REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

AFP GENERAL INSURANCE CORPORATION,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8191

Members:
BAUTISTA, *Chairperson,*
FABON-VICTORINO, *and*
RINGPIS-LIBAN, *JJ.*

Promulgated:
MAR 13 2014 8:19 p.m.

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DECISION

BAUTISTA, J.:

The Petition for Review,[1] filed on November 19, 2010, pursuant to Section 7(a)(2)[2] of Republic Act No. 1125,[3] as amended by Republic Act No. 9282,[4] and Republic Act No. 9503,[5] seeks for the cancellation and setting aside of the Formal Letter of Demand dated April 6, 2010, and for the determination that petitioner is only liable for the total deficiency taxes for the year 2006 in the amount of ₱2,002,868.33, inclusive of interest and other charges.

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[1] *Records*, (CTA Case No. 8191), pp. 1-74, with Annexes.
[2] SEC. 7. *Jurisdiction*. – The CTA shall exercise:
(a) Exclusive appellate jurisdiction to review by appeal, as herein provided:
xxx xxx xxx
(2) Inaction by the Commissioner of Internal Revenue in cases involving disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties in relation thereto, or other matters arising under the National Internal Revenue Code or other laws administered by the Bureau of Internal Revenue, where the National Internal Revenue Code provides a specific period for action, in which case the inaction shall be deemed a denial.
[3] An Act Creating the Court of Tax Appeals, as amended.
[4] An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes.
[5] An Act Enlarging the Organizational Structure of the Court of Tax Appeals, Amending for the Purpose Certain Sections of the Law Creating the Court of Tax Appeals, and for Other Purposes.

FACTS OF THE CASE

Petitioner, AFP General Insurance Corporation, is a domestic corporation duly registered under Philippine laws, with principal office address at AFP Gen. Building, B. Serrano corner EDSA, Barangay Socorro, Cubao, Quezon City.

On the other hand, respondent is the duly appointed Commissioner of the Bureau of Internal Revenue ("BIR") mandated by law to enforce and implement the National Internal Revenue Code and related statutes, including, among others, the power to cancel disputed assessments, with office address at the 5th Floor, BIR National Office Building, East Triangle, Diliman, Quezon City.

On May 7, 2008, respondent issued Letter of Authority No. 00021964, addressed to petitioner, for the examination of its books of accounts and other accounting records covering the taxable year 2006.[6]

Pursuant to the said Letter of Authority, on January 12, 2010, petitioner received a Preliminary Assessment Notice ("PAN"), with attached Details of Discrepancy, for deficiency Income Tax, Documentary Stamp Tax, Value-added Tax, and Expanded Withholding Tax covering taxable year 2006.[7]

Consequently, on January 25, 2010, petitioner filed its Letter-Reply against the said PAN.[8]

On February 19, 2010, respondent issued a revised PAN, with attached Details of Discrepancy, for the same deficiency taxes covering the same taxable year;[9] which was received by petitioner on March 19, 2010.

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[6] *Exhibit "F."*
[7] *Exhibit "C."*
[8] *Exhibit "D."*
[9] *Exhibit "E."*

And on April 6, 2010, respondent issued the subject Formal Letter of Demand, with attached Assessment Notices, against petitioner for the following deficiency taxes:[10]

Income Tax	
Basic Tax Due	₱8,294,889.09
Add: Interest (until April 15, 2010)	4,976,933.45
Compromise Penalty	25,000.00
TOTAL	**₱13,296,822.54**
Documentary Stamp Tax (Increase in Capital Stock)	
Basic Tax Due	₱250,000.00
Add: Surcharge	62,500.00
Interest (until April 15, 2010)	162,500.00
Compromise	16,000.00
TOTAL	**₱491,000.00**
Documentary Stamp Tax (Insurance Policies)	
Basic Tax Due	₱316,237.83
Add: Surcharge	1,114,521.99
Interest	710,216.39
Compromise	77,000.00
TOTAL	**₱2,217,976.20**[11]
Value-added Tax	
Basic Tax Due	₱4,092,402.38
Add: 50% Surcharge	2,046,201.19
Interest (until April 25, 2010)	2,660,061.55
Compromise	-
TOTAL	**₱8,798,665.12**
Expanded Withholding Tax	
Basic Tax Due	₱470,863.74
Add: Interest (April 10, 2010)	306,061.43
Compromise	16,000.00
TOTAL	**₱792,925.17**
Civil Penalty	
No Permit to Use Loose Leaf Books of Accounts (Computerized Books of Accounts)	₱50,000.00
GRAND TOTAL	**₱25,647,389.03**[12]

On April 26, 2010, petitioner then filed its Letter-Protest dated April 22, 2010, against the above assessments.[13]

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[10] *Exhibit "A."*
[11] The correct total is ₱2,217,976.21.
[12] *Supra*, note 11; the correct total is ₱25,647,389.04.
[13] *Exhibit "B."*

Alleging inaction on the part of respondent, on November 19, 2010, petitioner thus filed the present Petition for Review.[14]

On January 3, 2011, respondent filed her Answer,[15] interposing the following Special and Affirmative Defenses:

> "4. Respondent reiterates and re-pleads the preceding paragraphs of this Answer as part of her Special and Affirmative Defenses;
>
> 5. Petitioner AFP General Insurance Corporation (AFP for brevity) is liable to pay its deficiency Income Tax, VAT, DST and EWT for calendar year 2006 in the aggregate amount of Twenty Five Million Six Hundred Forty Seven Thousand Three Hundred Eighty Nine Pesos and 55/100 (₱25,647,389.55)[16] including penalties, surcharges and interest for the following reasons:
>
> > 5.1. The instant petition should not be given due course by this Honorable Court for lack of merit;
> >
> > 5.2. Respondent respectfully avers that the assessments for taxable year 2006 in the aggregate amount of ₱25,647,389.55[17] were issued in accordance with law and regulations;
> >
> > 5.3. Comprehensive study of petitioner's books of accounts and pertinent accounting records disclosed that it is liable to pay the total deficiency Income Tax, VAT, DST and EWT assessments. The pertinent portions of the Memorandum Report dated February 19, 2010 of the examiner who conducted the investigation of petitioner's case are quoted hereunder, to wit:
> >
> > xxx xxx xxx
> >
> > 5.4. It is a well-settled rule in taxation that the burden of proof is on the taxpayer to present evidence to show the incorrectness of the assessment;

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[14] *Supra*, note 1.
[15] *Records*, pp. 89-101.
[16] *Supra*, note 12.
[17] *Ibid*.

5.5. In case of disputed assessments, the burden of proof is on the taxpayer to establish the fact that it is indeed not liable for any deficiency taxes subject of the assessment. The failure to show documents that would substantiate a claim that no deficiency taxes are due, would result to upholding the validity of the assessment for deficiency income taxes (***Camara Steel Industries, Inc. vs. Commissioner of Internal Revenue***);

5.6. Well-settled is the rule that tax assessments are entitled to the presumption of correctness 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. All presumptions are in favor of the correctness of tax assessments (***Sy Po vs. Court of [T]ax Appeals***). 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.

6. Petitioner's contention that the Formal Letter of Demand was void because the Letter of Authority was allegedly unrevalidated is bereft of merit.

6.1. Contrary to petitioner's claim, non-revalidation of the Letter of Authority would not render the latter void but would only warrant disciplinary action against the erring Revenue Officer concerned.

Revenue Memorandum Order ('RMO' for brevity) No. <u>19-2009</u> dated May 28, 2009 succinctly provides for the 2009 Audit Program for Revenue District Offices. The pertinent portion of RMO No. 19-2009 is quoted hereunder, to wit:

xxx xxx xxx

A cursory reading of the aforementioned RMO would reveal that failure to revalidate a Letter of Authority would not affect its validity. In fact, it is likewise clear from the wordings of the said RMO that the concerned Revenue Officer is obliged to continue with the investigation of the taxpayer's account and to render the necessary report on

> the investigation on the basis of the unrevalidated Letter of Authority.
>
> Based on the foregoing, it is respectfully submitted that the allegation of petitioner questioning the validity of the Formal Letter of Demand on the basis that the Letter of Authority was void has no basis in fact and law."[18]

On January 26, 2011, petitioner filed its Reply.[19]

On April 7, 2011, the parties entered their Joint Stipulation of Facts/Issues.[20] While, on April 26, 2011, the Court issued the Pre-Trial Order.[21]

Trial ensued. Both parties presented and offered their respective documentary and testimonial evidence.

On April 17, 2013,[22] the case was submitted for decision, taking into consideration the Memoranda for Petitioner[23] and Memorandum filed by respondent.[24]

Hence, this Decision.

ISSUE

As stipulated upon by the parties, the lone issue for this Court's consideration is that:

> "WHETHER OR NOT PETITIONER IS LIABLE FOR DEFICIENCY INCOME TAX, V[ALUE]-A[DDED] T[AX], D[OCUMENTARY] S[TAMP] T[AX] AND E[XPANDED] W[ITHHOLDING] T[AX] FOR CALENDAR YEAR 2006 IN THE AGGREGATE AMOUNT OF TWENTY FIVE MILLION SIX HUNDRED FORTY SEVEN

[18] *Records*, pp. 91-98. Citations omitted.
[19] *Id.*, at pp. 117-122.
[20] *Id.*, at pp. 192-194.
[21] *Id.*, at pp. 198-201.
[22] *Id.*, at p. 1314.
[23] *Id.*, at pp. 1250-1296.
[24] *Id.*, at pp. 1297-1312.

THOUSAND THREE HUNDRED EIGHTY NINE PESOS AND 55/100 (₱25,647,389.55)[25] INCLUDING PENALTIES, SURCHARGE AND INTEREST."[26]

RULING OF THE COURT

The Court finds the Petition for Review partly meritorious.

Deficiency Assessments for Value-added Tax and Documentary Stamp Taxes.

One of the grounds relied upon by petitioner in opposing the assessments for Value-added Tax and Documentary Stamp Taxes is prescription. And relevant thereto is Section 203 of the 1997 National Internal Revenue Code ("NIRC"), as amended, which expressly provides as follows:

> "SECTION 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."

From the foregoing, respondent is clearly mandated to assess internal revenue taxes within three (3) years from the last day prescribed by law for the filing of the return, or the actual date of filing, whichever is later; otherwise, an assessment issued after the required three (3)-year period is considered void.

[25] *Supra*, note 12.
[26] *Records*, p. 193.

In the case at bench, however, the Court finds the records bereft of evidence to provide the reckoning of the mandated three (3)-year prescriptive period for Documentary Stamp Taxes, except in the case of Value-added Tax; thus, the case of *Taligaman Lumber Co., Inc., v. The Collector of Internal Revenue*,[27] is hereby quoted:

> "It is, however, clear that since prescription is one of the affirmative defenses set up by petitioner herein, it was incumbent upon the latter, if it wanted to avail itself of the benefits of Section 331, to prove that it had submitted said returns, xxx."

Based on the records of the case, petitioner failed to submit or even prove its compliance with Section 200(B) of the 1997 NIRC, as amended, to quote:

> "SEC. 200. *Payment of Documentary Stamp Tax.* –
>
> xxx xxx xxx
>
> (B) *Time for Filing and Payment of the Tax.* – Except as provided by rules and regulations promulgated by the Secretary of Finance, upon the recommendation of the Commissioner, the tax return prescribed in this Section shall be filed within ten (10) days after the close of the month when the taxable document was made, signed, issued, accepted, or transferred, and the tax thereon shall be paid at the same time the aforesaid return is filed."

Thus, applying the earlier-quoted ruling and considering that the records are wanting of any returns filed by petitioner, the Court finds the deficiency assessments for Documentary Stamp Taxes on the increase in capital stock and insurance policies made within the prescribed three (3)-year period.

The Court, nonetheless, takes into consideration the Letter of Authority No. 00021964, issued by respondent on May 7, 2008, addressed to petitioner, covering the examination of books of accounts and other accounting for the taxable year 2006.[28] And a perusal of the

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[27] G.R. No. L-15716, March 31, 1962, 4 SCRA 842.
[28] *Exhibit "F."*

Formal Letter of Demand, with attached Assessment Notices,[29] against petitioner for deficiency assessment for Documentary Stamp Tax on insurance policies, the same includes unremitted Documentary Stamp Tax for taxable year 2005 in the amount of ₱680,099.44, inclusive of surcharge, interest and compromise penalty. Considering that the amount of ₱680,099.44 is clearly beyond the coverage of the examination of the records pursuant to the Letter of Authority issued by respondent, the Court must, thus, nullify the deficiency assessment for the said amount.

Likewise, the Court finds the deficiency assessment for Value-added Tax issued beyond the mandated three (3)-year period. Section 114 of the 1997 NIRC, as amended, provides as follows:

> "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."

Records show that petitioner submitted its Monthly Value-added Tax Declarations (BIR Form No. 2550-M),[30] and Quarterly Value-added Tax Returns (BIR Form No. 2550-Q),[31] for the taxable year 2006, as early as February 27, 2006,[32] and the latest on January 24, 2007;[33] the three-year period then within which respondent can validly issue an assessment against petitioner is at the earliest on February 27, 2009, and until January 24, 2010. Considering that respondent issued the subject Formal Letter of Demand, with attached Assessment Notices, only on April 6, 2010,[34] the same is clearly made beyond the three (3)-year mandated period. And in the absence of any exceptions provided under Section 222 of the 1997 NIRC, as amended, the said issuance made by respondent is deemed void.

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[29] *Exhibit "A."*
[30] *Exhibits "I," "I-1," "I-3," "I-4," "I-6," "I-7," "I-9"* and *"I-10."*
[31] *Exhibits "I-2," "I-5," "I-8"* and *"I-11."*
[32] *Exhibit "I."*
[33] *Exhibit "I-11."*
[34] *Exhibit "A."*

Therefore, while the Court sustains the deficiency assessments for Documentary Stamp Taxes on the increase in capital stock and insurance policies for taxable year 2006, the Court hereby cancels the deficiency assessment for Value-added Tax for the year 2006, and the unremitted Documentary Stamp Tax for the year 2005, on the ground of prescription.

Deficiency Assessments for Income Tax, Expanded Withholding Tax and Documentary Stamp Taxes.

On the remaining deficiency assessments for Income Tax and Expanded Withholding Tax, petitioner contests the disallowances made by respondent on its expenses in the amount of ₱14,391,140.56, and subjecting the same amount to deficiency taxes. Further, petitioner claims that as per its computation, it is only liable for deficiency Expanded Withholding Tax in the amount of ₱792,925.17, and Creditable Withholding Tax in the amount of ₱1,209,943.16, or in the aggregate amount of ₱2,002,868.33, inclusive of interest and other charges.

After perusal of the foregoing arguments, vis-à-vis with the records, the Court resolves to sustain the said assessments.

To put on record, petitioner failed to present and/or even offer any evidence to substantiate its claims of undue disallowance of its legitimate expenses, erroneous assessment for Expanded Withholding Tax, and the correct computation of its deficiency taxes.

Lest it be forgotten, Section 8 of RA No. 1125,[35] as amended by RA No. 9282,[36] and RA No. 9503,[37] clearly provides that this Court is a "*court of record.*" And as a court of record, this Court is required to conduct a formal trial to prove every minute aspect of any claim. Therefore, cases filed before this Court are litigated *de novo*, and party litigants should

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[35] *Supra*, note 3.
[36] *Supra*, note 4.
[37] *Supra*, note 5.

prove every minute aspect of their cases;[38] for mere allegation is not evidence,[39] and is not equivalent to proof.[40]

Further, Section 34 of Rule 132 of the Revised Rules of Court prescribes that no evidence shall be considered unless formally offered.

With the foregoing and in the absence of any evidence to overturn the presumption accorded to the subject deficiency assessments for Income Tax and Expanded Withholding Tax, in addition to the earlier findings made on the deficiency assessments for Documentary Stamp Taxes on the increase in capital stock and insurance policies, the Court finds petitioner to be liable thereto.

Compromise Penalties

The Court further puts emphasis on the case of *Felisa L. Vda. De San Agustin v. Commissioner of Internal Revenue*,[41] which states that *"a compromise being by its nature is mutual in essence."* Thus, the imposition of a compromise penalty without the conformity of the taxpayer is illegal and unauthorized.[42]

In the case at bench, the records failed to disclose that the parties have arrived at an agreement for the imposition of compromise penalties. With that, the Court has no recourse but to cancel the imposition of compromise penalties in the amounts of ₱25,000.00 covering the deficiency assessment for Income Tax; ₱16,000.00 covering the deficiency assessment for Documentary Stamp Tax on the increase in capital stock; ₱16,000.00, ₱20,000.00 and ₱25,000.00, covering the respective months of January, February and May for deficiency Documentary Stamp Tax on insurance policies; ₱16,000.00 covering the deficiency assessment for Expanded Withholding Tax; and ₱50,000.00 covering the Civil Penalty for using unregistered computerized books of accounts.

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[38] Commissioner of Internal Revenue *v.* Manila Mining Corporation, G.R. No. 153204, August 31, 2005, 468 SCRA 571.
[39] Martinez *v.* National Labor Relations Commission, G.R. No. 117495, May 29, 1997, 272 SCRA 793.
[40] Philippine National Bank *v.* Court of Appeals, G.R. No. 116181, January 6, 1997, 266 SCRA 136.
[41] G.R. No. 138485, September 10, 2001, 364 SCRA 802.
[42] Commissioner of Internal Revenue *v.* Lianga Bay Logging Co., Inc., *et al.*, G.R. No. L-35266, January 21, 1991, 193 SCRA 86, citing *Collector v. UST, 104 Phil. 1062; Phil. Int. Fair v. Collector, G.R. Nos. L-12928 and L-12932, March 31, 1962, 4 SCRA 774.*

Tax Amnesty

Finally, the Court notes that petitioner availed of the Tax Amnesty Program under RA No. 9480.[43] Entitled as "*An Act Enhancing Revenue Administration and Collection by Granting an Amnesty on All Unpaid Internal Revenue Taxes Imposed by the National Government for Taxable Year 2005 and Prior Years,*" the same provides as follows:

> "SEC. 2. *Availment of the Amnesty.* — Any person, natural or juridical, who wishes to avail himself of the tax amnesty authorized and granted under this Act shall file with the Bureau of Internal Revenue (BIR) a **notice and Tax Amnesty Return accompanied by a Statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005**, in such form as may be prescribed in the implementing rules and regulations (IRR) of this Act, and **pay the applicable amnesty tax** within six months from the effectivity of the IRR." (*Boldfacing supplied.*)

From the afore-quoted provision, any person intending to avail of the Tax Amnesty Program shall file the following: (a) a notice; (b) tax amnesty return; (c) SALN as of December 31, 2005; and (d) pay the applicable tax to the BIR.

Based on the records of the case, petitioner submitted its Notice of Availment of Tax Amnesty dated November 13, 2007;[44] Tax Amnesty Return (BIR Form 2116);[45] Tax Amnesty Payment Form (BIR Form No. 0617);[46] and Development Bank of the Philippines BIR Tax Payment Deposit Slip dated November 14, 2007.[47]

In its Notice of Availment of Tax Amnesty, petitioner had indicated that attached therewith is the required Statement of Assets, Liabilities and Networth ("SALN") as of December 31, 2005, and had even put an "*x*" mark on the box stating "*With previous SALN/Balance Sheet.*" However, the Court finds the records wanting of any evidence

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[43] Lapsed into law on May 24, 2007.
[44] *Exhibit "J."*
[45] *Exhibit "K."*
[46] *Exhibit "L."*
[47] *Exhibit "L-1."*

that petitioner has indeed attached its SALN or submitted the same as part of its evidence.

The importance of the submission of the SALN as of December 31, 2005 cannot be disregarded; Section 4 of the Tax Amnesty Law provides for the presumption accorded to the SALN, to wit:

> "SEC. 4. *Presumption of Correctness of the SALN.* — The SALN as of December 31, 2005 shall be considered as true and correct except where the amount of declared networth is understated to the extent of thirty percent (30%) or more as may be established in proceedings initiated by, or at the instance of, parties other than the BIR or its agents: *Provided,* That such proceedings must be initiated within one year following the date of the filing of the tax amnesty return and the SALN. Findings of or admission in congressional hearings, other administrative agencies of government, and/or courts shall be admissible to prove a thirty percent (30%) under-declaration."

Thus, upon its filing, the presumption of correctness and due execution applies to the SALN. The provision also sets a limit within which a proceedings to challenge the presumption may be initiated, *i.e.*, within one (1) year following the date of the filing of the tax amnesty return and the SALN. *Sans* the required SALN, and for such failure, petitioner cannot avail of the benefits provided under Section 6 of RA No. 9480, which states that:

> "SEC. 6. *Immunities and Privileges.* - Those who availed themselves of the tax amnesty under Section 5 hereof, and have fully complied with all its conditions shall be entitled to the following immunities and privileges:
>
> > 1. The taxpayer shall be immune from the payment of taxes, as well as additions thereto, and the appurtenant civil, criminal or administrative penalties under the National Internal Revenue Code of 1997, as amended, arising from the failure to pay any and all internal revenue taxes for taxable year 2005 and prior years."

With its failure to fully comply with RA No. 9480, and taking into consideration the insufficiency of evidence to overcome the presumption accorded to the subject assessments as earlier discussed, the Court has no recourse but to consider the Formal Letter of Demand, with Assessment Notices, dated April 6, 2010 as valid.

WHEREFORE, the Petition for Review is hereby **PARTLY GRANTED.**

Accordingly, the deficiency assessments for Value-added Tax covering taxable year 2006 in the total amount of ₱8,798,665.12; Documentary Stamp Tax on insurance policies covering taxable year 2005 in the total amount of ₱680,099.44; and Civil Penalties in the amounts of ₱25,000.00 for deficiency Income Tax, ₱16,000.00 for deficiency Documentary Stamp Tax on the increase in capital stock, ₱16,000.00, ₱20,000.00 and ₱25,000.00, for the respective months of January, February and May for deficiency Documentary Stamp Tax on insurance policies, ₱16,000.00 for deficiency Expanded Withholding Tax, and ₱50,000.00 for using unregistered computerized books of accounts, are hereby **CANCELLED** and **SET ASIDE**.

On the other hand, as regards the deficiency assessments for Income Tax, Documentary Stamp Taxes, and Expanded Withholding Tax for the taxable year 2006, petitioner is hereby **ORDERED** to **PAY** the amount of **₱12,746,567.80**, inclusive of the twenty five percent (25%) surcharge imposed under Section 248(A)(3) of the 1997 NIRC,[48] as amended, and the twenty percent (20%) interest imposed under Section 249 of the 1997 NIRC,[49] as amended, computed as follows:

Type of Tax	Basic Tax	25% Surcharge	20% Interest	Total
Income Tax	₱8,294,889.09	₱2,073,722.27	-	₱10,368,611.36
Documentary Stamp Tax on Increase in Capital Stock	250,000.00	62,500.00	-	312,500.00

[48] SEC. 248. *Civil Penalties.* –

(A) There shall be imposed, in addition to the tax required to be paid, a penalty equivalent to twenty five percent (25%) of the amount due, in the following cases:

xxx xxx xxx

(3) Failure to pay the deficiency tax within the time prescribed for its payment in the notice of assessment.

[49] SEC. 249. *Interest.* –

xxx xxx xxx

(B) *Deficiency Interest.* – Any deficiency in the tax due, as the term is defined in this Code, shall be subject to the interest prescribed in Subsection (A) hereof, which interest shall be assessed and collected from the date prescribed for its payment until the full payment thereof.

Expanded Withholding Tax	470,863.74	117,715.94	-	588,579.68
Subtotal	**₱9,015,752.83**	**₱2,253,938.21**	-	**₱11,269,691.04**
Increments for Late Remittance of Documentary Stamp Tax on Policies of Insurance				
January		₱626,994.63	₱250,795.34	₱877,789.97
February		126,876.14	59,209.03	186,085.17
May		281,591.76	131,409.86	413,001.62
Subtotal		**1,035,462.53**	**441,414.23**	**1,476,876.76**
Total	**₱9,015,752.83**	**₱3,289,400.74**	**₱441,414.23**	**₱12,746,567.80**

In addition, petitioner is hereby **ORDERED** to **PAY**, as follows:

(a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency Income Tax, Documentary Stamp Tax on the increase in capital stock, and Expanded Withholding Tax computed from the dates indicated below, until full payment thereof pursuant to Section 249(B) of the 1997 NIRC,[50] as amended;

Tax Type	Basic Tax	Deficiency Interest computed from
Income Tax	₱8,294,889.09	April 15, 2007
Documentary Stamp Tax on Increase in Capital Stock	₱250,000.00	January 5, 2007
Expanded Withholding Tax	₱470,863.74	January 15, 2007

b) Delinquency interest at the rate of twenty percent (20%) per annum on the total amount of ₱11,269,691.04, representing basic deficiency Income Tax, Documentary Stamp Tax on the increase in capital stock, and Expanded Withholding Tax, plus twenty five percent (25%) surcharge, computed from the dates indicated below until full payment thereof pursuant to Section 249(C) of the 1997 NIRC,[51] as amended;

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[50] *Ibid.*

[51] SEC. 249. *Interest.* –

xxx xxx xxx

(C) *Delinquency Interest.* – In case of failure to pay:

xxx xxx xxx

(3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

Tax Type	Basic Tax plus 25% Surcharge	Delinquency Interest computed from
Income Tax	₱10,368,611.36	4/15/2010
Documentary Stamp Tax on increase in capital stock	312,500.00	4/15/2010
Expanded Withholding Tax	588,579.68	4/10/2010
	₱11,269,691.04	

c) Delinquency interest at the rate of twenty percent (20%) per annum on the increments for late remittance of Documentary Stamp Tax on insurance policies in the amount of ₱1,476,876.76, computed from April 15, 2010, until full payment thereof pursuant to Section 249(C) of the 1997 NIRC, as amended; and

d) Delinquency interest at the rate of twenty percent (20%) per annum on the twenty percent (20%) deficiency interest which have accrued as afore-stated in (a), computed from April 15, 2010, until full payment thereof pursuant to Section 249(C) of the 1997 NIRC, as amended.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

Ma. Belen M. R-L

MA. BELEN M. RINGPIS-LIBAN
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