REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

Third Division

AFP GENERAL INSURANCE CORPORATION,
Petitioner,

- *versus* -

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

CTA CASE NO. 8191

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

Promulgated:
SEP 1 2014
3:31 p.m.

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AMENDED DECISION

BAUTISTA, J.:

This resolves the following:

1. The "Motion for Reconsideration" filed by petitioner on April 2, 2014;

2. The "Motion for Partial Reconsideration (Re: Decision dated March 13, 2014)" filed by respondent on April 3, 2014;

3. The "Comment/Opposition (To Respondent's Motion for Partial Reconsideration)" filed by petitioner on May 5, 2014;

4. The "Urgent Motion for Extension of Time to File Comment" filed by respondent on May 6, 2014; and

5. The "Comment (Petitioner's Motion for Reconsideration)" filed by respondent on May 12, 2014.

The *fallo* of the assailed Decision dated March 13, 2014, reads as follows:

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

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

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

Type of Tax	Basic Tax	25% Surcharge	20% Interest	Total
Income Tax	₱8,294,889.09	₱2,073,722.27	-	₱10,368,611.36
Documentary Stamp Tax on Increase in Capital Stock	250,000.00	62,500.00	-	312,500.00
Expanded Withholding Tax	470,863.74	117,715.94	-	588,579.68
Subtotal	**₱9,015,752.83**	**₱2,253,938.21**	**-**	**₱11,269,691.04**
Increments for Late Remittance of Documentary Stamp Tax on Policies of Insurance				
January		₱626,994.63	₱250,795.34	₱877,789.97
February		126,876.14	59,209.03	186,085.17
May		281,591.76	131,409.86	413,001.62
Subtotal		**1,035,462.53**	**441,414.23**	**1,476,876.76**
Total	**₱9,015,752.83**	**₱3,289,400.74**	**₱441,414.23**	**₱12,746,567.80**

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

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

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

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

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

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

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

SO ORDERED."

In its "Motion for Reconsideration," petitioner states, *inter alia,* that the Court failed to resolve the principal and primary issue regarding the validity of the Letter of Authority No. 00021964 dated May 7, 2008;[1] and that the Court failed to hold that petitioner is not liable for deficiency Documentary Stamp Tax, Income Tax and Expanded Withholding Tax, all for the taxable year 2006.

And on May 6, 2014, respondent filed an "Urgent Motion for Extension of Time to File Comment," albeit the issuance of Resolution dated May 2, 2014, which only granted her ten (10) days from April 26, 2014, or until May 6, 2014, within which to file her Comment. Nevertheless, on May 12, 2014, respondent filed her "Comment (Petitioner's Motion for Reconsideration)."

In view thereof, the "Urgent Motion for Extension of Time to File Comment" is hereby considered **MOOT**; and in the interest of justice, the "Comment (Petitioner's Motion for Reconsideration)" is hereby **ADMITTED** to the records of the case. In her "Comment (Petitioner's Motion for Reconsideration)," respondent discounts the allegations made by petitioner regarding the validity of the Formal Letter of Demand and Letter of Authority as without basis in fact and in law.

On the other hand, in her "Motion for Partial Reconsideration (Re: Decision dated March 13, 2014)," respondent, even admitting that the Letter of Authority covers only taxable year 2006, claims that the assessment for deficiency Documentary Stamp Tax for insurance policies for taxable year 2005 is valid pursuant to Section 222 of the 1997 National Internal Revenue Code, as amended,[2] considering that "*[a]s proven during trial, petitioner never filed a return for documentary stamp taxes for insurance policies for taxable year 2005*";[3] thus, the same may be assessed or proceeding in court may be filed, even without assessment, within ten (10) years from the discovery of the falsity, fraud or omission. She also raises the discrepancies between the Audited Financial Statement as against the unregistered General Ledger, which resulted to an underdeclaration in the gross income subject to Value-added Tax made by petitioner.

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[1] *Exhibit "F."*

[2] SECTION 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 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.

[3] Respondent's Motion for Partial Reconsideration (Re: Decision dated March 13, 2014), p. 6.

Petitioner, in its "Comment/Opposition (To Respondent's Motion for Partial Reconsideration)," maintains the invalidity of the Letter of Authority No. 00021964 dated May 7, 2008, and counters respondent's failure to refute the findings that the deficiency Documentary Stamp Tax for taxable year 2005, and the Value-added Tax for taxable year 2006 have already prescribed.

After a closer scrutiny at the parties' respective submissions, as well as the records of the case, the Court resolves as follows:

Letter of Authority No. 00021964, dated May 7, 2008.

Based on the records, the Letter of Authority No. 00021964, dated May 7, 2008, was received by petitioner's authorized representative on May 13, 2008.[4] Petitioner then argues that the subject Letter of Authority is invalid, ineffective and void for failure of the concerned Revenue Officer to have the same revalidated after the one hundred twenty (120) days, pursuant to Revenue Memorandum Order No. 38-88,[5] dated August 24, 1988, as reiterated in Revenue Memorandum Circular No. 40-2006,[6] dated July 13, 2006.

On the other hand, respondent counters that pursuant to the above-mentioned Revenue Memorandum Order and Revenue Memorandum Circular, the non-revalidation of a Letter of Authority would only warrant a disciplinary action against the concerned Revenue Officer, and not render the same invalid or void. She instead cites Revenue Memorandum Order No. 19-2009,[7] dated May 28, 2009, as the applicable rule in the case at bench.

For easy reference, Revenue Memorandum Order No. 38-88,[8] states as follows:

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[4] *Exhibit "1."*
[5] Entitled *"Guidelines on Revalidation of Letters of Authority."*
[6] Entitled *"Clarification on the Jurisdictions of the Large Taxpayer Service, the Enforcement Service and the Revenue Regions Including the Revenue District Offices and Divisions under Them, Performing Audit and Investigation Functions, and Guidelines for the Exercise of Such Jurisdictions and Functions."*
[7] Entitled *"2009 Audit Program for Revenue District Offices."*
[8] *Supra*, note 5.

"This Order aims to set the guidelines on the revalidation of Letters of Authority (LAs) for a more effective and efficient investigation and reporting on cases:

The following are henceforth prescribed:

1. Revalidation of Letters of Authority shall be limited to only once in the regional offices and twice in the National Office after issuance of the original LA.

2. A revalidation shall be covered by the issuance of a new Letter of Authority under the name(s) of the same investigating officer(s), and the superseded LA(s) shall be attached to the new LA issued.

3. Requests for revalidation shall be supported with a progress report on the case and a justification for said revalidation.

4. The Division Chief/RDO shall indorse the request for revalidation which shall be duly approved or disapproved by the Assistant Commissioner (SOS)/Regional Director.

5. The Division Chief/RDO shall be responsible for the monthly monitoring of LAs issued to ensure that reports are rendered within the reglementary 120-day period. The Division Chief/RDO shall be jointly responsible with the REOs for cases with LAs pending beyond the 120-day period.

6. It shall be the duty of the Division Chief/RDO to report immediately to the Inspection Service any tax case for which no report of investigation has been rendered 120 days after the issuance of an LA."

And the pertinent portions of Revenue Memorandum Circular No. 40-2006,[9] provides as follows:

"B. *POLICIES* – The following guidelines shall be strictly implemented, observed and complied with:

B.1 General

[9] *Supra*, note 6.

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e) The 120-day rule on the revalidation of LA/AN shall be applicable in all cases (RMO No. 38-88).

xxx xxx xxx

C. *VIOLATIONS AND PENALTIES* – Any violation of the foregoing instruction by any revenue official or official shall be a ground for the imposition of appropriate administrative sanctions/penalties."

While the relevant provisions of Revenue Memorandum Order No. 19-2009,[10] states as follows:

"The 2009 Audit Program shall cover the audit/investigation of 2008 internal revenue tax returns, including tax returns of fiscal period taxpayers whose taxable year ended on July 31, 2008 up to June 30, 2009.

xxx xxx xxx

24. Reports of investigation of all cases covered by LAs/TVNs shall be submitted by the RO within the following prescribed number of calendar days from the date of LAs/TVNs:

Case Classification	*No. of Days*
Cases other than VAT claims for refund/credit:	
Very Large/Large	120
Medium/Small	90
TVN	60
Cases covering claims for VAT refund/credit	120 days from the submission of complete documents

25. In case the report of investigation cannot be rendered within the aforementioned time frame due to constraints attributable to the taxpayer, the RO may request for the

[10] *Supra*, note 7.

> revalidation of the LA by preparing a progress report with a valid reason for the request for revalidation, duly noted by the Group Supervisor and approved by the Revenue District Officer. The Revenue District Officer shall transmit the entire docket of the case, including all notices with checklist of documentary requirements served to the taxpayer, to the Regional Director for revalidation of the LA. The previously issued LA shall be stamped 'Revalidated on ____________' and shall be signed by the Regional Director.
>
> The revalidation of LA shall give rise to the extension of the period within which the concerned RO shall submit the required report of investigation to higher authorities for review and approval without the imposition of applicable administrative sanctions. Depending on the classification of the pending tax case, said extension period shall be equivalent to the original prescribed number of days within which to report the case under existing revenue issuance. Failure on the part of the RO to request for revalidation or the expiration of the 'revalidation period' does not nullify the LA; thus, the investigation shall be pursued by the RO and shall render a report on the investigation as required in this Order. However, this shall be considered as a ground for the imposition of disciplinary action and demerit in the performance rating of the concerned RO."

A plain reading of the above-quoted Revenue Memorandum Order and Revenue Memorandum Circular provide the duties as well as the administrative sanctions/penalties on the issuance, effectivity and revalidation, or failure thereof, of a Letter of Authority; and the Court notes that the mentioned rules, which petitioner itself invoked, do not provide for the invalidity, as a result of failure to revalidate a Letter of Authority. On the other hand, the lastly-quoted Revenue Memorandum Order, which respondent cited, evidently, is not applicable in the case at bench, taking into consideration that the same *"shall cover the audit/investigation of 2008 internal revenue tax returns, including tax returns of fiscal period taxpayers whose taxable year ended on July 31, 2008 up to June 30, 2009."*

Documentary Stamp Tax for Taxable Year 2005 and Documentary Stamp Taxes Taxable Year 2006.

For emphasis and to avoid confusion, the Court quotes the following findings:

> "In the case at bench, however, the Court finds the records bereft of evidence to provide the reckoning of the mandated three (3)-year prescriptive period for Documentary Stamp Taxes, except in the case of Value-added Tax; thus, the case of *Taligaman Lumber Co., Inc., v. The Collector of Internal Revenue*, is hereby quoted:
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> xxx xxx xxx
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> Based on the records of the case, petitioner failed to submit or even prove its compliance with Section 200(B) of the 1997 NIRC, as amended, to quote:
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> xxx xxx xxx
>
> Thus, applying the earlier-quoted ruling and considering that the records are wanting of any returns filed by petitioner, the Court finds the deficiency assessments for Documentary Stamp Taxes on the increase in capital stock and insurance policies made within the prescribed three (3)-year period.
>
> The Court, nonetheless, takes into consideration the **Letter of Authority No. 00021964, issued by respondent on May 7, 2008, addressed to petitioner, covering the examination of books of accounts and other accounting for the taxable year 2006**. And a perusal of the Formal Letter of Demand, with attached Assessment Notices, against petitioner for deficiency assessment for Documentary Stamp Tax on insurance policies, the same includes unremitted **Documentary Stamp Tax for taxable year 2005 in the amount of ₱680,099.44, inclusive of surcharge, interest and compromise penalty. Considering that the amount of ₱680,099.44 is clearly beyond the coverage of the examination of the records pursuant to the Letter of Authority issued by respondent, the Court must, thus, nullify the deficiency assessment for the said amount.**" (*Boldfacing supplied.*)

The case at bench clearly involves deficiency Income Tax, Value-added Tax, ***Documentary Stamp Tax*** and Expanded Withholding Tax covering calendar year ***2006***; thus, the Court accordingly discussed and resolved that "*the records are wanting of any returns filed by petitioner, x x x the assessments for Documentary Stamp Taxes on the increase in capital stock and insurance policies [is] made within the prescribed three (3)-year period.*"

While regarding the ***Documentary Stamp Tax*** for taxable year **2005** in the amount of ₱680,099.44, inclusive of surcharge, interest and compromise penalty, the Court ruled that it *"is clearly beyond the coverage of the examination of the records pursuant to the Letter of Authority issued by respondent, x x x, thus, nullify the deficiency assessment for the said amount."*

The foregoing clearly negates the claim that for failure to file a return for Documentary Stamp Tax for taxable year 2005, the same is considered as valid pursuant to Section 222 of the 1997 National Internal Revenue Code, as amended,[11] thus, may be assessed or a proceeding in court may be filed, even without assessment, within ten (10) years from the discovery of the falsity, fraud or omission.

False Value-added Tax Return

The Court, in addressing the issue that due to the discrepancies between the Audited Financial Statement as against the unregistered General Ledger, which resulted to an underdeclaration in the gross income subject to Value-added Tax, making the returns as false, thus, the applicability of Section 222 of the 1997 National Internal Revenue Code, as amended,[12] finds the case of *FSM Cinemas, Inc., v. Commissioner of Internal Revenue*,[13] relevant, to quote:

> "Section 222(a) of the National Internal Revenue Code of 1997, as amended, provides that 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 such tax may be filed without assessment at any time within ten (10) years after the discovery of the falsity, fraud or omission.
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> Indeed, the Supreme Court, in the case of *Aznar vs. Court of Tax Appeals, et al.*, defined that a false return implies deviation from the truth, whether intentional or not.
>
> Also, basic is the rule in evidence that the burden of proof lies on the party who makes the allegations— *ei incumbit probatio, qui dicit, non*

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[11] *Supra*, note 2.
[12] *Ibid.*
[13] CTA Case No. 7525, November 5, 2013. Citations omitted.

> *qui negat; cum per rerum naturam factum negantis probatio nulla sit.* Evidently, it is respondent's burden to prove that petitioner willfully filed false returns; thus, validating the former's right to assess the latter's taxes within ten years after the discovery of the falsity, as an exception to the statute of limitation on the assessment of taxes."

A perusal of the records shows that in the Preliminary Assessment Notice, with attached Details of Discrepancy,[14] petitioner is liable for deficiency Value-added Tax for taxable year 2006 in the total amount of ₱3,911,057.03. Petitioner then filed its Letter-Reply,[15] stating that "*We are still verifying the Company's records relative to the BIR's findings above.*" Respondent then issued a revised Preliminary Assessment Notice, with attached Details of Discrepancy,[16] in the increased amount of ₱8,730,457.05; imposed therein is the fifty percent (50%) Surcharge, pursuant to Section 248(B),[17] in relation to Section 255,[18] of the 1997 National Internal Revenue Code, as amended, due to substantial underdeclaration of taxable sales, receipts or income and failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, or by filing false and fraudulent return. Based on the records, petitioner failed to file any protest thereto. Thus, respondent issued the subject Formal Letter of Demand, with attached Assessment Notices,[19] for deficiency Value-

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[14] *Exhibit "C."*
[15] *Exhibit "D."*
[16] *Exhibit "E."*
[17] SECTION 248. *Civil Penalties.* –

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(B) In case of willful neglect to file the return within the period prescribed by this Code or by rules and regulations, or in case a false or fraudulent return is willfully made, the penalty to be imposed shall be fifty percent (50%) of the tax or of the deficiency tax, in case any payment has been made on the basis of such return before the discovery of the falsity or fraud: *Provided,* That a substantial underdeclaration of taxable sales, receipts or income, or a substantial overstatement of deductions, as determined by the Commissioner pursuant to the rules and regulations to be promulgated by the Secretary of Finance, shall constitute *prima facie* evidence of a false or fraudulent return: *Provided, further,* That failure to report sales, receipts or income in an amount exceeding thirty percent (30%) of that declared per return, and a claim of deductions in an amount exceeding thirty percent (30%) of actual deductions, shall render the taxpayer liable for substantial underdeclaration of sales, receipts or income or for overstatement of deductions, as mentioned herein.

[18] SECTION 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* – Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (₱10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

Any person who attempts to make it appear for any reason that he or another has in fact filed a return or statement, or actually files a return or statement and subsequently withdraws the same return or statement after securing the official receiving seal or stamp of receipt of an internal revenue office wherein the same was actually filed shall, upon conviction therefor, be punished by a fine of not less than Ten thousand pesos (₱10,000) but not more than Twenty thousand pesos (₱20,000) and suffer imprisonment of not less than one (1) year but not more than three (3) years.

[19] *Exhibit "A."*

added Tax in the amount of ₱8,798,665.12; imposed therein, as well, is the fifty percent (50%) Surcharge for filing false and fraudulent return. Petitioner filed its Letter-Protest,[20] requesting respondent to "*cancel and set aside the Formal Letter of Demand dated April 6, 2010 for payment of the so-called deficiency taxes and to make a re-computation of the same after the submission by our client of the needed financial records/documents in support of its position that it has no pending liability for deficiency taxes.*" However, petitioner failed to file its supporting documents, and alleging inaction on the part of respondent, filed the present Petition for Review.[21]

The Court also notes that in the Memorandum dated December 15, 2009,[22] and Memorandum dated February 19, 2010,[23] respondent clearly stated the underdeclaration made by petitioner.

On the other hand, petitioner evidently failed to refute the revised Preliminary Assessment Notice, and Formal Letter of Demand, with Assessment Notices. Records merely show that petitioner submitted its Monthly Value-added Tax Declarations (BIR Form No. 2550-M),[24] and Quarterly Value-added Tax Returns (BIR Form No. 2550-Q),[25] for the taxable year 2006.

To reiterate, as a court of record, this Court is required to conduct a formal trial to prove every minute aspect of any claim. Therefore, cases filed before this Court are litigated *de novo*, and party litigants should prove every minute aspect of their cases;[26] for mere allegation is not evidence,[27] and is not equivalent to proof.[28]

Thus, while it is respondent's burden to prove that petitioner willfully filed false returns, the latter, on the other hand, has the burden to prove not only that the assessment was erroneous, but also to adduce the correct taxes to be paid by it.

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[20] *Exhibit "B."*
[21] *Records*, pp. 1-74, with Annexes.
[22] *Exhibit "4."*
[23] *Exhibit "6."*
[24] *Exhibits "I," "I-1," "I-3," "I-4," "I-6," "I-7," "I-9"* and *"I-10."*
[25] *Exhibits "I-2," "I-5," "I-8"* and *"I-11."*
[26] Commissioner of Internal Revenue *v.* Manila Mining Corporation, G.R. No. 153204, August 31, 2005, 468 SCRA 571.
[27] Martinez *v.* National Labor Relations Commission, G.R. No. 117495, May 29, 1997, 272 SCRA 793.
[28] Philippine National Bank *v.* Court of Appeals, G.R. No. 116181, January 6, 1997, 266 SCRA 136.

The burden of proof is on the taxpayer contesting the validity or correctness of an assessment to prove not only that the Commissioner of Internal Revenue is wrong but the taxpayer is right;[29] otherwise, the presumption in favor of the correctness of tax assessment stands.[30] Thus, for failure to do so, the Court finds no recourse but to sustain the validity of the deficiency Value-added Tax for taxable year 2006.

The Court deems it unnecessary to discuss the other issues raised for the same have been thoroughly discussed and passed upon by the Court in the assailed Decision dated March 13, 2014.

WHEREFORE, the Court hereby **RESOLVES,** as follows:

1) The "Motion for Partial Reconsideration (Re: Decision dated March 13, 2014)" filed by respondent is hereby **PARTLY GRANTED.**

   Accordingly, the Decision dated March 13, 2014 is hereby **MODIFIED.**

   In addition to the amount to be paid in accordance with the Decision dated March 13, 2014, petitioner is hereby **ORDERED** to **PAY** the basic deficiency Value-added Tax for taxable year 2006 in the amount of **₱4,092,402.38** and the fifty percent (50%) Surcharge in the amount of **₱2,046,201.19** imposed under Section 248(B) of the 1997 National Internal Revenue Code, as amended;[31] or in the total amount of **₱6,138,603.57**:

	Basic Tax	50% Surcharge	TOTAL
Deficiency Value-added Tax	₱4,092,402.38	₱2,046,201.19	₱6,138,603.57

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

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[29] Commissioner of Internal Revenue *v.* Hantex Trading Co., Inc., G.R. No. 136975, March 31, 2005, 454 SCRA 301, citing *Tan Guan v. CTA, G.R. No. L-23676, April 27, 1967, 19 SCRA 903.*
[30] *Ibid.*, citing *Sy Po v. CTA, G.R. No. L-81446, August 18, 1988, 164 SCRA 524.*
[31] *Supra*, note 17.

a) Deficiency interest at the rate of twenty percent (20%) per annum on the basic deficiency Value-added Tax of ₱4,092,402.38, computed from April 25, 2007 until full payment thereof pursuant to Section 249(B) of the 1997 National Internal Revenue Code, as amended;[32] and

b) Delinquency interest at the rate of twenty percent (20%) per annum on the total amount of ₱6,138,603.57 and on the twenty percent (20%) deficiency interest which have accrued as aforestated in (a), computed from April 25, 2010, until full payment thereof pursuant to Section 249(C) of the 1997 National Internal Revenue Code, as amended.[33]

2) The "Motion for Reconsideration" filed by petitioner is hereby **DENIED** for lack of merit.

SO ORDERED.

LOVELL R. BAUTISTA
Associate Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

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[32] SEC. 249. *Interest.* –

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(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.

[33] SEC. 249. *Interest.* –

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

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(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.

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 case was assigned to the writer of the opinion of the Court's Division.

LOVELL R. BAUTISTA
Associate Justice
Chairperson

C E R T I F I C A T I O N

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

ROMAN G. DEL ROSARIO
Presiding Justice