REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

FIRST DIVISION

WELLINGTON INVESTMENT & MANUFACTURING CORPORATION,
Petitioner,

- versus -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8726

Members:

DEL ROSARIO, *P.J., Chairperson,*
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:

JAN 10 2018 12:10pm

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RESOLUTION

***MINDARO-GRULLA, J.*:**

For this Court's resolution are the following:

1. respondent's **Motion for Partial Reconsideration Re: Decision promulgated on September 14, 2017**, filed on October 3, 2017, with petitioner's **Opposition to Respondent's Motion for Partial Reconsideration**, filed on October 18, 2017; and

2. petitioner's **Manifestation on Satisfaction of Judgment**, filed on October 13, 2017.

Respondent seeks reconsideration of the Court's Decision dated September 14, 2017 (assailed Decision)[1], the dispositive portion of which reads:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **PARTIALLY GRANTED**. The assessments issued by respondent against petitioner for taxable year 2008 covering deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, fringe benefits tax and improperly accumulated earnings tax are **AFFIRMED but with modifications**. Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **FOUR MILLION SEVEN HUNDRED FORTY-SEVEN THOUSAND TWO HUNDRED SEVEN PESOS AND 68/100 (₱4,747,207.68)** representing basic deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, fringe benefits tax and improperly accumulated earnings tax, increment for late remittance of EWT on management bonus to directors not considered as employees and the twenty-five percent (25%) surcharge imposed under Section 248(A)(3) of the NIRC of 1997, as amended:

Tax Type	Basic Tax	Interest	Surcharge	Total
Income Tax	₱ 411,765.45		₱ 102,941.36	₱ 514,706.81
Value-Added Tax	898,017.64		224,504.41	1,122,522.05
Withholding Tax on Compensation	445,140.28		111,285.07	556,425.35
Expanded Withholding Tax	119,554.07		29,888.52	149,442.59
Fringe Benefits Tax	234,075.64		58,518.91	292,594.55
Improperly Accumulated Earnings Tax	1,653,545.28		413,386.32	2,066,931.60
Subtotal	**₱3,762,098.36**		**₱940,524.59**	**₱4,702,622.95**
Increment for late remittance of EWT on management bonus to directors not considered as employees		₱ 35,667.78	₱ 8,916.95	₱ 44,584.73
Subtotal		**₱35,667.78**	**₱ 8,916.95**	**₱ 44,584.73**

[1] Docket vol. III, pp. 1832-1946.

Total	**₱3,762,098.36**	**₱35,667.78**	**₱949,441.54**	**₱4,747,207.68**

In addition, petitioner is **ORDERED TO PAY**:

a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, fringe benefits tax and improperly accumulated earnings tax computed from the following dates until full payment thereof pursuant to Section 249(B) of the NIRC, as amended:

Tax Type	**Basic Tax**	**Deficiency Interest Computed From**
Income Tax	₱ 411,765.45	April 15, 2009
Value-Added Tax	898,017.64	January 25, 2009
Withholding Tax on Compensation	445,140.28	January 15, 2009
Expanded Withholding Tax	119,554.07	January 15, 2009
Fringe Benefits Tax	234,075.64	January 15, 2009
Improperly Accumulated Earnings Tax	1,653,545.28	January 15, 2010

b) Delinquency interest at the rate of 20% per annum on the total amount of ₱4,747,207.68 and on the deficiency interest which have accrued as afore-stated in (a) computed from October 31, 2013 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended.

SO ORDERED."[2]

Respondent moves for partial reconsideration of the assailed Decision based on the following grounds:

1. The Court erred in cancelling the items unreported revenue, amortization of interest and miscellaneous under deficiency income tax, considering that a comparison between the summary of Creditable Withholding Tax at Source (2307) from selected

[2] Docket vol. III. p. 1933-1935.

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company customers and schedules of sales (SLS) showed unreported sales/revenue of ₱5,006,149.40.

2. The Court erred in reducing the unreported sales/revenue to ₱4,361,149.40.

3. The Court erred in cancelling the assessment pertaining to director's compensation, retirement benefits of petitioner's employee and retirement benefits.

4. The Court erred in cancelling the assessment for EWT on rentals and partially upholding the assessment for quarterly input tax attributable to VAT-exempt transactions.

5. The Court erred in reducing the assessment under the items relating to transportation allowance and representation expenses and cancelling the assessment pertaining to "Repairs and Maintenance".

Petitioner opposes respondent's motion on the ground that it did not raise any new issue. Petitioner contends that all matters raised by respondent were thoroughly discussed and taken into consideration by the Court in the assailed Decision. Thus, petitioner argues that the subject motion does not warrant a reversal of the assailed Decision and should be denied outright.

The Motion for Partial Reconsideration is bereft of merit.

The arguments raised by respondent in his Motion for Partial Reconsideration are a mere rehash of the arguments previously raised in his Answer[3], which have been duly considered and adequately discussed by the Court in the assailed Decision.

Moreover, there is no merit to respondent's contention that the Court erred in cancelling the deficiency VAT assessment on dividend income from PLDT. Respondent avers that a transmittal letter for a check amounting to ₱11,193.00 as proof of dividend from PLDT

[3] Docket vol. I, pp. 437-446.

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preferred share is insufficient to prove that dividend income does not pertain to any of the transactions subject to VAT.

As discussed in the assailed Decision, and as cited by respondent in his motion, VAT is imposed upon a sale of goods or properties, sale of services or use/lease of properties.

Receipt of dividends is a result of an entity's investing activity and not from sale of goods or services or use/lease of properties in the ordinary course of business which is subject to VAT. Since, as the Court ruled, said dividend income does not pertain to any of the transactions subject to VAT, the related deficiency VAT assessment should be cancelled and withdrawn.

Further, contrary to respondent's averments, the Court finds the transmittal letter of the check[4] sufficient to prove the receipt of dividend amounting to ₱11,193.00. The document came from PLDT which clearly states that the check received pertains to petitioner's dividends from its outstanding shares with PLDT. This third-party sourced and non-self-serving document confirmed the nature of the transaction.

Considering the foregoing, the Court finds no cogent reason to reverse or modify the assailed Decision dated September 14, 2017.

As to the Manifestation on Satisfaction of Judgment, petitioner manifests that on October 6, 2017, it has fully paid and settled its 2008 tax deficiencies, inclusive of interest and penalties, in the total amount of ₱19,582,024.17 pursuant to the Decision dated September 14, 2017 as and by way of full and complete satisfaction of the judgment award granted by this Court in its Decision. Thus, petitioner's manifestation is **NOTED**.

WHEREFORE, premises considered, respondent's **Motion for Partial Reconsideration Re: Decision promulgated on September 14, 2017** is **DENIED** for lack of merit. Meanwhile, petitioner's **Manifestation on Satisfaction of Judgment** is **NOTED.**

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[4] Exhibit P-85-2.

SO ORDERED.

CIELITO N. MINDARO-GRULLA
Associate Justice

WE CONCUR:

(I maintain my Dissenting Opinion that the assessment is void for lack of a valid Letter of Authority.)
ROMAN G. DEL ROSARIO
Presiding Justice

ERLINDA P. UY
Associate Justice