REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

FRANKFORT, INC., *Petitioner,*	**CTA Case No. 9363**
	Members:
-versus-	**CASTAÑEDA, JR.**, *Chairperson* **CASANOVA**, *and* **MANAHAN**, *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 1 0 2018 4:05 p.m.

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D E C I S I O N

MANAHAN, *J.:*

This involves a Petition for Review[1] filed on May 27, 2016 by petitioner Frankfort, Inc. on its claim for refund or issuance of tax credit certificate (TCC) of **FIVE MILLION SIX HUNDRED THOUSAND PESOS (Php5,600,000.00)** representing the payment of penalties on several violations of the 1997 National Internal Revenue Code (NIRC), as amended.

THE PARTIES

Petitioner Frankfort, Inc. is a domestic corporation duly organized and existing under and by virtue of laws of the Republic of the Philippines, with principal offices at Room 117 G/F Ortigas Building, Ortigas Avenue, Pasig City. It is the owner and operator of several quick service restaurants throughout the Philippines. It is also registered with the Bureau of Internal Revenue (BIR) with Taxpayer Identification (TIN) No. 007-047-217-000.[2]

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[1] Docket, CTA Case No. 9363, pp. 10-25.
[2] *Id.*, Petition for Review, p. 11.

Respondent Commissioner of Internal Revenue (CIR) has the authority to, among others, decide, approve and grant refunds of erroneously or excessively paid taxes or penalties imposed without authority, as provided by law.[3]

THE FACTS

On March 21, 2014, the Regional Director (RD) of Revenue Region (RR) No 7 of the Bureau of Internal Revenue (BIR) issued Mission Order No. 00096206 directing the officers of Regional District Office (RDO) No. 43A to (i) verify the registration status and bookkeeping compliance of petitioner with the new invoicing requirements, and (ii) validate petitioner's permit to use Cash Register Machines (CRM) and/or Point of Sales (POS)[4] machines covering the period from March 21 to March 27, 2014.[5]

Also, on March 25, 2014, a Letter of Authority (LOA) was issued by the said RD for the examination of petitioner's accounting records pertaining to its value-added tax (VAT) liabilities covering the period from January 1, 2013 to December 31, 2013.[6]

After the conduct of an investigation, the revenue examiners assigned therein prepared two Audit Reports, one for VAT[7] and another for their other findings, such as petitioner having no books, no official receipts, no back-end reports, and unaccounted POS[8].

Relative to the said audit reports, BIR Form No. 0605 or the Payment Form was prepared for the corresponding assessment on their VAT findings[9] and on those miscellaneous penalties.[10]

Petitioner allegedly received said payment forms particularly the one regarding the miscellaneous penalties

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[3] Docket, Joint Stipulation of Facts and Issues, p. 114.
[4] *Id.*, Memorandum dated December 18, 2017, p. 174; Respondent's Memorandum dated November 20, 2017, p. 174.
[5] *Id.*, Respondent's Memorandum dated November 20, 2017, p. 167.
[6] BIR Records (Exhibit "R-1"), p. 205.
[7] *Id.*, Revenue Officer's Audit Report on Value Added Tax, p. 267.
[8] *Id.*, Exhibit "R-8", Revenue Officer's Audit Report on Miscellaneous, p. 266.
[9] *Id.* at 268.
[10] *Id.* at. 270. can

amounting to Php5,600,000.00 apparently for the following violations:[11]

a. No Books;
b. No Official Receipts;
c. No Back-End Report; and
d. Unaccounted POS

On May 30, 2014, petitioner paid the assessments using the Payment Forms for VAT[12] and miscellaneous penalties[13] at the United Coconut Planters Bank (UCPB) - Pioneer Branch amounting to Php5,689,002.75 and Php5,600,000.00, respectively.

On May 2, 2016, petitioner, through its counsel, filed a letter-request with the BIR claiming for a refund of its payment of the miscellaneous penalties.[14] It also filed an application for tax credit or refund in the BIR-RR No. 7 on May 3, 2016.[15]

However, respondent has not acted on the said application for tax refund/credit. Thus, on May 27, 2016, petitioner filed the instant petition claiming for the refund of the payment of said miscellaneous penalties.

On June 7, 2016, this Court issued summons against the respondent and was ordered to submit an Answer to the said petition. Respondent submitted his Answer[16] on July 22, 2016 after this Court granted[17] his motion for extension to file said pleading.[18]

On July 29, 2016, this Court set the pre-trial conference of the instant case and ordered both parties to submit their respective pre-trial brief.[19] Respondent submitted his pre-trial brief[20] on August 25, 2016 while petitioner had submitted its pre-trial brief on September 9, 2016.[21]

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[11] Docket, Petition for Review, p.12.
[12] BIR Records (Exhibit "R-1"), p. 269.
[13] *Id.* at 271.
[14] Docket, Exhibit "P-4", pp. 104-108.
[15] *Id.*, Exhibit "P-5", p. 109.
[16] *Id.*, pp. 44-51.
[17] *Id.*, Order dated June 27, 2016, p. 43.
[18] *Id.*, Motion for Extension to file Answer, pp. 40-42.
[19] Id., Notice of Pre-trial Conference, pp. 52-53.
[20] Docket, Respondent's Pre-Trial Brief, pp. 58-61.
[21] *Id.* at 87-91.

On September 15, 2016, this Court ordered[22] the parties to file a joint stipulation of facts and issues which they submitted on September 30, 2016.[23] Hence, Pre-trial Order[24] was issued on November 24, 2016.

The trial of the case ensued and petitioner presented first its evidence. After such presentation, petitioner formally offered its evidence.[25] After considering respondent's comment,[26] this Court admitted all the evidence formally offered.[27]

Then respondent presented his evidence. After such presentation, respondent formally offered his evidence[28] which this Court, after considering petitioner's comment,[29] admitted and both parties were ordered to submit their respective memorandum. [30]

Respondent submitted his Memorandum[31] on November 21, 2017 while petitioner submitted its Memorandum[32] on December 18, 2017. Thus, this Court declared the instant case submitted for decision on January 4, 2018.[33]

ISSUES

The parties submitted the following issues for this Court's resolution:[34]

1. Whether petitioner is entitled to the refund of or issuance of TCC corresponding to the penalties in the total amount of Five Million Six Hundred Thousand (Php5,600,000.00) pesos;

2. Whether the BIR afforded petitioner due process when it imposed and collected the above-mentioned penalties; and

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[22] Docket, Order dated September 15, 2016.
[23] *Id.*, Joint Stipulation of Facts and Issues (JSFI), pp. 114-117.
[24] *Id.* at 119-122.
[25] *Id.*, Formal Offer of Documentary Evidence, pp. 137-140.
[26] *Id.* at 141-144.
[27] *Id.*, Resolution dated May 5, 2017, pp. 148-149.
[28] *Id.*, Formal Offer of Evidence, pp. 152-155.
[29] *Id.* at 157-160.
[30] *Id.*, Resolution dated October 24, 2017.
[31] *Id.* at 167-173.
[32] *Id.* at 174-193.
[33] *Id.*, Resolution dated January 4, 2018, p. 194.
[34] *Id.*, JSFI, pp. 114-115.

3. Whether the BIR had basis to impose and collect the above-mentioned penalties.

Petitioner's Arguments[35]

Petitioner argues that respondent did not accord it its right to due process under Section 228 of the 1997 NIRC, as amended, because it was not informed in writing of the law and the facts on which the assessment is made. Petitioner also argues that it properly maintains its book of accounts, official receipts and registered all its POS machines.

It further argues that nowhere in the Tax Code nor in respondent's rules and regulations is there a requirement that a "back-end" report should be maintained and submitted to the BIR. It also insists that the penalties imposed were arbitrary and excessive as they are not in accordance with Revenue Memorandum Order (RMO) No. 19-07[36].

Respondent's Counter-Arguments[37]

Respondent, on the other hand, argues that petitioner is not entitled to refund because the penalties imposed were payment of fines for several violations of the Tax Code and its rules and regulations that it committed and that said penalties were not excessive.

RULING OF THE COURT

First, this Court will resolve if it has jurisdiction on the instant petition. Section 229 of the 1997 NIRC, as amended, provides:

> "**SEC. 229.** ***Recovery of Tax Erroneously or Illegally Collected.*** – No suit or proceeding shall be maintained in any court for the recovery of any national internal revenue tax hereafter alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, of any sum alleged to have been excessively or in any manner wrongfully collected without authority, or of any sum alleged to have been excessively or in any manner

[35] *Supra.* Note 32.
[36] The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code.
[37] *Supra.* Note 31.

> wrongfully collected, until a claim for refund or credit has been duly filed with the Commissioner; but such suit or proceeding may be maintained, whether or not such tax, penalty, or sum has been paid under protest or duress.
>
> In any case, no such suit or proceeding shall be filed after the expiration of two (2) years from the date of payment of the tax or penalty regardless of any supervening cause that may arise after payment: *Provided, however,* That the Commissioner may, even without a written claim therefor, refund or credit any tax, where on the face of the return upon which payment was made, such payment appears clearly to have been erroneously paid."

Further, Section 7(a)(1) of Republic Act No. 1125, as amended by Republic Act No. 9282 and Republic Act No. 9503,[38] provides that:

> "Sec. 7. Jurisdiction. – The CTA shall exercise:
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> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> (1) **Decisions of 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 or other laws administered by the Bureau of Internal Revenue... (*Emphasis supplied*)"

Based on the records of this case, the payment for the penalties imposed was made on May 30, 2014. Thus, petitioner had until May 30, 2016 to file the administrative as well as the judicial claims for the alleged erroneous payment of said penalties.

The records of the case reveal that petitioner filed its administrative claim with the respondent on May 2, 2016 while its judicial one was filed before this Court on May 27, 2016.

In *CBK Power Company Limited v. Commissioner of Internal Revenue*,[39] the Supreme Court set a condition for the proper

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[38] Otherwise known as "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".

[39] G.R. Nos. 193383-84 and 193407-08, January 14, 2015.

filing of a claim for tax refund on erroneously and illegally collected taxes, to wit:

> "Sections 204 and 229 of the NIRC pertain to the refund of **erroneously** or illegally collected taxes. Section 204 applies to administrative claims for refund, while Section 229 to judicial claims for refund. In both instances, the taxpayer's claim must be filed within two (2) years from the date of payment of the tax or penalty. However, Section 229 of the NIRC further states the condition that a judicial claim for refund may not be maintained until a claim for refund or credit has been duly filed with the Commissioner..." (*Underscored ours*)

Petitioner complied with the requisite that an administrative claim should be filed prior to the filing of the instant petition before this Court and both claims were filed within the required two-year period. Hence, this Court has jurisdiction on the instant petition.

Now, we rule on the substantial aspect of the case.

Section 228 does not apply on assessment for violation of other provisions of 1997 NIRC and tax rules and regulations.

Section 228 of the 1997 NIRC, as amended, in part 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 pre-assessment notice shall not be required in the following cases:
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> (a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or
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> (b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or
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> (c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against

the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or

(d) When the excise tax due on excisable articles has not been paid; or

(e) When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

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 one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable."

Petitioner argues that respondent should have observed the provisions of the aforequoted Section 228 of the 1997 NIRC, as amended[40]. However, petitioner should be aware that the imposition of penalties was not the result of a regular examination of its internal revenue tax liabilities under Section 203 of the 1997 NIRC[41] but the outcome of the inspection made

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[40] 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.

[41] **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.

by respondent's authorized representatives of petitioner's compliance with the administrative provisions of the 1997 NIRC, as amended, more particularly with regards to the keeping of book of accounts, official receipts, and related financial records. Hence, Section 228 does not apply in the instant case.

The applicable tax rule and regulation should be the RMO No. 19-2007 dated August 8, 2007 or "**The Consolidated Revised Schedule of Compromise Penalties for Violations of the National Internal Revenue Code**." It imposes penalties on violation of the 1997 NIRC, as amended, and the corresponding tax rules and regulations other than those covered by Section 203 of said Tax Code.

The records of the case reveal that the investigation was pursuant to the verification of petitioner's BIR registration and compliance with bookkeeping requirements under the new invoicing requirements, and the validation of the latter's permit to use CRM and/or POS machines pursuant to Revenue Regulations (RR) No. 11-2004 dated December 15, 2004 or the "**Rules and Regulations on the Accreditation, Registration and Use of Cash Register Machines (CRM), Point -of-Sale Machines and/or Business Machines Generating Receipt/Invoices**."

Hence, the assessment was not a result of the usual examination of internal revenue taxes under Section 228 of the 1997 NIRC, as amended.

Factual findings of an administrative agency are given respect if supported by substantial evidence.

After the investigation, respondent's authorized representatives found that petitioner failed to present its book of accounts and was advised to present the same on a re-scheduled date.[42] However, petitioner still failed to present said books, thus, a recommendation for the issuance of a subpoena was made.[43]

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[42] BIR Records (Exhibit "R-1"), Five Days Notice Before Subpoena dated May 19, 2014, p. 262.

[43] *Id.*, Recommendation for Issuance of Subpoena Duces Tecum dated March 26, 2014, p. 264.

The Investigation uncovered that out of 56 POS machines which have permits, 31 were being used and the remaining 25 machines were unaccounted for. The findings also include the non-generation of sales reports from the said POS machines due to the alleged lack of knowledge and capability of the managers of the petitioner to do such report generation.[44]

These are all factual findings and they may be deemed conclusive if not refuted. In the case of *Land Bank of the Philippines v. Spouses Rosa and Pedro Costo*,[45] the Supreme Court ruled that factual findings of an administrative agency in the performance of its mandate should be given respect and accorded finality, to wit:

> "Verily, **factual findings of administrative officials and agencies that have acquired expertise in the performance of their official duties and the exercise of their primary jurisdiction are generally accorded not only respect but, at times, even finality if such findings are supported by substantial evidence.** The Courts generally accord great respect, if not finality, to factual findings of administrative agencies, because of their special knowledge and expertise over matters falling under their jurisdiction." (*Emphasis supplied*)

Nowhere in the records of the case did petitioner refute the abovementioned findings. It merely alleged that it maintained its book of accounts, official receipts, and registered all its POS machines. However, the above findings contravened such argument.

Section 74 of Batas Pambansa Bilang 68 or "The Corporation Code of the Philippines" requires all domestic corporations to keep and carefully preserve its book of accounts in their principal office. Hence, the BIR can inspect such book of accounts in the same location pursuant to Section 235(e) of the 1997 NIRC, as amended. However, respondent did not find said book of accounts in said location.

Further, Item Nos. 5.1.3 and 5.1.4 of RR No. 11-2004 provide the following:

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[44] BIR Records (Exhibit "R-1"), Memorandum for Post Evaluation of Point of Sale, pp. 99-100.

[45] G.R. No. 174647, December 5, 2012.

> "5.1.3 The machine and/or the central server must be able to generate a report showing the reading of daily sales and the accumulated grand total recorded therein;
>
> 5.1.4 The machine must have a non-volatile memory or must be equipped with a recovery/back-up system;"

Thus, it is required for CRM/POS machines used in the business operation such as those used by petitioner that they should generate report of daily sales and accumulated totals and must be supported by a recovery/back-up system. However, upon investigation, the respondent's authorized representatives cannot access said machines and the managers' justification was that they did not know how to do such report generation.

Considering such admission, petitioner should have requested respondent's representative to reconsider his findings and to show and explain to the latter instead how the said machines can generate the required report. However, petitioner failed to do so. Thus, the imposition of penalties had its factual basis because petitioner failed to refute said factual findings which should be accorded not only respect but with finality under the given circumstances.

In the absence of a written offer from taxpayer, imposition of penalties should be in accordance with Annex A of RMO No. 19-2007

Petitioner also argues that the penalties imposed by the respondent is arbitrary and excessive. Such argument finds support under RMO No. 19-2007.

Item III Nos. (1), (3), (6), and (7) of RMO No. 19-2007 provide the following guidelines and instructions to all Internal Revenue Officers concerned:

> "III. Guidelines and Instructions
>
> 1. The internal revenue officers concerned shall apply the Revised Schedule of Compromise Penalties embodied in Annex "A" to ensure uniformity of action.
> 2. xxx xxx

3. **In no case shall the compromise penalty differ in amount from those specified in the aforementioned Schedule**, except when duly approved by the Commissioner or concerned Deputy Commissioner, or in proper cases, by the Regional Directors.
4. xxx xxx
5. xxx xxx
6. **The schedule of compromise penalties herein prescribed shall not prevent the Commissioner or his duly authorized representative from accepting a compromise amount higher than what is provided hereof.** A compromise offer lower than the prescribed amount may be accepted after approval by the Commissioner of Internal Revenue or the concerned Deputy Commissioner/Assistant Commissioner/ Regional Director.
7. In cases were Apprehension Slips were issued, **all offers shall be made by accomplishing the form as shown in Annex "B"**." (*Emphasis supplied*)

Said guidelines and instruction require strict adherence to the schedule of penalties listed in the Annex A of RMO No. 19-2007. There are only two exceptions when the penalties may differ from the said schedule: (1) when a compromise offer is lower than what is provided in the said schedule, there must be an approval from the respondent, or his concerned deputies, or RD; and (2) when a compromise offer is higher than those penalties, the offer must be in writing and if there is an Apprehension Slip, the form provided in Annex B of RMO No. 19-2007 shall be used.

Although there was no categorical statement in Item III(6) of said RMO that the offer should be in writing, the requirement under Item III(7) that all offers shall be made using Annex B which is a written offer must be controlling. Thus, it follows that a compromise offer must be written either in the form of Annex B or if not provided, it contains the compromise agreement signed by the taxpayer and by the respondent, or his concerned deputies, or the RD.

Nowhere in the records of this case does it show that a written offer was presented and adduced as evidence by the respondent. The absence of said written offer was even apparent during the testimony of the respondent, to wit:[46]

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[46] Transcript of Stenographic Notes (TSN), Hearing on May 10, 2017, pp. 6-7.

ATTY. BERNARDINO:
Q. Do you have proof?
MR. SANTOS:
A. I don't have a proof right, but what I know is, I made a recommendation with this that because the taxpayer failed to submit their POS machine for reading, I made a recommendation that all POS machine of the taxpayer be sealed. And then, with that, the taxpayer made an offer of a compromise which is the total of P5.6 Million.
ATTY. BERNARDINO: So you are saying, the taxpayer offered this?
MR. SANTOS: Yes, sir.
ATTY. BERNARDINO: Is it in writing?
MR. SANTOS: Actually, the offer was not made thru me. I am just a Revenue Officer, and even the Revenue District Officer has no authority to accept the offer. So the taxpayer thru the law firm of Santiago Law Firm, they went to the Revenue Director of Revenue Region No. 7, Quezon City which is then Jonas Amora and they talked to the Director and they made the offer to the Director.
JUSTICE CASTAÑEDA: Was there a written offer?
MR. SANTOS: I am not a privy to that meeting, your Honor.

The way Mr. Alfredo Santos, the witness, answered the questioned showed that he was evasive in admitting that there was no written offer considering that he was one of the signatories to the BIR Form No. 0605[47] or the Payment Form which is the result of said compromise. Such written offer was supposed to be the basis in the preparation and issuance of the payment form, hence, Mr. Santos should have knowledge as to the existence of said written offer or lack of it.

However, he made only an alibi that he is not privy to the negotiation phase of the alleged compromise which in truth and fact, as the records of the case will bear, showed no written offer from the petitioner.

We also agree with the petitioner that there is no legal or factual basis for requiring the maintenance and submission of a "back-end" report to the BIR under RR No. 11-2004. There is not even a definition or an explanation of what a back-end report is under the aforesaid rules and regulations.

The nearest requirement for such kind of report is under Item No. 5.1.3 of RR No. 11-2004 where it required that CRM/POS machines being used by the taxpayer "must be able

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[47] BIR Records (Exhibit "R-1"), p. 270.

to generate a report showing the reading of daily sales and the accumulated grand total recorded therein." However, nowhere in the said rules and regulations does it explicitly mention that such report pertains to a "back-end report" that must be submitted to the BIR.

Hence, the penalty that must be imposed should be the one listed in Annex A of RMO No. 19-2007, to wit:

CODE SEC	NATURE OF VIOLATION	CRIMINAL PENALTY IMPOSED	AMOUNT OF COMPROMISE		
			If gross annual sales, earnings or receipts; or gross estate or gift		
			Exceeds	But does not exceed	Compromise is
232/235	Failure to keep/preserve records required by law or regulations	xxx xxx	xxx xxx 50,000,000	xxx xxx x x x	P 200 xxx xxx 50,000

Thus, the penalty for the each of the findings should be computed at the maximum amount of compromise and based on petitioner's BIR Form No. 2550M or the monthly Value-Added Tax (VAT) Declaration[48] of its annual income for CY 2013 of more than Php50,000,000.00. Hence, the following penalties should have been imposed upon the petitioner:

BIR Findings	Maximum Penalty per Annex A of RMO No. 19-2007
No Books	Php50,000.00
No Official Receipt	50,000.00
Unaccounted POS	50,000.00
Total	**Php150,000.00**

WHEREFORE, premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. Accordingly, respondent is **ORDERED TO REFUND OR ISSUE A TAX CREDIT CERTIFICATE** in favor of petitioner in the amount of

[48] BIR Records, BIR Form No. 2550M, pp. 213-235.

Php5,450,00.00, representing the excessive and illegally collected penalties.

SO ORDERED.

CATHERINE T. MANAHAN
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
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.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice