REPUBLIC OF THE PHILIPPINES
Court Of Tax Appeals
QUEZON CITY

SECOND DIVISION

BANK OF THE PHILIPPINE ISLANDS,	**C.T.A. CASE NO. 7446**
Petitioner,	Members:
	CASTAÑEDA, JR., Chairperson UY, and
-versus-	PALANCA-ENRIQUEZ, JJ.
	Promulgated:
COMMISSIONER OF INTERNAL REVENUE, ***Respondent.***	JUL 27 2007

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DECISION

PALANCA-ENRIQUEZ, J.:

Another case involving the issue on whether or not petitioner's Foreign Currency Deposit Unit (hereafter "FCDU") transactions, save for the 10% final tax, exempt from percentage tax, documentary stamp tax and all other kinds of taxes?

THE CASE

This issue is before Us in this Petition for Review filed by the Bank of the Philippine Islands (hereafter "petitioner"), which seeks the cancellation of the Formal Letter of Demand dated January 3, 2005 and Assessment Notices Nos. PT-01-000010 and DST-01-000119, both dated January 4, 2005, and reversal of the Final Decision on Disputed Assessment dated November 16, 2005 rendered by the HREA, Large Taxpayers Service of the Bureau of Internal Revenue, in the matter of the protest of Prudential Bank against the said assessment notices, which found petitioner liable for deficiency percentage – FCDU and documentary stamp taxes – FCDU.

THE FACTS

In their "Joint Stipulation of Facts and Issues", the parties stipulated as follows:

> "1. Petitioner is a banking corporation organized and existing under and by virtue of the laws of the Republic of the Philippines with principal office at the Bank of the Philippine Islands Building, Ayala Avenue, Makati City. It may be served with notices and other processes of this Honorable Court through the undersigned counsel at the address hereinbelow indicated. Petitioner (as surviving corporation) merged with Prudential Bank (as absorbed corporation) on December 29, 2005 whereby the entire assets and liabilities of Prudential Bank were transferred and absorbed by petitioner.
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> 2. Respondent Bureau of Internal Revenue, through the Commissioner of Internal Revenue, is the agency of the government tasked with the enforcement of revenue laws and collection of taxes and duties. It may be served with summons and other processes of this Honorable

Court at the BIR National Office Building, Diliman, Quezon City.

3. On 27 August 2004, petitioner received from the respondent a Preliminary Assessment Notice dated 29 June 2004, demanding payment of alleged deficiency Percentage Tax (PT) and Documentary Stamp Tax (DST) on petitioner's Foreign Currency Deposit Unit (FCDU) transactions in the amounts of P30,330,486.87 and P29,261,736.98, respectively, inclusive of interest, surcharge and compromise penalty covering taxable year 2001.

4. On 13 September 2004, petitioner filed its position paper, requesting for the cancellation of the aforesaid Preliminary Assessment Notice for lack of legal and factual bases.

5. On 1 February 2005, petitioner received from the respondent a Formal Letter of Demand/Assessment Notice dated 3 January 2005 demanding for the payment of petitioner's alleged deficiency PT and DST on its FCDU transactions for taxable year 2001 in the amounts of P32,302,459.72 and P31,205,622.59, respectively.

6. On 17 February 2005, petitioner administratively protested the said Formal Letter of Demand alleging, among others, that its onshore income on FCDU transactions are, save for the 10% final tax, exempt from all taxes such as PT and DST. Moreover, petitioner contended that the assessment is already barred by prescription for having been issued beyond the three (3) year period provided under Section 203 in relation to Section 200 of the National Internal Revenue Code and that the assessment has no factual basis.

7. On 21 March 2006, petitioner received the final decision of the respondent by way of a 'Collection Letter' dated February 24, 2006 demanding, in no uncertain terms, payment of petitioner's alleged deficiency PT and DST on

FCDU transactions in the amounts of P32,302,459.72 and P31,205,622.59, respectively, for year 2001.

8. On 17 April 2006, petitioner filed the instant Petition for Review with the Honorable Court."

In his "Answer" filed on May 30, 2006, respondent denied the material allegations of the petition and averred that upon verification of petitioner's payment of percentage tax on income within the Philippines derived by the bank's FCDU shows that it did not file and pay the percentage tax due thereon, pursuant to *Section 121 (a) of the NIRC of 1997, as amended*; upon verification of petitioner's FCDU transactions shows that the DST on loan agreements, time certificate of deposits and bills payable were not filed and paid pursuant to *Section 180 of the NIRC of 1997, as amended.*

Petitioner presented Priscilla N. Marasigan, its Assistant Vice-President of the Accounting Division, as witness, and documentary evidence, marked as *Exhibits "A" to "J"*, inclusive of their submarkings, which were all admitted by the Court.

On the other hand, respondent presented Oscar A. Sable, as witness, and documentary evidence, marked as *Exhibit "1"* and its submarking, which was admitted by this Court.

Thereafter, both parties were granted thirty (30) days from notice within which to file their simultaneous memoranda, afterwhich the case shall be deemed submitted for decision.

Both parties having complied thereto, the case was deemed submitted for decision.

ISSUES

As stipulated upon by the parties, the following are the issues for this Court's consideration:

I

WHETHER OR NOT PETITIONER'S FOREIGN CURRENCY DEPOSIT UNIT TRANSACTIONS ARE, SAVE FOR THE 10% FINAL TAX, EXEMPT FROM PT AND DST AND ALL OTHER KINDS OF TAXES.

A. WHETHER OR NOT PREVIOUS PRESIDENTIAL DECREES EXEMPTING FCDU ARE STILL VALID.

II

WHETHER OR NOT THE RESPONDENT'S ASSESSMENT FOR YEAR 2001 HAD ALREADY PRESCRIBED.

III

WHETHER OR NOT RESPONDENT'S ASSESSMENT NOTICE IS ARBITRARY AND WITHOUT FACTUAL BASIS.

Principal Issue

The foregoing issues raised by the parties boil down to the principal issue of whether or not petitioner's foreign currency deposit unit transactions are, save for the 10% final tax, exempt from PT and DST and all other kinds of taxes.

Petitioner BPI's Theory

Invoking *PD No. 1035*, Expanding the Authority of Depository Banks under *RA No. 6426*, petitioner argues that offshore income derived by FCDUs is subject to a 5% tax in lieu of all taxes, while onshore income is subject to a 10% final withholding tax, similarly in lieu of all taxes; that *Revenue Regulations No. 10-76*, as amended by *Revenue Regulations No. 14-77,* provides that the tax imposed on both offshore and onshore income of FCDUs is in lieu of all taxes, such as, but not limited to privilege tax, gross receipt tax, documentary and science stamp tax and profit remittance tax; that similar to the other Tax Code, the 1997 Tax Code does not expressly repeal the provisions of *PD No. 1035* granting exemption to FCDUs from all taxes other than a final tax on certain income, neither does it impliedly repeal *PD No. 1035*; that repeal by implication is generally frowned upon for the intention to repeal must be clear and manifest. In brief, it is petitioner's theory that absent any express repeal by the *1997 Tax Code*, the provisions of the Foreign Currency Deposit Act subjecting FCDU transactions to 10% final tax and exempting the same from all other taxes remain effective.

Invoking *RA No. 9294*, restoring the tax exemptions of OBUs and FCDUs, petitioner further argues that *RA No. 9294* is a curative statute, which should be applied retroactively, effective upon the enactment of the 1997 Tax Code.

Respondent Commissioner's Theory

Respondent counters that with the advent of the Tax Reform Act of 1997, the phrase "exempt from taxes" has been deleted in *Section 28(A)(7)(b)*. Further, citing the case of *ING Bank (Manila Branch) vs. Commissioner of Internal Revenue, CTA Case No. 6017, dated March 11, 2002*, respondent counter-argues that the phrase "exempt from all taxes" has been deleted by the legislators. The amendment by deletion of certain words or phrases in a statute indicates that the legislature intended to change the meaning of the statute *(Gloria vs. Court of Appeals, 306 SCRA 287)*. By virtue of such deletion, *Revenue Regulations No. 10-76*, which implemented the old law, is no longer applicable. In other words, the payment of the 10% final tax on FCDU income does not exempt petitioner from the payment of branch profit remittance tax or other taxes for that matter.

THE COURT'S RULING

The petition is bereft of merit.

The NIRC of 1997, as Amended, is the Applicable Statute to Petitioner, Not RA No. 9294

While We agree with the petitioner that *R.A. No. 9294*, otherwise known as *"An Act Restoring The Tax Exemption Of Offshore Banking Units (OBUs) And Foreign Currency Deposit Units (FCDUs), Amending For The Purpose Section 27 (D) And Section 28, Paragraphs (A) (4) And (A) (7) (B) Of The National Internal Revenue Code As Amended"* has restored the tax exemptions previously granted to FCDUs of depository banks by *PD No. 1035, as amended,* the same however, took effect only on May 21, 2004. Consequently, prior to the effectivity of *RA No. 9294*, or from January 1, 1998 to May 20, 2004, the *NIRC of 1997, as amended,* was the governing law with respect to the taxability of FCDUs of depository banks on their foreign currency transactions. Considering that the assessment subject of the present petition is for taxable year 2001, the *NIRC of 1997, as amended*, is the applicable law.

Tracing back to the original law, *RA No. 6426*, otherwise known as the *"Foreign Currency Deposit Act of the Philippines"*, as amended by *PD No. 1035*, expanding the foreign currency lending authority of the depository banks, as further amended by *PD No. 1246*, all foreign currency deposits made under the foreign currency deposit system, including interest and all other income of such deposits were exempt from all taxes, irrespective of whether or not these deposits were made by residents or non-residents. Thus, *Section 6 of RA No. 6426*, as amended, provides:

> "SEC. 6. Tax Exemptions. – All foreign currency deposits made under this Act, as amended by Presidential Decree No. 1035, as well as foreign currency deposits authorized under Presidential Decree No. 1034, including interest and all other income or earnings of such deposits, are hereby exempted from any and all taxes whatsoever irrespective of whether or not these deposits are made by residents or non-residents so long as the deposits are eligible or allowed under aforementioned laws and in the case of non-residents, irrespective of whether or not they are engaged in trade or business in the Philippines."

However, upon the effectivity of the *Tax Reform Act of 1997* on January 1, 1998, the phrase "are hereby exempted from any and all taxes whatsoever" contained in *Section 6 of RA No. 6426, as amended*, was deleted. *Section 27 (D) (3)* of the *NIRC of 1997, as amended,* reads as follows:

> "SEC. 27. – *Rates of Income Tax on Domestic Corporations.* –
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> xxx xxx
>
> (D) Rates of Tax on Certain Passive Income. –
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> xxx xxx
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> (3) *Tax on Income Derived under the Expanded Foreign Currency Deposit System.* — Income derived by a depository bank under the expanded foreign currency deposit system from foreign currency transactions with local commercial banks, including branches of foreign banks that may be authorized by the Bangko Sentral ng Pilipinas (BSP) to transact business with foreign currency depository system units and other depository banks under the expanded foreign currency deposit system, including interest income from foreign currency loans granted by such depository banks under said expanded foreign currency deposit system to residents, shall be subject to a final income tax at the rate of ten percent (10%) of such income.
>
> Any income of nonresidents, whether individuals or corporations, from transactions with depository banks under the expanded system shall be exempt from income tax."

Pursuant to the aforequoted provision, tax exemption privileges previously granted to FCDUs of depository banks on their foreign currency transactions were definitely deleted by the legislature. In the case of *Gloria vs. Court of Appeals, 306 SCRA 287,* the Supreme Court ruled that "as a rule, the amendment by deletion of certain words or phrases in a statute indicates that the legislature intended to change the

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meaning of the statute, for the presumption is that the legislature would not have made the deletion had the intention been not in effect a change in its meaning. The amended statute should accordingly be given a construction different from that previous to its amendment." By virtue of such deletion, *RA No. 6264, as amended*, and its implementing *Revenue Regulations No. 10-76*, are no longer applicable. In other words, the payment of the 10% final tax on FCDU income does not exempt petitioner from the payment of PT and DST.

By express provision of *Section 27 (D) (3) of the NIRC of 1997, as amended*, the ten percent (10%) final tax levied on the income of FCDUs of depository banks pertains to tax on income derived by depositary banks under the expanded foreign currency deposit system. It does not include PT, which is a different tax imposed under *Section 121 of the NIRC of 1997, as amended.*

Neither does it include DST, an excise tax, which is also a different tax imposed under *Section 180 of the same Code (Lincoln Philippines Life Insurance Co. vs. Court of Appeals, 293 SCRA 99)*. As such, DST is thus levied on the exercise of these privileges through the execution of specific instruments independently of the legal status of the transactions giving rise thereto *(Philippine Home Assurance Corp., et. al vs. Court of Appeals, 301*

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SCRA 447-448). In the case at bench, DST is imposed upon petitioner's exercise of the privilege of engaging in foreign currency transactions or business.

Furthermore, upon a careful examination and scrutiny of *RA No. 9294*, there is no provision therein, which grants petitioner exemption from payment of PT and/or DST. Neither does the law provide its application to assessment of deficiency taxes for FCDU transactions transpiring before its effectivity. Clearly, petitioner is liable for deficiency PT and DST for taxable year 2001.

Basic is the rule that laws shall have no retroactive effect, unless the contrary is provided *(Article 4, New Civil Code)*. It is a fundamental principle that the validity and obligatory force of a law proceed from the fact that it has first been promulgated. A law that is not yet effective cannot be considered as conclusively known by the populace. To make a law binding even before it takes effect may lead to the arbitrary exercise of the legislative power. *Nova constitutio futuris formam imponere debet non praeteritis.* A new state of the law ought to affect the future, not the past. Any doubt must generally be resolved against the retroactive operation of laws, whether these are original enactments, amendments or repeals *(Mighty Corporation, et. al vs. E. & J. Gallo Winery, et. al, 434 SCRA 491)*. aal

<u>RA No. 9294 is Not a Curative Statute</u>

We do not agree to petitioner's contention that *RA No. 9294* is a curative statute; hence the same must be applied retroactively.

Curative statutes are enacted to cure defects in a prior law or to validate legal proceedings, which would otherwise be void for want of conformity with certain legal requirements. They are intended to supply defects, abridge superfluities and curb certain evils. They are intended to enable persons to carry into effect that which they have designed or intended, but has failed of expected legal consequence by reason of some statutory disability or irregularity in their own action. They make valid that which, before the enactment of the statute was invalid. Their purpose is to give validity to acts done that would have been invalid under existing laws, as if existing laws have been complied with *(Ramatek Philippines, Inc. vs. De los Reyes, 474 SCRA 140-141)*. Simply stated, curative statutes are intended to make valid that which before enactment of the statute was invalid *(Tatad vs. Garcia, Jr., 243 SCRA 462)*.

Section 27, (D) (3) of the NIRC of 1997, as amended, is explicit and clear. It deleted the phrase, "are hereby exempted from any and all taxes whatsoever". It is an elementary rule in statutory construction that

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if a statute is clear, plain and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. *Verba legis non est recedendum.* From the words of a statute there should be no departure *(Del Mar vs. Philippine Amusement and Gaming Corp., 358 SCRA 781).*

Applying the aforementioned jurisprudence to the instant case, it is evident that *RA No. 9294* is not a curative statute. Consequently, the same cannot be applied retroactively. Petitioner cannot, therefore, find solace in *RA No. 9294*, restoring the tax exemption privileges originally granted to FCDUs by *PD No. 1035, as amended.*

Second Issue

The Formal Letter of Demand and Assessment Notice have Factual and Legal Bases

Anent the second issue, claiming that the amount indicated in the formal letter of demand/assessment notice is arbitrary and lacks factual basis, petitioner vehemently denies that there was an actual audit that was conducted by the respondent; that the assessment notice and formal letter of demand issued against petitioner is void for failure to state the law and facts on which they are made.

We are not convinced. an

A careful examination of the evidence on record shows that the formal letter of demand and assessment notice have factual and legal bases. Respondent conducted an audit and investigation on the books of accounts and other related accounting records of petitioner to determine its correct internal revenue tax liabilities by virtue of Letter of Authority No. 00002420 (*Exhibit "1"*). On direct examination, Oscar Sable testified that the examination reveals a deficiency internal revenue tax assessment for calendar year 2001 and that the deficiency findings were presented and explained to petitioner's representatives, who agreed to pay their 2001 deficiency internal revenue taxes, except the deficiency taxes, subject of this case (*Exhibit "1"*).

Settled is the rule that tax assessments by tax examiners are presumed correct and made in good faith *(Cagayan Robina Sugar Milling Co., vs. Court of Appeals, 342 SCRA 671)*. It is the taxpayer and not the Bureau of Internal Revenue who has the duty of proving otherwise. Equally settled is the rule that in the absence of proof of any irregularities in the performance of official duties, an assessment will not be disturbed. All presumptions are in favor of tax assessments. Verily, failure to present proof of error in the assessment will justify judicial affirmance of said assessment *(Commissioner of Internal Revenue vs. Court of Appeals, 242 SCRA*

313-314). In this case, petitioner failed to rebut respondent's findings on its FCDU deficiency PT and DST.

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

"SEC. 228. Protesting of Assessment. –

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The taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise the assessment shall be void.

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Corollary thereto, *Section 3.1.4 of Section 3 of Revenue Regulations No. 12-99* provides:

"SEC. 3. *Due Process Requirement in the Issuance of a Deficiency Tax Assessment.* –

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3.1.4 *Formal Letter of Demand and Assessment Notice.* – The formal letter of demand and assessment notice shall be issued by the Commissioner or his duly authorized representative. The letter of demand calling for payment of the taxpayer's deficiency tax or taxes shall state the facts, the laws, rules and regulations, or jurisprudence on which the assessment is based, otherwise, the formal letter of demand and assessment notice shall be void xxx."

Pursuant to the foregoing law and regulations, the formal letter of demand and assessment notice should state the facts, the law, rules and regulations, or jurisprudence on which the assessment is based.

Upon a careful review of the evidence on record, the Court finds that the Formal Letter of Demand dated January 3, 2005 sufficiently complied with the above prescribed requirements. The deficiency PT and DST were assessed on the basis of *Sections 121 and 180,* respectively, *of the NIRC of 1997, as amended.* The formal letter of demand provides a breakdown of the deficiency PT and DST, which were arrived at after an investigation conducted by respondent's witness, Oscar Sable *(Summary of Findings, BIR Records, pp. 113-114)*. Attached to the formal letter of demand is the details of discrepancy, which contains the explanation of the assessments (*Exhibit "B")*.

On the basis of the formal letter of demand and assessment notices, petitioner was able to prepare and file a comprehensive Protest Letter/Request for Reconsideration *(Annex "D", Petition for Review)*, propounding the very same issues raised in the instant petition. Had petitioner not been sufficiently informed of the facts and the laws on which the assessment was based, it could not have protested in full. From the foregoing, the inescapable conclusion therefore is, the Formal Letter of Demand has factual and legal bases.

Third Issue

The Assessment has Not Yet Prescribed

As regards the third issue, invoking that the respondent's assessment for deficiency PT and DST for taxable year 2001 had already prescribed, petitioner contends that pursuant to *Section 203 of the NIRC of 1997*, 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 expiration of such period; that for taxable year 2001, the assessment for alleged deficiency PT should have been issued not later than January 25, 2005, while the assessment for deficiency DST should have been issued not later than January 5, 2005.

Petitioner's contentions cannot be sustained.

Section 222 of the NIRC of 1997, as amended, provides that in case of failure to file a return, the tax may be assessed within ten (10) years from the discovery of the omission, thus:

> "SEC. 222. – Exceptions as to Period of Limitation of Assessment and Collection of Taxes. –
>
> (a) In the case of a false or fraudulent return with intent to evade tax or of failure to file a return, the tax may be assessed, or a proceeding in court for the collection of

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such tax may be filed without assessment, at any time within ten (10) years after the discovery of the falsity, fraud or omission: Provided, That in a fraud assessment which has become final and executory, the fact of fraud shall be judicially taken cognizance of in the civil or criminal action for the collection thereof.

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In this regard, *Section 128 of the NIRC of 1997, as amended*, provides the time for filing of returns and payment of PT, as follows:

"SEC. 128. Returns and Payment of Percentage Taxes. –

(A) Returns of Gross Sales, Receipts or Earnings and Payment of Tax. -

(1) Persons Liable to Pay Percentage Taxes. – Every person subject to the percentage taxes imposed under this Title shall file a quarterly return of the amount of his gross sales, receipts or earnings and pay the tax due thereon within twenty-five (25) days after the end of each taxable quarter: Provided, That in the case of a person whose VAT registration is cancelled and who becomes liable to the tax imposed in Section 116 of this Code, the tax shall accrue from the date of cancellation and shall be paid in accordance with the provisions of this Section.

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While *Section 200 of the NIRC of 1997, as amended,* provides the time for filing and payment of the DST, as follows:

"SEC. 200. Payment of Documentary Stamp Tax. –

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> (B) Time for Filing and Payment of the Tax. – Except as provided by rules and regulations promulgated by the Secretary of Finance, upon recommendation of the Commissioner, the tax return prescribed in this Section shall be filed within ten (10) days after the close of the months 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.
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> xxx xxx."

Pursuant to the aforementioned provisions, petitioner shall file the returns and pay the PT, within 25 days after the end of the taxable quarter. While, the DST shall be filed and paid, within 10 days after the close of the month when the taxable document was made, signed, issued, accepted or transferred.

Although petitioner presented its Quarterly Percentage Tax Returns (*Exhibits "D" to "I"*) and monthly Information Returns for DST Taxes Paid, both for taxable year 2001, the same however do not include the PT and DST on its FCDU transactions. In fact, on direct examination, petitioner's witness, Priscila Marasigan, admitted that petitioner failed to file the PT and the DST returns on its FCDU *(TSN, August 14, 2006, pp. 9-10)*. Being a clear case of omission to file a return, the applicable prescriptive period is 10 years from the discovery of the omission.

Record shows that on November 7, 2002, respondent's witness, Oscar Sable was authorized to determine the correct internal revenue tax liabilities of petitioner for calendar year 2001 (*Exhibit "1"*). On the basis of said examination, on June 29, 2004, petitioner was issued preliminary assessment notices on its FCDU's deficiency PT and DST (*Exhibit "A"*). Subsequently, on January 4, 2005, the formal letter of demand and final assessment notices on deficiency PT and DST were issued to petitioner (*Exhibit "B"*). Clearly, the final assessment notices were issued within the ten-year prescriptive period.

For all the foregoing, the Court finds that the Formal Letter of Demand dated January 3, 2005 and the Assessment Notices Nos. PT-01-000010 and DST-01-000119, both dated January 4, 2005, and the Final Decision on Disputed Assessment dated November 16, 2005 rendered by the HREA, Large Taxpayers Service of the Bureau of Internal Revenue have factual and legal bases, and conform to the evidence on record and the applicable laws and jurisprudence.

However, considering that there was no compromise agreement between the parties, the compromise penalties of P25,000.00 each imposed by respondent on both the deficiency PT and DST are hereby deleted. Hence, the total amount due are: P32,277,459.72 for deficiency

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PT, penalty and deficiency interest, and P31,180,622.59 for deficiency DST, penalty and deficiency interest.

Finally, petitioner is liable to pay 20% delinquency interest per annum on each of the amount due of P32,277,459.72 and P31,180,622.59, computed from December 12, 2005, until full payment thereof, pursuant to *Section 249 (C) of the NIRC of 1997, as amended.*

WHEREFORE, premises considered, the Petition For Review is hereby **DISMISSED** for lack of merit. With the above modifications, the Formal Letter of Demand dated January 3, 2005 and the Assessment Notices Nos. PT-01-000010 and DST-01-01-000119, both dated January 4, 2005, and the Final Decision on Disputed Assessment, dated November 16, 2005, rendered by the HREA, Large Taxpayers Service of the Bureau of Internal Revenue, are hereby **AFFIRMED** in all other respects. Accordingly, petitioner is ordered to pay the respondent the amount of THIRTY TWO MILLION TWO HUNDRED SEVENTY SEVEN THOUSAND FOUR HUNDRED FIFTY NINE AND 72/100 PESOS (P32,277,459.72), representing the total deficiency PT, penalty and deficiency interest, and the amount of THIRTY ONE MILLION ONE HUNDRED EIGHTY THOUSAND SIX HUNDRED TWENTY TWO AND 59/100 PESOS (P31,180,622.59), representing the total

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deficiency DST, penalty and deficiency interest, plus twenty percent delinquency interest per annum on each of the aforesaid amounts, computed from December 12, 2005, until full payment thereof, pursuant to *Section 249 (C) of the NIRC of 1997, as amended.*

SO ORDERED.

OLGA PALANCA-ENRIQUEZ
Associate Justice

WE CONCUR:

JUANITO C. CASTAÑEDA, JR.
Associate Justice

ERLINDA P. UY
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision were reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

JUANITO C. CASTAÑEDA, JR.
Associate Justice
Chairperson, Second Division

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 cases were assigned to the writer of the opinion of the Court's Division.

ERNESTO D. ACOSTA
Presiding Justice