised of the following which was re-classified to Accounts Receivable account on December 31, 2005 as per Journal Voucher (JV) No. 12-031[43]:

Issuer	Bank	Date Deposited	Exhibit No.		Amount
Federal North Hardware	Metrobank	1/10/2006	P-26-1	P-27-A-25	₱ 113,954.55
Amyes Builders	Metrobank	1/11/2006	P-26-2	P-27-A-25	3,460.00
ECD Sales Enterprises	Metrobank	1/11/2006	P-26-2	P-27-A-25	1,479.00
Joraica Marketing	Metrobank	1/16/2006	P-26-3	P-27-A-26	136,400.00
JO Construction	PBCom	1/31/2006	P-26-5	P-28-A-11	137,950.00
ECD Sales Enterprises	PBCom	1/31/2006	P-26-6	P-28-A-11	3,807.00
Weserve Industrial Supply, Inc.	PBCom	1/31/2006	P-26-6	P-28-A-11	16,380.00
JO Construction	Metrobank	2/6/2006	P-26-10	P-27-A-26	558,840.01
168 Steel Multiple Resources	Metrobank	2/13/2006	P-26-9	P-27-A-27	8,320.00
ECD Sales Enterprises	Metrobank	2/28/2006	P-26-7	P-27-A-27	5,916.00
ECD Sales Enterprises	Metrobank	2/22/2006	P-26-8	P-27-A-27	5,916.00
Kato Metal Corporation	Metrobank	3/6/2006	P-26-4	P-27-A-27	366,636.36
TOTAL	**TOTAL**				**₱ 1,359,058.92**

These post-dated checks did not comprise the cash deposits during the year 2005 as proven by the bank deposit slips[44] showing that the post-dated checks were actually deposited in 2006 and were accordingly traced to the respective bank statements or passbook[45] of petitioner on the same date they were deposited.[46]

On the other hand, the returned check amounting to ₱169,263.00 issued by Pacific Tiles allegedly remained undeposited as of December 31, 2005, thus reclassified to Accounts Receivable account, as per JV No. 12-025[47].

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[43] Exhibit "P-24".
[44] Exhibit "P-26-1" to "P-26-10".
[45] Exhibits "P-27-A", with sub-markings and "P-28-A", with sub-markings.
[46] Annex A of ICPA Report, Exhibit "P-22", docket, p. 212.
[47] Exhibit "P-25".

However, out of the alleged returned check of ₱169,263.00, only the amount of ₱91,143.00 is ascertained to be not included in the cash deposited to the bank as the same was dishonored by petitioner's bank, as shown by the marking "Account Closed" on the face of the check[48]. In fine, only the remaining unaccounted amount of ₱78,119.39 shall be subject to deficiency income tax, determined as follows:

Discrepancy on cash deposited to the bank		₱1,528,321.31
Less: Post-dated Checks	₱1,359,058.92	
Returned Checks	91,143.00	1,450,201.92
Unaccounted cash deposit		**₱ 78,119.39**

B. Fund Transfers – ₱38,000,000.00 and ₱107,889,288.41

Petitioner claims that the manual and auto fund transfers of ₱32,000,000.00 and ₱86,657,400.07, respectively, alleged by respondent should actually amount to ₱38,000,000.00 and ₱107,889,288.40, respectively, which are duly substantiated by vouchers, deposit slips, and bank certification.

Manual Fund Transfers – Records show that these are fund transfers from petitioner's one bank account to another which it maintains with different banks. Based on the Company Policy on Manual and Automatic Fund Transfer[49], the fund transfer is done when, based on its daily cash position, one bank would be lacking in funds and no collection is expected, and where there is an excess fund from the other bank.

The Court finds that these fund transfers were duly supported by approved journal vouchers and deposit slips[50] and were traced to be debited, on one hand, from petitioner's source account and credited, on the other hand, to the receiving banks, as clearly shown in its bank statements and passbooks[51].

The following table summarizes the inter-bank manual fund transfers made by petitioner between its various bank accounts in 2005:[52]

[48] Exhibit "P-25".
[49] Exhibit "P-31-1".
[50] Exhibits "P-32-1" to "P-32-26".
[51] Exhibits "P-27-A-1" to "P-27-A-29", "P-27-B-1" to "P-27-B-16", "P-28-A-1" to "P-28-A-12", "P-28-B-1" to "P-28-B-13", and "P-29-1" to "P-29-10"; Annex B of ICPA Report, Exhibit "P-22", docket, p. 213
[52] See detailed tracing of manual transfers in Annexes B and C of ICPA Report, Exhibit "P-22", docket, pp. 213 to 214.

Issuing Bank	Check No.	Date Debited	Amount	Receiving Bank	Date Credited
Metrobank	97184080	1/25/2005	₱ 2,000,000.00	PBCom	1/25/2005
BPI	36698	1/25/2005	1,000,000.00		
Metrobank	971984110	3/8/2005	1,000,000.00	PBCom	3/30/2005
Metrobank	971984122	3/21/2005	2,000,000.00	PBCom	3/21/2005
Metrobank	971984128	3/30/2005	1,000,000.00	PBCom	1/25/2005
BPI	36711	4/6/2005	1,000,000.00	PBCom	4/6/2005
Metrobank	971984136	4/12/2005	4,000,000.00	PBCom	4/12/2005
Metrobank	971984143	4/22/2005	8,000,000.00	PBCom	4/22/2005
Metrobank	971984147	5/5/2005	1,000,000.00	PBCom	5/5/2005
BPI	36725	5/13/2005	1,000,000.00	PBCom	5/13/2005
BPI	36724	5/18/2005	3,000,000.00	Metrobank	5/18/2005
BPI	36728	5/20/2005	1,000,000.00	Metrobank	5/20/2005
PBCom	2000048981	5/20/2005	2,000,000.00	Metrobank	5/20/2005
BPI	36740	6/14/2005	1,000,000.00	Metrobank	6/14/2005
PBCom	2000048996	6/20/2005	3,000,000.00	Metrobank	6/20/2005
Metrobank	971984187	7/11/2005	1,000,000.00	PBCom	7/11/2005
BPI	36772	10/17/2005	1,500,000.00	Metrobank	10/17/2005
PBCom	2000049041	10/17/2005	1,500,000.00		
BPI	36795	12/15/2005	1,000,000.00	Metrobank	12/15/2005
PBCom	200049063	12/15/2005	1,000,000.00		
			₱38,000,000.00		

Thus, respondent's deficiency income tax assessment on this item is without basis.

Auto Fund Transfers – These are mere transfers between the current and savings accounts (CA/SA) maintained by petitioner within the same bank. Petitioner's collections are deposited to its savings account while its check disbursements are charged against the current account. To accommodate the inward clearing checks issued by petitioner, the funds deposited in the savings account is automatically transferred to the current account.

The auto fund transfers made in 2005 are as follows:[53]

Metrobank	₱ 27,437,495.86
PBCom	66,460,573.95
BPI	13,991,218.60
Total	**₱107,889,288.41**

The auto fund transfers made in its Metrobank CA/SA account amounting to ₱27,438,155.86 and to its PBCom CA/SA accounts amounting to ₱66,460,573.95 were duly certified by the respective banks.[54]

[53] ICPA Report, Exhibit "P-22", docket, p. 203.
[54] Exhibits "P-34-A" and "P-34-B".

Also, petitioner's Metrobank and PBCom passbooks[55] reveal that for every debit of a certain amount in one bank account, there is a corresponding credit of the same amount in another bank account, both on the same date.

As to the auto fund transfer in the BPI account, as ascertained by the ICPA, petitioner recorded in its books the auto fund transfers aggregating to ₱13,991,218.60 by debiting Cash In Bank-BPI C/A and crediting Cash In Bank-BPI S/A[56], as illustrated below:

Cash in Bank – BPI C/A	₱13,991,218.60
Cash in Bank – BPI S/A	₱13,991,218.60

Apparently, respondent took into account only the debit side of the entry and did not consider the corresponding credit of the journal entry for the same amount, which is also a cash in bank account, hence, the overstatement per books by ₱13,991,218.60.

Verily, all of these transactions being merely transfers of cash from petitioner's one account to another only show that no cash inflow actually transpired. Thus, respondent's inference that there is undeclared revenue from the foregoing account is without basis.

C. Discrepancy in loan proceeds – ₱141,260.40

The discrepancy of ₱141,260.40 represents payment of documentary stamp taxes (DST) in securing loans from Metrobank for working capital purposes which were already deducted from the loan proceeds of petitioner. Evidently, respondent failed to consider such deduction of DST.

The gross amount of the loans and the corresponding DST were duly supported by Promissory Notes and Disclosure Statements[57], detailed as follows:[58]

Promissory Note No.	Date	Principal Loan Amount	DST per Disclosure Statement	Loan Proceeds
1051673	2/21/2005	₱ 30,000,000.00	₱ 12,328.80	₱ 29,987,671.20
1051674	2/24/2005	20,000,000.00	7,397.30	19,992,602.70

[55] Exhibits "P-27-A-1" to "P-27-A-29", "P-27-B-1" to "P-27-B-16", "P-28-A-1" to "P-28-A-12", and "P-28-B-1" to "P-28-B-13".
[56] Exhibits "P-38-1" to "P-38-12".
[57] Exhibit "P-33".
[58] Annex D of ICPA Report, Exhibit "P-22", docket, p. 215.

1068567	3/23/2005	20,000,000.00	15,890.40	19,984,109.60
1068568	3/23/2005	30,000,000.00	23,835.60	29,976,164.40
1077079	5/20/2005	5,000,000.00	2,123.30	4,997,876.70
1077078	5/20/2005	30,000,000.00	24,657.50	29,975,342.50
1083560	7/19/2005	27,000,000.00	21,821.90	26,978,178.10
1083667	9/16/2005	25,000,000.00	20,548.00	24,979,452.00
1083666	11/15/2005	18,000,000.00	7,397.30	17,992,602.70
1083559	12/15/2005	12,000,000.00	5,260.30	11,994,739.70
		₱217,000,000.00	**₱141,260.40**	**₱216,858,739.60**

The loan proceeds were accordingly credited to petitioner's bank account as shown on its passbook.[59]

Thus, respondent's assessment with regard to this item is also erroneous.

D. Interest Income – ₱48,684.87

The amount of ₱48,684.87, as detailed below, represents the quarterly interest earned from petitioner's savings accounts deposits, which can be traced from its passbooks and bank statements and duly certified by the banks:

	Quarterly Interest Income	**Final Tax**	**Interest Net of Tax**
PBCom:[60]			
Jan. to Mar. 2005	₱ 6,949.29	₱ 1,389.86	₱ 5,559.43
Apr. to Jun 2005	7,519.10	1,503.82	6,015.28
Jul to Sept. 2005	7,551.88	1,510.38	6,041.50
Oct. to Dec. 2005	5,631.54	1,126.31	4,505.23
Metrobank:[61]			
Jan. to Mar. 2005	2,702.64	540.53	2,162.11
Apr. to Jun 2005	9,140.10	1,828.02	7,312.08
Jul to Sept. 2005	4,836.94	967.39	3,869.55
Oct. to Dec. 2005	3,128.15	625.63	2,502.52
BPI:[62]			
Jan. to Mar. 2005	1775.41	355.08	1,420.33
Apr. to Jun 2005	4711.37	942.27	3,769.10
Jul to Sept. 2005	4237.34	847.47	3,389.87
Oct. to Dec. 2005	2672.34	534.47	2,137.87
	₱60,856.10	**₱12,171.23**	**₱48,684.87**

[59] Exhibits "P-27-A-5", "P-27-A-6", "P-27-A-8", "P-27-A-8", "P-27-A-14", "P-27-A-14", "P-27-A-18", "P-27-A-21", "P-27-A-24", and "P-27-A-24".
[60] Exhibits "P-28-A-3", "P-28-A-6", "P-28-A-8", "P-28-A-10", and "P-34-B".
[61] Exhibits "P-27-A-9", "P-27-A-17", "P-27-A-22", "P-27-A-25", and "P-34-A".
[62] Exhibits "P-29-2", "P-29-5", "P-29-7", "P-29-9", and "P-34-C".

Further, the same amount was accordingly disclosed in the Audited Financial Statement[63] of petitioner.

Thus, the Court finds respondent's assessment improper.

E. Other deposits – ₱12,809.79

Based on the documents presented, the following amounts comprise petitioner's other deposits which respondent failed to consider:

Description per Journal Vouchers[64]	Amount	Bank	Date Deposited per Deposit Slips[65]	Date Credited per Bank Passbook[66]
Dividend income from PLDT	₱700.00	PBCom	12/16/2005	12/16/2005
Dividend income from PLDT	210.00	PBCom	8/10/2005	8/10/2005
Dividend income from PLDT	140.00	PBCom	6/1/2005	6/1/2005
Advances to employees	7,696.14	Metrobank	11/15/2005	11/15/2005
Accounts receivable-others	213.40	Metrobank	1/3/2005	1/3/2005
SS Sickness benefit	1,800.00	Metrobank	1/4/2005	1/4/2005
SS Sickness benefit	1,800.00	Metrobank	5/16/2005	5/16/2005
Accounts receivable-others	240.25	Metrobank	3/9/2005	3/9/2005
Accounts receivable-others	10.00	Metrobank	3/10/2005	3/10/2005
	₱12,809.79			

Considering the lack of factual basis, the Court finds that respondent's assessment with respect to the other deposits should be cancelled.

F. Reversal Entry – ₱36,001.71

Based on petitioner's journal vouchers, this amount is a mere reversal of a previous debit in the Cash on Hand account. The initial entry per JV No. 04-017 dated April 30, 2005 was:[67]

Cash on Hand	₱36,001.71
Deposit to Supplier	₱36,001.71

[63] Income Statement, Exhibit "P-35-13".
[64] Exhibits "P-36-1" to "P-36-3", "P-36-5", "P-36-6", "P-36-9", and "P-36-11".
[65] Exhibits "P-36-4", "P-36-6", "P-36-7", "P-36-8", "P-36-10", and "P-36-12".
[66] Exhibits "P-28-A-5", "P-28-A-7", "P-28-A-10", "P-27-A-1", "P-27-A-6", "P-27-A-7", "P-27-A-13", and "P-27-A-23".
[67] Exhibit "P-37-A".

This entry was later reversed on the same date per JV No. 04-020.[68] Apparently, respondent took into consideration only the initial entry in its investigation while disregarded the reversal entry.

It was noted by the Court that the JVs presented do not show any approval for posting in the books. Nevertheless, petitioner's Cash on Hand ledger[69] reveals that the above transactions (initial and reversal entries) were accordingly taken up in the books in April 2005.

Since it is a mere reversal, there was no actual cash inflow to petitioner, hence, it cannot be imputed as undeclared revenue.

In sum, petitioner was able to satisfactorily account for the discrepancy noted by respondent, except for the amount of ₱78,119.39. Consequently, respondent's deficiency income tax assessment must be reduced to ₱25,388.81, as computed below:

Taxable income per ITR		₱ 4,607,453.34
Add: Adjustments per investigation		
Unaccounted source of cash		78,119.39
Taxable income per this Court's verification		**₱4,685,572.73**
Income tax due thereon		₱ 1,522,811.14
Add: Disallowed payments/tax credits		
Payments	₱1,307,673.06	
Creditable withholding tax	189,749.27	1,497,422.33
Deficiency income tax		**₱ 25,388.81**

Likewise, the unaccounted amount of ₱78,119.39 shall be subject to output VAT.

II. Disallowed Input VAT – ₱3,636,370.41

Respondent's verification disclosed that the input VAT amount of ₱3,636,370.41 related to purchases from South Lotus Business Corporation shall be disallowed as deduction from its VAT liability in violation of the invoicing requirements set forth under Section 113(A) of the NIRC of 1997, as amended, in relation to Revenue Regulations (RR) No. 16-2005.[70]

Petitioner contends that the same should not be disallowed due to violation of invoicing requirements set forth under Section 113(A) of the NIRC

[68] Exhibit "P-37-B".
[69] BIR Records, p. 268.
[70] Details of Discrepancies, FDDA, Exhibit "P-11", docket, p. 296.

of 1997, as amended, in relation to RR No. 16-2005 since said Revenue Regulation became effective only on November 1, 2005. Petitioner further claims that the invoices were issued by South Lotus Business Corporation between January to July 2005 which were prior to the issuance of said Revenue Regulation.

Petitioner's contention is meritorious.

The Court emphasizes that the determination of petitioner's compliance with the substantiation requirements should be based on the existing law and revenue regulations at the time it claimed its input VAT.

For taxable year 2005, South Lotus Business Corporation issued fourteen (14) invoices to petitioner, summarized as follows:[71]

Invoice No.	Date	Invoice Amount	Input VAT	Exhibit No.[72]
5	1/31/2005	₱ 3,975,606.84	₱ 361,418.80	P-16
6	1/31/2005	5,967,648.09	542,513.46	P-16-A
9	3/5/2005	994,334.14	90,394.01	P-16-B
10	3/7/2005	994,334.14	90,394.01	P-16-C
14	3/15/2005	1,988,841.25	180,803.75	P-16-D
15	3/21/2005	3,978,374.40	361,670.40	P-16-E
16	3/31/2005	1,988,841.25	180,803.75	P-16-F
20	4/28/2005	112,098.20	10,190.75	P-16-G
21	4/29/2005	3,695,929.04	335,993.55	P-16-H
28	5/30/2005	5,646,388.07	513,308.01	P-16-I
29	5/31/2005	112,086.37	10,189.67	P-16-J
31	5/31/2005	953,165.88	86,651.44	P-16-K
51	6/30/2005	6,503,765.45	591,251.40	P-16-L
63	7/29/2005	3,088,661.45	280,787.40	P-16-M
TOTAL		**₱40,000,074.57**	**₱3,636,370.42**	

The foregoing invoices were issued between January to July 2005. The prevailing law then governing the VAT system was Republic Act (RA) No. 8424, as implemented by RR No. 7-95 (Consolidated Value-Added Tax Regulations), and not RA No. 9337, as implemented by RR No. 16-2005 (Consolidated Value-Added Tax Regulations of 2005) which took effect only on November 1, 2005.

Section 110(A) of RA No. 8424 provides:

> SECTION 110. *Tax Credits.* –
>
> (A) *Creditable Input Tax.* –

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[71] Annex K of ICPA Report, Exhibit "P-22", docket, p. 227.
[72] Docket, pp. 308-321.

(1) Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 113 hereof on the following transactions shall be creditable against the output tax:

(a) Purchase or importation of goods:

Relative thereto are Sections 113(A) and 237 of RA No. 8424 and Section 4.108-1 of RR No. 7-95, which state:

SECTION 113. *Invoicing and Accounting Requirements for VAT–Registered Persons.* –

(A) *Invoicing Requirements.* – A VAT-registered person, shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 237, the following information shall be indicated in the invoice or receipt:

(1) A statement that the seller is a VAT-registered person, followed by his taxpayer's identification number (TIN); and

(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

SECTION 237. *Issuance of Receipts or Sales or Commercial Invoices.* – All persons subject to an internal revenue tax shall, for each sale and transfer of merchandise or for services rendered valued at Twenty-five pesos (P25.00) or more, issue duly registered receipts or sale or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: xxx

SECTION 4.108-1. *Invoicing Requirements.* – All VAT-registered persons shall, for every sale or lease of goods or properties or services, issue duly registered receipts or sales or commercial invoices which must show:

1. the name, TIN and address of seller;
2. date of transaction;
3. quantity, unit cost and description of merchandise or nature of service;
4. the name, TIN, business style, if any, and address of the VAT-registered purchaser, customer or client;
5. the word 'zero-rated' imprinted on the invoice covering zero-rated sales; and
6. the invoice value or consideration.

Based on the foregoing, it is clear that the input VAT shall be creditable to the output VAT of the purchaser when such input VAT is evidenced by a VAT invoice or official receipt. The invoice or receipt must be duly registered with the BIR, and should contain the information required by Section 113(A) of RA No. 8424 and Section 4.108-1 of RR No. 7-95. Consequently, receipt or invoice which does not comply with the invoicing requirements, among others, shall not be considered as a "VAT Invoice" or "VAT official receipt" and shall not give rise to any input tax.

Upon further scrutiny of the contested invoices, the Court finds that the same bear all necessary information as required under Sections 113(A) and 237 of RA No. 8424, and Section 4.108-1 of RR No. 7-95. Verily, the input taxes in relation thereto incurred by petitioner may be credited against its output VAT liability.

Moreover, as earlier discussed, respondent's assessment for the first to third quarters of 2005 already prescribed. Considering that the foregoing input taxes on purchases from South Lotus Business Corporation were claimed during the prescribed quarters, respondent's assessment pertaining thereto should be cancelled.

In view of the foregoing, the Court finds petitioner not liable for deficiency VAT for taxable year 2005, since it has sufficient tax credits to cover its output VAT liability, as computed below:

Sales per VAT Return (4th Quarter)		₱ 7,661,639.45
Add: Unaccounted source of cash		160,737.24
Taxable sales per Court's verification		**₱7,822,376.69**
Output tax due		₱ 782,237.67
Less: Payments/tax credits (4th Quarter)		
Payments	₱ 51,405.00	
Input tax	1,040,396.42	1,091,801.42
Net VAT Overpayment		**₱ (309,563.75)**

III. Compromise penalties – ₱100,000.00

Respondent imposed compromise penalties amounting to ₱50,000.00 for each deficiency tax assessed or totaling ₱100,000.00.

Pursuant to Revenue Memorandum Order (RMO) No. 01-90, compromise penalties are only amounts 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. It is well-settled that the Court cannot compel a taxpayer to pay the compromise penalty because by its very nature, it implies a mutual agreement between the parties in respect to the thing or subject matter that is so compromised, and the choice of paying or not paying it distinctly belongs to the taxpayer.[73] Absent a showing that herein petitioner consented to the compromise penalty, its imposition should be deleted. The imposition of the same without the conformity of the taxpayer is illegal and unauthorized.[74]

In this case, there is nothing in the records which would show that petitioner consented to the compromise penalty. Consequently, the compromise penalty should not be imposed and must be cancelled.

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The assessment issued by respondent against petitioner for taxable year 2005 covering deficiency value-added tax (₱15,754,207.87) is **CANCELLED** and **WITHDRAWN**. However, the assessment issued by respondent against petitioner for taxable year 2005 covering deficiency income tax is **AFFIRMED but with modifications**. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount **THIRTY-ONE THOUSAND SEVEN HUNDRED THIRTY-SIX PESOS AND 1/100 (₱31,736.01)** representing basic deficiency income tax of ₱25,388.81 and twenty-five percent (25%) surcharge of ₱6,347.20 imposed under Section 248(A)(3) of the NIRC of 1997, as amended.

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 ₱25,388.81 computed from April 15, 2006 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 amount of ₱31,736.01 and on the 20% deficiency interest which have accrued as afore-stated in (a), computed from May 14, 2014 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[73] *The Philippines International Fair, Inc. vs. The Collector of Internal Revenue, et al.*, G.R. Nos. L-12928 and L-12932, March 31, 1962.

[74] *Commissioner of Internal Revenue vs. Lianga Bay Logging Co., Inc., et al.*, G.R. No. L-35266, January 21, 1991.

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* and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ROMAN G. DEL ROSARIO
Presiding Justice