REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

TRANSNATIONAL PLANS, INC.,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 9293

Members:

CASTAÑEDA, JR., *Chairperson, and*
BACORRO-VILLENA, *JJ.*

Promulgated: OCT 19 2021
9:90 a.m.

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RESOLUTION

BACORRO-VILLENA, J.:

For the Court's resolution is petitioner Transnational Plans, Inc.'s (**petitioner**'s/**TPI**'s) "Motion for Reconsideration [Re: Decision dated January 20, 2021]"[1] (**MR**) filed on 10 February 2021, without respondent Commissioner of Internal Revenue's (**respondent**'s/**CIR**'s) comment despite due notice.[2]

Petitioner prays for the reversal and setting aside of this Court's Decision dated 20 January 2021[3] (**Assailed Decision**). The dispositive portion of which reads:

> ...
>
> **WHEREFORE**, the foregoing premises considered, the instant Petition for Review filed on 14 March 2016 by petitioner Transnational Plans, Inc. is hereby **PARTIALLY GRANTED**. The

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1 Division Docket, Volume III, pp. 1427-1463.
2 See Records Verification dated 15 March 2021, id., p. 1466.
3 Id., pp. 1366-1426.

deficiency value-added tax assessment shall be adjusted as a result. Accordingly, petitioner is **ORDERED TO PAY** respondent Commissioner of Internal Revenue the aggregate amount of ₱55,415,169.95, representing basic deficiency value-added tax, inclusive of 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed thereon under Sections 248 (A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until 31 December 2017, as determined below:

Basic Deficiency VAT	₱	13,711,241.38
25% Surcharge		3,427,810.34
Deficiency Interest (20%) from 26 January 2009 to 11 February 2016 (₱13,711,241.38 x 20% x 2,573 days/ 365 days)		19,330,972.09
Total Amount Due as of 11 February 2016 (*i.e.*, the date of issuance of the Final Decision)	₱	36,470,023.81
Deficiency Interest (20%) from 12 February 2016 to 31 December 2017 (₱13,711,241.38 x 20% x 689 days/ 365 days)		5,176,463.18
Delinquency Interest (20%) from 12 February 2016 to 31 December 2017 (₱36,470,023.81 x 20% x 689 days/ 365 days)		13,768,682.96
Total Amount Due as of 31 December 2017	**₱**	**55,415,169.95**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of 12% computed from 01 January 2018 until full payment thereof, pursuant to Section 249 (C) of the NIRC of 1997, as amended by Republic Act No. 10963, also known as Tax Reform for Acceleration and Inclusion (**TRAIN**) and as implemented by RR 21-2018, on said deficiency value-added tax based on the principal amount of ₱36,470,023.81.

SO ORDERED.[4]

...

Petitioner anchors its MR on the following grounds:

1. The assessments in the Formal Letter of Demand[5] (**FLD**) with Final Assessment Notice (**FAN**) are invalid.

In support of the above argument, petitioner cites the Supreme Court ruling in *Commissioner of Internal Revenue v. Fitness by*

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4 Citation omitted.
5 Exhibit "P-8", id., pp. 992-996; Exhibit "R-14", BIR Records, Folder 1, pp. 1200-1204.

Design Inc.[6] (**Fitness by Design**), where it was held that a tax assessment must not only contain a computation of tax liabilities, but must also include a demand upon the taxpayer for the settlement of a tax liability.

According to petitioner, although the FLD/FAN in herein case provides for computations of its supposed tax liabilities, the amounts thereof remain indefinite since the taxes due are still subject to modification. To this point, petitioner referred to the portion of the FLD/FAN which states: "[p]lease take note that the interest will have to be adjusted if paid beyond the due dates indicated". The same statement is found in respondent's Final Decision on Disputed Assessment[7] (**FDDA**). In addition to the indefiniteness of the amount due, petitioner also claims that there is no demand but a mere request to pay the deficiency tax liabilities should it be amenable to do so.

As such, petitioner posits that the FLD/FAN does not fall under the definition of a tax assessment that should provide a definite, set and fixed tax liability, in violation of petitioner's right to due process and to be informed of the factual and legal bases of the assessments against it.

2. The deficiency value-added tax (**VAT**) is not valid as petitioner was not accorded due process.

Petitioner insists that its opportunity to be heard was diminished, if not rendered futile, when respondent and his representatives, in issuing an FLD/FAN that is the exact duplicate of the Preliminary Assessment Notice[8] (**PAN**), failed to consider the merits of its contention against the alleged deficiency taxes imputed against it.

3. Respondent's three-year period to assess has already prescribed since the waivers were invalid.

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6 G.R. No. 215957, 09 November 2016.
7 Exhibit "R-16", BIR Records, Folder I, pp. 1479-1483.
8 Exhibit "R-12", id., pp. 1178-1181.

Petitioner claims that the three-year period to assess for deficiency VAT for the month of January 2008 had expired on 15 February 2011 as the first Waiver of the Defense of Prescription (**First Waiver**) was executed and accepted only on 24 February 2011 and 25 February 2011, respectively. The First Waiver can no longer extend the prescriptive period that has already expired.

Petitioner further claims that an Officer-in-Charge Assistant Commissioner of Internal Revenue (**OIC-ACIR**) is not authorized to accept a waiver as it is not one of the officers having such authority under Revenue Delegation Authority Order (**RDAO**) No. 05-01.[9]

Petitioner likewise takes issue in the Court's reliance on the doctrine enunciated in the case of *Commissioner of Internal Revenue v. Next Mobile, Inc. (formerly Nextel Communications Phils., Inc.)*[10] (**Next Mobile**) as regards waivers. It maintains that *Next Mobile*, where the waivers executed therein were declared invalid and defective for failure to strictly adhere to the procedure for proper execution of waivers, is not applicable to its case as such doctrine is a mere isolated exception to the long-standing doctrine that if a waiver does not comply with the requisites for validity under Revenue Memorandum Order (**RMO**) No. 20-90[11] and RDAO No. 05-01[12] and petitioner's circumstances are different from that of the taxpayer therein. Instead, petitioner insists that what is applicable is the doctrine laid down in the case of *Commissioner of Internal Revenue v. Kudos Metal Corporation*[13] on strict compliance with the procedures stated in RMO No. 20-90[14] and RDAO No. 05-01.[15]

4. The trust fund contributions are not subject to VAT.

Petitioner disagrees with the Court's ruling that the taxable base of pre-need companies for VAT purposes should be the entire

9 *Delegation of Authority to Sign and Accept the Waiver of the Defense of Prescription Under the Statute of Limitations.*
10 G.R. No. 212825, 07 December 2015.
11 *Proper Execution of the Waiver of the Statute of Limitations under the National Internal Revenue Code.*
12 Supra at note 9.
13 G.R. No. 178087, 05 May 2010.
14 Supra at note 11.
15 Supra at note 9.

receipts (including amounts collected for the trust fund contributions of plan holders) without any deduction except VAT. Considering that the trust fund contributions were not given as payment or compensation for services rendered but merely held in trust by petitioner for the sole benefit of the plan holders, the same should not form part of petitioner's income or gross receipts subject to VAT.

Petitioner further points out that Section 31[16] of Republic Act (**RA**) No. 9829, otherwise known as the Pre-Need Code of the Philippines (**Pre-Need Code**), expressly provides that trust fund contributions shall not form part of the income or gross receipts of the pre-need company.

5. The premium collections from non-residents are not subject to VAT.

Petitioner likewise disagrees with the Court's ruling that it failed to adduce documentary evidence in support of its assertion that the premium collections are from seamen or seafarers, who are considered non-residents of the Philippines and thus, not subject to VAT.

According to petitioner, its witness, Marivic M. Anciado (**Anciado**), had elaborated on the status of its clients as seafarers and the erroneous application of VAT on collections from such clients. Ma. Veronica S. Lao Guico (**Lao Guico**), who is also its witness, stated that petitioner's main clients were seafarers who may be considered overseas contract workers and premium collections from them should not be subject to VAT.

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[16] **SEC. 31.** *Deposits to the Trust Fund.* — (a) The pre-need company shall make monthly deposits to the trust fund in an amount determined by the accredited actuary, sufficient to pay the benefits promised under the contract. For plans paid for in full, the pre-need company shall deposit into the trust fund at least forty-five percent (45%) for life plans and fifty-one percent (51%) for education and pension plans of said full payment or such higher amount as determined by the actuary.

...

Contributions to the trust fund shall not form part of the income or gross receipts of the pre-need company and, therefore, shall not be available for dividend declaration or payment to creditors.

...

6. The collections attributed to the decrease in receivable from related parties are not subject to VAT.

Petitioner contends that, not being engaged in the business of lending money, the advances it received from its related parties cannot be treated as fees, remuneration or payments subject to VAT. In other words, the advances from related parties, reflected in its 2008 Audited Financial Statements (**AFS**) as "Accounts Receivable-Related Parties", are not part of petitioner's business as a pre-need company.

7. The other income should not be included.

Petitioner disputes the Court's ruling that it did not make any attempt to explain what consisted "Other Income" and the exact nature of the items included therein. It reiterates its position that the components of "Other Income" were already included in the amount declared as VATable sales *per* VAT returns. It also cited portions of the testimonies of its witnesses, Anciado, Lao Guico and the Court-appointed Independent Certified Public Accountant (**ICPA**) Atty. Rheiner P. Mora (**Mora**) to the effect that the amount declared as VATable sales *per* VAT returns and the corresponding tax paid therefore already covers, and even exceeds, the amount reported as "Other Income."

8. There is no tax leak against the government.

Since the alleged deficiency taxes are erroneous, petitioner claims that it must be deemed to have paid all its taxes and thus, the government did not lose any amount in relation to its transactions. Even assuming *arguendo* that there was a non-compliance with the invoicing requirements, petitioner still paid the VAT subject of the receipts. Because its clients are individuals, it adds that none of them could avail of the input VAT derived from such transactions. Petitioner thus concludes that there can be no tax leak against the government in this case.

9. The computation of delinquency interest is invalid.

Considering that the basis of the alleged deficiency tax is erroneous or flawed, petitioner submits that it owes no deficiency taxes as it correctly paid all of its taxes for TY 2008. And since there is neither a correctly assessed deficiency tax nor an unpaid amount attributable to it, petitioner also argues that delinquency interest could not be imposed upon it.

On the other hand, as previously mentioned, respondent did not file a comment or opposition to petitioner's MR despite due notice.[17]

RULING OF THE COURT

After an assiduous review of petitioner's arguments in its MR and a second hard look on the records of the case, the Court finds no compelling reason to grant the same.

At the outset, it is evident that the issues raised by petitioner are a mere slashed adaptation of its arguments that were already considered and exhaustively discussed by the Court in the Assailed Decision. Nevertheless, the Court shall oblige to once again discuss the issues raised for petitioner's enlightenment, in *seriatim*.

I. THE ASSESSMENTS IN THE FORMAL LETTER OF DEMAND WITH FINAL ASSESSMENT NOTICE (FLD/FAN) ARE VALID.

Petitioner assails the validity of the FLD/FAN issued to it by respondent for the following reasons: (1) it failed to provide a definite amount demanded of petitioner since it contains the phrase "[p]lease take note that the interest will have to be adjusted if paid beyond the due dates indicated"; and, (2) it does not make a demand but merely a request for payment of the amount due.

We disagree.

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17 Supra at note 2.

In *Fitness by Design*, the Supreme Court underscored the importance of the issuance of a valid formal assessment, *i.e.*, that it must be a demand for payment of the taxes described therein, within a specific period, and that the amount of tax liability for which the taxpayer is accountable must be definite, as follows:

> ...
> The issuance of a valid formal assessment is a substantive prerequisite for collection of taxes. Neither the National Internal Revenue Code nor the revenue regulations provided for a 'specific definition or form of an assessment.' However, the National Internal Revenue Code defines its explicit functions and effects. An assessment does not only include a computation of tax liabilities; it also includes a demand for payment within a period prescribed. Its main purpose is to determine the amount that a taxpayer is liable to pay.
>
> ...
>
> A final assessment is a notice 'to the effect that the amount therein stated is due as tax and a demand for payment thereof.' This demand for payment signals the time 'when the penalties and interests begin to accrue against the taxpayer and enabling the latter to determine his remedies[.]' Thus, it must be 'sent to and received by the taxpayer, and **must demand payment of the taxes described therein within a specific period**.'
>
> The disputed Final Assessment Notice is not a valid assessment.
>
> **First, it lacks the definite amount of tax liability for which respondent is accountable.** It does not purport to be a demand for payment of tax due, which a final assessment notice should supposedly be. An assessment, in the context of the National Internal Revenue Code, is a 'written notice and demand made by the [Bureau of Internal Revenue] on the taxpayer for the settlement of a tax liability that is there definitely set and fixed.' Although the disputed notice provides for the computation of respondent's tax liability, the amount remains indefinite. **It only provides that the tax due is still subject to modification, depending on the date of payment.** Thus:
>
>> The complete details covering the aforementioned discrepancies established during the investigation of this case are shown in the accompanying Annex 1 of this Notice. The 50% surcharge and 20% interest have been imposed pursuant to Sections 248 and 249 (B) of the [National Internal Revenue Code], as amended. **Please note, *however, that the interest and the total amount due***

> ***will have to be adjusted if paid prior or beyond April 15, 2004.***
>
> **Second, there are no due dates in the Final Assessment Notice.** This negates petitioner's demand for payment. Petitioner's contention that April 15, 2004 should be regarded as the actual due date cannot be accepted. The last paragraph of the Final Assessment Notice states that the due dates for payment were supposedly reflected in the attached assessment:
>
>> In view thereof, you are *requested to pay* your aforesaid deficiency internal revenue tax liabilities through the duly authorized agent bank in which you are enrolled *within the time shown in the enclosed assessment notice.*
>
> However, based on the findings of the Court of Tax Appeals First Division, the enclosed assessment pertained to remained unaccomplished.
>
> Contrary to petitioner's view, April 15, 2004 was the reckoning date of accrual of penalties and surcharges and not the due date for payment of tax liabilities. **The total amount depended upon when respondent decides to pay. The notice, therefore, did not contain a definite and actual demand to pay.**
>
> Compliance with Section 228 of the National Internal Revenue Code is a substantive requirement. It is not a mere formality. Providing the taxpayer with the factual and legal bases for the assessment is crucial before proceeding with tax collection. Tax collection should be premised on a valid assessment, which would allow the taxpayer to present his or her case and produce evidence for substantiation.[18]
>
> ...

A careful scrutiny of the statement written on the FAN in *Fitness by Design* shows that the total amount due remains indefinite because it was still subject to adjustment depending on when the taxpayer decides to settle the assessment, regardless of whether it is paid before or after the due date. Besides, such FAN has no due date and thus, lacks a definite and actual demand for payment.

In contrast, in this case, the statement written on the subject FLD/FAN issued by respondent to petitioner does not bear the same flaws. *First,* the adjustment or modification merely pertains to the amount of interest (not the total amount due) and only if the tax due is paid beyond the due date specified therein. It is worth noting that

[18] Citations omitted, italics in the original text and emphasis supplied.

respondent computed the interest up to the due date for payment (*i.e.*, up to 31 March 2014 *per* FLD/FAN and up to 31 August 2014 *per* FDDA). As such, the statement should be interpreted to mean only as a caution or reminder to petitioner that the interest will be adjusted and increased if the assessment will not be paid within the due date provided in the assessment.

Second, the accompanying Audit Result/Assessment Notices in the said FLD/FAN as well as in the FDDA, both specify the due date for payment of the assessed deficiency VAT (*i.e.*, 31 March 2014 and 31 August 2014, respectively) and this affirms respondent's demand for payment. The phrase "the date specified therein" read together with the phrase "requested to pay ... within the time shown in the enclosed assessment notice" clearly refers to the due date for payment. Thus, the anticipated interest adjustment, as worded, does not render indefinite respondent's demand for payment.

Accordingly, the Court finds that the subject FLD/FAN has satisfied the standards set in *Fitness by Design*, i.e., it contains a definite and fixed amount of tax liability that must be paid by petitioner within a date certain.

II. THE DEFICIENCY VALUE-ADDED TAX (VAT) ASSESSMENT IS VALID AS PETITIONER WAS ACCORDED DUE PROCESS.

Contrary to petitioner's contention and as adequately explained in the Assailed Decision, petitioner was sufficiently apprised of the legal and factual bases of the deficiency VAT assessment issued against it in substantial compliance with Section 228[19] of the National Internal Revenue Code (**NIRC**) of 1997, as amended.

Section 228[20] of the NIRC of 1997, as amended, requires that the taxpayers should be informed of the legal and factual bases of the assessment. However, the assessment notices need not be a full narration of the facts and laws on which the assessment is based. It is

[19] **SEC. 228**. *Protesting of Assessment* — ...
[20] Id.

enough that petitioner be substantially informed of the law and the facts on which the assessment for a tax liability is made in any other written document presented to the taxpayer. Thus, so long as the parties are notified and were given the opportunity to explain their side, the requirements of due process are satisfactorily complied with.[21]

In *Commissioner of Internal Revenue v. Asalus Corporation*[22], citing *Samar-I Electric Cooperative v. Commission on Elections*[23], the Supreme Court ruled that it sufficed that the taxpayer was substantially informed of the legal and factual bases of the assessment enabling him to file an effective protest, to wit:

> ...
> Although the FAN and demand letter issued to petitioner were not accompanied by a written explanation of the legal and factual bases of the deficiency taxes assessed against the petitioner, the records showed that respondent in its letter dated April 10, 2003 responded to petitioner's October 14, 2002 letter-protest, explaining at length the factual and legal bases of the deficiency tax assessments and denying the protest.
>
> **Considering the foregoing exchange of correspondence and documents between the parties, we find that the requirement of Section 228 was substantially complied with.** Respondent had fully informed petitioner in writing of the factual and legal bases of the deficiency taxes assessment, which enabled the latter to file an "effective" protest, much unlike the taxpayer's situation in Enron. Petitioner's right to due process was thus not violated.[24]
> ...

In this case, a perusal of the PAN[25], FLD/FAN[26] and FDDA[27], as well as the respective attached Details of Discrepancy, shows that the said documents contained the facts and law upon which the deficiency tax assessments were based. The fact that petitioner was able to intelligently protest the PAN (through its Reply dated 13 February 2014[28]) and the FLD (through its Protest dated 10 April 2014[29]) is a plain

21 *Southern Negros Development Corporation v. Commissioner of Internal Revenue*, CTA EB No. 162 (CTA Case No. 7075), 08 August 2006.
22 G.R. No. 221590, 22 February 2017.
23 G.R. No. 193100, 10 December 2014.
24 Emphasis supplied.
25 Supra at note 8.
26 Supra at note 5.
27 Supra at note 7.
28 Exhibit "P-7", Division Docket, Volume III, pp. 987-991.
29 Exhibit "P-9", id., pp. 997-1013.

indication that it was informed of the facts and law upon which the assessment was based.

Given the foregoing exchange of correspondence and documents between the parties and the fact that petitioner was able to refute the examiner's findings and give a more detailed explanation regarding the assessment, We affirm our previous ruling that the assailed deficiency VAT assessment substantially complied with the requirement of Section 228[30] of the NIRC of 1997, as amended.

III. THE SUBJECT WAIVERS ARE VALID AND THUS EXTENDED THE ORIGINAL THREE-YEAR PRESCRIPTIVE PERIOD TO ASSESS.

Petitioner initially points out the three-year period to assess for deficiency VAT for the month of January 2008 had expired on 15 February 2011 as the First Waiver was executed and accepted only on 24 February 2011 and 25 February 2011, respectively. The said three-year prescriptive period allegedly expired on 15 February 2011, counting three (3) years from the date of filing of its January 2008 monthly VAT declaration.[31]

Petitioner is patently in error when it reckoned prescriptive period from date of filing of its January 2008 monthly VAT declaration. Pursuant to Section 203[32] in relation to Section 114(A)[33] of the NIRC of 1997, as amended, the three-year prescriptive period to assess for deficiency VAT is counted from the due date of filing the quarterly VAT return which is on the 25[th] day following the close of each taxable

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30 Supra at note 19.

31 Exhibit "P-18", Division Docket, Volume III, pp. 1040-1041.

32 **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.)

33 **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.)

quarter, or the actual date of filing the quarterly VAT return, whichever comes later.

The records confirm that petitioner filed its 1st Quarterly VAT return on 22 April 2008 which is earlier than the applicable due date for filing (*i.e.*, 25 April 2008). Counting three (3) years from the later date, the last day to assess petitioner for deficiency VAT fell on 25 April 2011.

In determining which Bureau of Internal Revenue (**BIR**) form and the corresponding due date for filing should be considered, it is noteworthy that Section 203 of the NIRC of 1997, as amended, expressly states "within three (3) years after the last day prescribed by law for the filing of the return" in regard to the period of limitation upon the assessment of deficiency taxes. Evidently, the BIR form referred to in the said provision is a tax return and not a mere tax declaration.

Based on the foregoing, it is clear that the three-year prescriptive period to assess for deficiency VAT was properly reckoned on the filing of the quarterly VAT returns. Therefore, the First Waiver was issued and accepted timely on 25 February 2011, within three (3) years from the filing of petitioner's 1st quarterly VAT return for TY 2008.

Next, petitioner insists that the Second to Sixth Waivers were defective because then OIC-ACIR, Alfredo V. Misajon (**Misajon**), has no authority to accept the said waivers.

For emphasis, We reiterate our ruling in the Assailed Decision that even if RDAO No. 05-01 does not expressly mention the OIC-ACIR as authorized to sign the waiver, logic dictates that an OIC-ACIR is regarded as, for all intents and purposes, the ACIR and is authorized to discharge the functions of an ACIR. Notably, there is nothing in RDAO No. 05-01 that prohibits or excludes an acting officer such as an OIC-ACIR from the list of revenue officials authorized to sign the waiver.

Nevertheless, even assuming *arguendo* that the Second to Sixth Waivers were defective, the records show that petitioner and respondent continued to deal with each other despite the alleged irregularity in the said waivers. Petitioner freely and voluntarily executed the subsequent waivers prior to the expiration of the Second Waiver and respondent accepted the Second Waiver and the subsequent waivers. Hence, both parties are in *pari delicto* and, as such, the waivers' validity should be upheld.

In *Next Mobile*, the Supreme Court declared that where both the taxpayer and the BIR are in *pari delicto* or equally at fault in the execution of a waiver, such defective waiver may still result in an extension of the latter's prescriptive period to assess, *viz*:

> ...
>
> The general rule is that when a waiver does not comply with the requisites for its validity specified under RMO No. 20-90 and RDAO 05-01, it is invalid and ineffective to extend the prescriptive period to assess taxes. However, due to its peculiar circumstances, We shall treat this case as an exception to this rule and find the Waivers valid for the reasons discussed below.
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> *First*, the parties in this case are in *pari delicto* or "in equal fault." In *pari delicto* connotes that the two parties to a controversy are equally culpable or guilty and they shall have no action against each other. However, although the parties are in *pari delicto*, the Court may interfere and grant relief at the suit of one of them, where public policy requires its intervention, even though the result may be that a benefit will be derived by one party who is in equal guilt with the other.
>
> Here, to uphold the validity of the Waivers would be consistent with the public policy embodied in the principle that taxes are the lifeblood of the government, and their prompt and certain availability is an imperious need. Taxes are the nation's lifeblood through which government agencies continue to operate and which the State discharges its functions for the welfare of its constituents. As between the parties, it would be more equitable if petitioner's lapses were allowed to pass and consequently uphold the Waivers in order to support this principle and public policy.
>
> *Second*, the Court has repeatedly pronounced that parties must come to court with clean hands. Parties who do not come to court with clean hands cannot be allowed to benefit from their own wrongdoing. Following the foregoing principle, respondent should not be allowed to benefit from the flaws in its own Waivers and successfully insist on their invalidity in order to evade its responsibility to pay taxes.
>
> *Third*, respondent is estopped from questioning the validity of its Waivers. While it is true that the Court has repeatedly held that

> the doctrine of estoppel must be sparingly applied as an exception to the statute of limitations for assessment of taxes, the Court finds that the application of the doctrine is justified in this case. Verily, the application of estoppel in this case would promote the administration of the law, prevent injustice and avert the accomplishment of a wrong and undue advantage. Respondent executed five Waivers and delivered them to petitioner, one after the other. It allowed petitioner to rely on them and did not raise any objection against their validity until petitioner assessed taxes and penalties against it. Moreover, the application of estoppel is necessary to prevent the undue injury that the government would suffer because of the cancellation of petitioner's assessment of respondent's tax liabilities.
>
> *Finally*, the Court cannot tolerate this highly suspicious situation. In this case, **the taxpayer, on the one hand, after voluntarily executing waivers, insisted on their invalidity by raising the very same defects it caused. On the other hand, the BIR miserably failed to exact from respondent compliance with its rules.** The BIR's negligence in the performance of its duties was so gross that it amounted to malice and bad faith. Moreover, the BIR was so lax such that it seemed that it consented to the mistakes in the Waivers. Such a situation is dangerous and open to abuse by unscrupulous taxpayers who intend to escape their responsibility to pay taxes by mere expedient of hiding behind technicalities.
>
> **It is true that [BIR] was also at fault here because it was careless in complying with the requirements of RMO No. 20-90 and RDAO 05-01. Nevertheless, [BIR]'s negligence may be addressed by enforcing the provisions imposing administrative liabilities upon the officers responsible for these errors. The BIR's right to assess and collect taxes should not be jeopardized merely because of the mistakes and lapses of its officers**, especially in cases like this where the taxpayer is obviously in bad faith.[34]
>
> ...

In *Asian Transmission Corporation v. Commissioner of Internal Revenue*[35] (**Asian Transmission**), the Supreme Court categorically held that the taxpayer has the primary responsibility for the proper preparation of the waiver of the prescriptive period for assessing deficiency taxes and that the CIR may not be solely blamed for any defects in the execution of the waiver. Moreover, after having benefitted from the defective waivers, the taxpayer should not be allowed to assail them:

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[34] Supra at note 10; Italics in the original text and emphasis supplied.
[35] G.R. No. 230861, 19 September 2018.

> ...
>
> We agree with the holding of the CTA *En Banc* that ATC's case was similar to the case of the taxpayer involved in *Commissioner of Internal Revenue v. Next Mobile, Inc.* The foregoing defects noted in the waivers of ATC were not solely attributable to the CIR. Indeed, although RDAO 01-05 stated that the waiver should not be accepted by the concerned BIR office or official unless duly notarized, a careful reading of RDAO 01-05 indicates that the proper preparation of the waiver was primarily the responsibility of the taxpayer or its authorized representative signing the waiver. Such responsibility did not pertain to the BIR as the receiving party. Consequently, **ATC was not correct in insisting that the act or omission giving rise to the defects of the waivers should be ascribed solely to the respondent CIR and her subordinates.**
>
> Moreover, **the principle of estoppel was applicable. The execution of the waivers was to the advantage of ATC because the waivers would provide to ATC the sufficient time to gather and produce voluminous records for the audit.** It would really be unfair, therefore, were ATC to be permitted to assail the waivers only after the final assessment proved to be adverse...
>
> ...
>
> Thus, the CTA *En Banc* did not err in ruling that ATC, after having benefited from the defective waivers, should not be allowed to assail them. In short, the CTA *En Banc* properly applied the equitable principles of in *pari delicto*, unclean hands, and estoppel as enunciated in *Commissioner of Internal Revenue v. Next Mobile* case.[36]
>
> ...

The principle of estoppel enunciated in *Next Mobile* and later in *Asian Transmission* applies to the present case. By deliberately issuing several waivers, after the alleged defective Second Waiver, deriving benefits therefrom (as petitioner gained additional time and opportunity to gather and submit documents), thereby postponing the issuance of the assessment notices, and by failing to dispute their validity at the earliest possible opportunity, estopped petitioner from claiming that the waivers are invalid. Accordingly, the prescriptive period to assess was not extended.

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[36] Italics in the original text and emphasis supplied.

IV. TRUST FUND CONTRIBUTIONS ARE SUBJECT TO VALUE-ADDED TAX (VAT).

Citing Section 31[37] of the Pre-Need Code, petitioner argues that trust fund contributions should not form part of its income or gross receipts as a pre-need company. As such, the trust fund contributions should be excluded from gross receipts and are not subject to VAT.

While we find merit in petitioner's contention the trust fund contributions should not form part of its gross receipts for purposes of computing its VATable gross receipts, the total amount of premium collections from plan holders (including the trust fund contributions) shall nevertheless be subject to VAT because petitioner failed to indicate in the VAT official receipts (**ORs**) which portion of the premium collections was actually attributed to contributions to the trust fund.

As explained in the Assailed Decision, even if petitioner makes a valid case to exempt from VAT the trust fund contributions received from plan holders (having relied in good faith on BIR Ruling No. DA-027-06), petitioner still has the burden to show compliance with the invoicing requirements laid down in Section 113[38] of the NIRC of 1997, as amended, particularly the requirement to clearly indicate in the invoice or receipt the breakdown of the sale price between its taxable and exempt components.

Relevant thereto, in BIR VAT Ruling No. 026 issued on 23 September 1996, then CIR Liwayway Vinzons-Chato pronounced that under Revenue Memorandum Circular (**RMC**) No. 13-96[39] the amount

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37 Supra at note 16.

38 **SEC. 113.** *Invoicing and Accounting Requirements for VAT-Registered Persons.* —

...

(B) Information Contained in the VAT Invoice or VAT Official Receipt. — The following information shall be indicated in the VAT invoice or VAT official receipt:

...

(d) If the sale involves goods, properties or services some of which are subject to and **some of which are VAT zero-rated or VAT-exempt**, the invoice or **receipt shall clearly indicate the breakdown of the sale price between its taxable, exempt and zero-rated components**, and the calculation of the value-added tax on each portion of the sale shall be shown on the invoice or receipt: Provided, That the seller may issue separate invoices or receipts for the taxable, exempt, and zero-rated components of the sale. (Emphasis supplied.)

39 *Clarification of Issues Affecting Dealers in Securities and Lending Investors Under Republic Act No. 7716, Otherwise Known as the "Expanded VAT Law".*

of contribution to the trust fund must be indicated in the VAT OR, to wit:

> ...
> This refers to your letter dated February 7, 1996, requesting for a waiver of the requirements of RMC No. 13-96 requiring that the amount of contribution to trust fund be indicated in the VAT official receipt, as stated in Answer 10 to Question 10, quoted hereunder:
>
> Q-10: What is the nature of business and the tax liability of pre-need companies?
>
> A-10: Pre-need companies shall be considered as dealers in securities and shall be subject to VAT based on their gross income.
>
> Gross income shall mean actual receipts on contract price minus contributions to the trust fund to be set up independently as mandated by the Securities & Exchange Commission. **The amount of such contribution shall be indicated in the VAT official receipt, <u>otherwise the entire amount shall be subject to VAT</u>.**
>
> Corollarily, the input tax allowable to the customer shall be based on the amount of the contract price net of the trust fund contribution.
>
> It is represented that your companies, College Assurance Plans Phils., Inc. and Comprehensive Annuity Plans and Pension Corp. which are classified as pre-need companies will have great difficulty to comply to the above requirement; that cashiers located nationwide do not have the information of the trust fund contributions for each and every payment to be received from your planholders; that the amount contributed to the trust fund varies from year to year during the payment period of the plan, and that by indicating the trust fund contributions you might adversely affect your marketing efforts and unduly disclose some trade secrets.
>
> In reply, please be informed that the VAT liability of dealers in securities prescribed by Section 102 of the Tax Code, as amended by Republic Act No. 7716, as implemented by Revenue Regulations No. 7-95, is computed on gross income. Gross income shall mean actual receipts on contract price minus contributions to the trust fund to be set up independently as mandated by the Securities & Exchange Commission. **The amount of such contribution shall be indicated in the VAT official receipt, otherwise the entire amount shall be subject to VAT.** Corollarily, the input tax allowable to the customer shall be based on the amount of the

> contract price net of the trust fund contribution. **In other words, the procedure prescribed in A-10 cannot be dispensed with.**[40]
>
> ...

Based on the afore-quoted BIR VAT ruling, the requirement provided under RMC No. 13-96, *i.e.*, that the trust fund contributions be indicated in the VAT ORs, is indispensable. Thus, a taxpayer may be assessed deficiency VAT on the entire amount of such contributions for failure to comply with the said RMC.

An examination of the records would show that petitioner treated the trust fund contributions in the amount of ₱109,297,717.00 as allowable exclusion or deduction from its gross income subject to VAT. However, as earlier mentioned, petitioner did not indicate in the VAT ORs it issued that the said amount was a contribution to the trust fund, in clear violation of RMC No. 13-96 A-10 in relation to Section 113[41] of the NIRC of 1997, as amended.

Considering the foregoing, this Court is constrained to sustain its finding that the entire amount of petitioner's premium collections, including the amounts collected for the trust fund contributions of plan holders, is subject to VAT under Section 108[42] of the NIRC of 1997, as amended.

V. PREMIUM COLLECTIONS FROM ALLEGED NON-RESIDENTS ARE SUBJECT TO VALUE-ADDED TAX (VAT).

Petitioner posits that the Court disregarded its claim that its main clients are seafarers for its alleged failure to present documentary evidence. It cites other pieces of evidence proving that its main clients are seafarers whose premium payments should not form part of its gross receipts subject to VAT. Specifically, Anciado's testimony that petitioner's main clients are seafarers who, by the nature of their work, are considered as overseas contract workers or non-residents of the Philippines pursuant to Section 23(C)[43] of the NIRC of 1997, as

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40 Emphasis and underscoring supplied.
41 Supra at note 38.
42 **SEC. 108**. *Value-added Tax on Sale of Services and Use or Lease of Properties.* —
43 **Sec. 23**. *General Principles of Income Taxation in the Philippines.* — Except when otherwise provided in this Code:

amended, and Lao Guico's testimony that premium collections from seafarers should be subject to zero percent (0%) VAT. Likewise, Anciado made reference to petitioner's Amended Articles of Incorporation[44], which provides that its primary purpose is to provide a medium or plan whereby the savings of seamen, among others, can be pooled together and accumulated. These pieces of evidence remained unrebutted as respondent never questioned them at the time of the trial and when the same was formally offered.

However, as found by the Court in the Assailed Decision, petitioner failed to adduce documentary evidence in support of its assertion. A perusal of petitioner's VAT ORs would reveal that the premium payments and the trust fund contributions from seafarers were not separately indicated as "zero-rated" services in violation of invoicing requirements under Section 113(B)(d)[45] of the NIRC of 1997, as amended.

Well-settled is the rule that tax assessments are presumed correct and made in good faith, with the taxpayer having the burden of proving otherwise.[46] In this case, petitioner failed to discharge the said burden when it was unable to show compliance with the abovementioned invoicing requirements under Section 113[47] of the NIRC of 1997, as amended. Certainly, the testimony of petitioner's witnesses and the presentation of the Amended Articles of Incorporation are not enough to convince this Court of its allegation that its premium collections were from seafarers and should not be subject to VAT.

VI. COLLECTIONS FROM RELATED PARTIES ARE SUBJECT TO VALUE-ADDED TAX (VAT).

...

(C) An individual citizen of the Philippines who is working and deriving income from abroad as an overseas contract worker is taxable only on income from sources within the Philippines: Provided, That a seaman who is a citizen of the Philippines and who receives compensation for services rendered abroad as a member of the complement of a vessel engaged exclusively in international trade shall be treated as an overseas contract worker[.]

...

44 Exhibit "P-2", Division Docket, Volume III, pp. 962-973.

45 Supra at note 38.

46 *Commissioner of Internal Revenue v. Hon. Raul M. Gonzalez, et al.*, G.R. No. 177279, 13 October 2010.

47 Supra at note 38.

Petitioner reiterates its argument that advances made to its related parties or affiliated companies, reported as "Due from related parties" in the 2008 AFS, are not part of its business as a pre-need company and thus, should not be subjected to VAT.

This Court, however, pointed out that, as detailed in the notes to petitioner's 2008 AFS, the decrease in receivable from related parties pertains to reimbursements for costs and expenses advanced by petitioner. On this score, petitioner is bound to comply with RMC No. 09-2006[48], which provides the conditions that must be met for such expenses to be VAT-exempt.

Applying the guidelines set in RMC No. 09-2006[49], third-party suppliers (to whom the advanced payments or reimbursable expenses of petitioner's related parties have been paid by petitioner) must issue a VAT OR in the name of petitioner's related parties since such advanced payments or reimbursable expenses would ultimately redound to the benefit of said related parties. Petitioner should attach the VAT ORs issued by the third-party suppliers to the NON-VAT Official Acknowledgment Receipts to be issued by petitioner to its related parties upon collection of the advances or reimbursements previously recorded as "Due from related parties".

Unfortunately, petitioner failed to present any evidence (such as the NON-VAT Official Acknowledgement Receipts issued by petitioner to its related parties, and the ORs issued by third-party suppliers in the name of petitioner's related parties) to prove compliance with the conditions set out in RMC No. 09-2006 in order for reimbursable expenses and/or advanced payments to be VAT-exempt.

Thus, aside from the fact that petitioner failed to comply with the foregoing requirements, there would likewise be unjust enrichment on the part of petitioner if the Court were to rule that such alleged reimbursable expenses, from which petitioner benefited in the form of input VAT, would not be subjected to 12% VAT. Hence, the deficiency VAT assessment on the decrease in receivable from related parties shall remain.

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48 *Clarifying the Amount Subject to VAT and Expanded Withholding Tax (Income Tax) of Brokers and Others Similarly Situated and the Other Parties with Whom They Transact Business.*

49 Id.

VII. OTHER INCOME SHOULD BE INCLUDED IN THE TOTAL AMOUNT SUBJECT TO VALUE-ADDED TAX (VAT).

Petitioner argues that items enumerated under "Other Income/ Adjustments" *per* FDDA (totalling ₱11,487,602.41) should no longer be added to the total amount subject of the deficiency VAT assessment by reiterating its earlier stance that such items were already included in the amount declared as VATable sales *per* VAT returns (totalling ₱39,383,577.08), as can be gleaned from the table below:

Amount declared as VATable sales *per* VAT returns		₱39,383,577.08
Revenue *per* ITR	₱132,204,768.00	
Less: Trust Fund Contributions	109,297,717.00	
Premiums collected subjected to VAT	22,907,051.00	(22,907,051.00)
VAT applicable to Other Income		₱16,476,526.08

Based on the table above, petitioner insists that it has already paid VAT on its "Other Income" of ₱16,476,526.08 because such amount already covers and even exceeds the total amount of "Other Income/ Adjustments" *per* FDDA of ₱11,487,602.41.

Again, we cannot subscribe to petitioner's bare assertion.

We quote below the pertinent portions of Our findings in the Assailed Decision for emphasis:

> ...
>
> As established earlier, the trust fund contributions are subject to VAT because petitioner failed to separately indicate the same in the ORs as "NONVAT (Trust Fund)". That being said, the amount declared as VATable sales *per* petitioner's 2008 VAT returns would be significantly understated and thus could not have possibly covered or included "Other Income".
>
> Notably, petitioner did not make any attempt to explain what consisted "Other Income" and the exact nature of the items included therein (the amounts of which were reflected in note 16 of the notes to the 2008 AFS, except for the ₱3,489.98 undeclared purchases and ₱24,010.43 undeclared sales). No documentary evidence was

presented to support its assertion that said "Other Income" has been subjected to VAT.

Moreover, contrary to petitioner's own assertion that the amount declared as VATable sales *per* VAT returns included "Other Income"; petitioner, in its Protest against the FLD and Request for Reconsideration of the FDDA, it did not include "Other Income" in its enumeration of what forms part of its taxable collections or gross receipts, as follows:

Trust Fund Contributions	₱109,927,717.00
[Add:] Premiums subject to VAT	22,907,051.00
Amount declared *per* ITR/AFS	₱132,834,768.00
[Add:] Changes in the A/R	8,896,223.00
Collections *per* assessment	₱141,730,991.00

It is well-established that "bare allegations which are not supported by any evidence, documentary or otherwise, sufficient to support a claim, fall short to satisfy the degree of proof needed". Hence, the Court could not lend credence to petitioner's bare allegation that "Other Income" was included in the amount declared as VATable sales.[50]

...

VIII. THE IMPOSITION OF DELIQUENCY INTEREST IS PROPER.

Arguing that the assessment for deficiency tax is unfounded, petitioner insists that the imposition of delinquency interest is improper. Petitioner also complains of a violation of its right to due process, alleging that the sudden imposition of the said delinquency interest, which is not part of the FDDA, opens it to a new assessment of sorts which it did not have the opportunity to contest. Lastly, petitioner claims that the imposition of delinquency interest is excessive as it is imposed simultaneously with deficiency interest and both will run on the due date appearing in the notice and demand of respondent.

We are not persuaded.

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50 Citations omitted.

The imposition of civil interests is mandated under Section 249 of the NIRC of 1997, as amended, which reads:

> ...
>
> **SEC.** 249. *Interest.* —
>
> (A) *In General.* — There shall be assessed and collected on any unpaid amount of tax, interest at the rate of twenty percent (20%) per annum, or such higher rate as may be prescribed by rules and regulations, from the date prescribed for payment **until the amount is fully paid**.
>
> (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.**
>
> (C) ***Delinquency Interest***. — In case of failure to pay:
>
> (1) The amount of the tax due on any return to be filed, or
>
> (2) The amount of the tax due for which no return is required, or
>
> **(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.**[51]
>
> ...

In the case of *Takenaka Corporation Philippine Branch v. Commissioner of Internal Revenue*[52], the Court *En Banc* thoroughly explained the basis of the simultaneous imposition of deficiency and delinquency interests, to wit:

> ...
>
> A careful perusal of [Section 249 of the NIRC of 1997, as amended] reveals that there is no double imposition of interests as the law clearly differentiates deficiency interest from delinquency interest. Deficiency is defined as the amount still due and collectible from a taxpayer upon audit or investigation; whereas delinquency is defined as the failure of the taxpayer to pay the tax due on the date

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[51] Emphasis and underscoring supplied.

[52] CTA EB No. 745 (CTA Case No. 7701), 04 September 2012.

fixed by law or indicated in the assessment notice or letter of demand.

Consequently, deficiency interest is imposed upon any tax that is still due and unpaid to the government. Such interest is imposed by the fact that a portion of the tax imposed by law, which is the "deficiency tax," is still withheld by the taxpayer. Otherwise stated, it is imposed on the amount short of the full tax due and should be paid to the government, which is the deficiency tax.

Delinquency interest, on the other hand, is the interest imposed on failure to pay (i) the amount of tax due on any return required to be filed, (ii) the amount of tax due for which no return is required, or (iii) deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner. It is the interest upon the delay in the payment of the amount of tax due whether return is required to be filed or not, or delay in the payment of deficiency tax, surcharges and interests thereon.

Further, as to when the deficiency and delinquency interests legally accrue, Section 249 (B) and (C)(3) of the NIRC of 1997, as amended, evidently states that the deficiency interest on any deficiency tax shall be assessed 'from the date prescribed for its payment until the full payment thereof'; while the assessment of the delinquency interest that is imposed upon failure to pay a deficiency tax, or any surcharge or interest thereon, shall be reckoned from 'the due date appearing in the notice and demand of the Commissioner until the amount is fully paid.'

Clearly, these two (2) interests are different in nature. **<u>Deficiency interest</u> is imposed for the <u>shortage</u> of taxes paid, while <u>delinquency interest</u> is imposed for the <u>delay</u> in payment of taxes.** Hence, having different nature for their existence, petitioner cannot assail double imposition of interests as the law itself allows the simultaneous imposition of these two kinds of interests.

...

It may be argued that the simultaneous imposition of at least 40% interest per annum on any unpaid tax is grossly excessive and unjust, which may not be reflective of the real intent of the law in imposing interest on any unpaid tax due to the government. However, it is noted that both P.D. No. 1705, which provides that deficiency interest should be assessed only '*<u>to the date the deficiency assessed</u>*' and its amending statute, P.D. No. 1994, which established the rule on assessment of deficiency interest '*<u>until full payment thereof</u>*,' were issued by then President Ferdinand E. Marcos during Martial Law. At this juncture, the eloquent words of former

Associate Justice Florentino P. Feliciano in *Paper Industries Corporation of the Philippines (PICOP) v. Court of Appeals, et al.*, are enlightening:

> **'It is not without reluctance that we reach the above conclusion on the basis of what may well have been an inadvertent error in legislative draftsmanship, a type of error common enough during the period of Martial Law in our country. <u>Nevertheless, we are compelled to adopt this conclusion</u>. ...'**

The law could not be any clearer. It states that the interests, both deficiency and delinquency interests, shall be assessed until full payment thereof. 'It bears stressing that the first and fundamental duty of the Court is to apply the law. When the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation.' As has been the Supreme Court's consistent ruling, where the law speaks in clear and categorical language, there is no occasion for interpretation; there is only room for application.[53]

...

As discussed exhaustively above, there is no double imposition of civil interests as Section 249[54] of the NIRC of 1997, as amended, clearly distinguishes deficiency interest from delinquency interest.

In *First Lepanto Taisho Insurance Corporation v. Commissioner of Internal Revenue*[55], the Supreme Court ruled that the imposition of delinquency interest under Section 249(C)(3) of the NIRC of 1997, as amended, is proper. The failure to pay the deficiency tax assessed within the time prescribed for its payment justifies the imposition of the interest at the rate of 20% *per* annum, which interest shall be assessed and collected from the date prescribed for its payment until full payment is made.

The Tax Reform for Acceleration and Inclusion Act (**TRAIN Law**) introduced a substantial modification on the rate of interest *vis-à-vis* the end date of the accrual of interest for both deficiency and delinquency interest.[56] The TRAIN Law now prescribes 12% interest

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[53] Citations omitted; emphasis, italics and underscoring in the original text.
[54] Supra at page 24.
[55] G.R. No. 197117, 10 April 2013.
[56] **SECTION 75.** Section 249 of the NIRC, as amended is hereby further amended to read as follows:

(double the legal interest rate for loans or forbearance of money), instead of the 20% per annum under the NIRC of 1997, as amended. Thus, for deficiency taxes which became due prior to the effectivity of the TRAIN Law on 01 January 2018 and the full payment thereof will only be made after the said effectivity date, the interest rate of 20% shall be applied for the period up to 31 December 2017 and 12% shall be applied for the period starting 01 January 2018 until full settlement thereof.[57]

In summary, We find no compelling reason to reconsider, modify or reverse Our Assailed Decision.

SEC. 249. Interest. —

(A) *In General.* — There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas from the date prescribed for payment until the amount is fully paid: *Provided*, That in no case shall the deficiency and the delinquency interest prescribed under Subsections (B) and (C) hereof, be imposed simultaneously.

(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, or upon issuance of a notice and demand by the Commissioner of Internal Revenue, whichever comes earlier.

(C) *Delinquency Interest.* — ...

...

57 Revenue Regulations No. 21-2018, 14 September 2018.

...

SECTION 2. *Rate of Interest.* — There shall be assessed and collected on any unpaid amount of tax, interest at the rate of double the effective legal interest rate for loans or forbearance of any money in the absence of an express stipulation as set by the Bangko Sentral ng Pilipinas (BSP) from the date prescribed for payment until the amount is fully paid.

The rate of interest per BSP Memorandum No. 799 series of 2013 for loans or forbearance of any money in the absence of an express stipulation is six percent (6%). Thus, the rate of legal interest imposable under Section 249 of the Tax Code, as amended, shall be twelve percent (12%). A Circular shall be issued by the Commissioner in case BSP prescribes new rate of interest.

...

SECTION 6. *Transitory Provision.* — In cases where the tax liability/ies or deficiency tax/es became due before the effectivity of the TRAIN Law on January 1, 2018, and where the full payment thereof will only be accomplished after the said effectivity date, the interest rates shall be applied as follows:

Period	*Applicable Interest Type and Rate*
For the period up to December 31, 2017	Deficiency and/or delinquency interest at 20%
For the period January 1, 2018 until full payment of the tax liability	Deficiency and/or delinquency interest at 12%

...

WHEREFORE, in light of the foregoing considerations, petitioner's Motion for Reconsideration [Re: Decision dated January 20, 2021] is hereby **DENIED** for lack of merit.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

I CONCUR:

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