REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

FIRST DIVISION

CONTACT CENTERS ASSOCIATION OF THE PHILIPPINES, INC. (CCAP), *Petitioner,*	**CTA Case No. 9666**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **FABON-VICTORINO,** *and* **MANAHAN,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, *Respondent.*	Promulgated: JUL 0 8 2020 9:31 am

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DECISION

***DEL ROSARIO, P.J.*:**

Before this Court is a Petition for Review filed on August 25, 2017 by petitioner Contact Centers Association of the Philippines, Inc. against respondent Commissioner of Internal Revenue, praying that the deficiency assessments issued against petitioner for income tax amounting to ₱4,682,224.90, expanded withholding tax (EWT) amounting to ₱5,210,465.44, value-added tax (VAT) amounting to ₱251,028.76 as well as compromise penalty amounting to ₱40,000.00, covering taxable year 2013, be declared as null and void, and consequently, be cancelled and set aside for want of any legal basis.

THE PARTIES

Petitioner Contact Centers Association of the Philippines, Inc. (CCAP) is a membership organization duly registered with the Securities and Exchange Commission (SEC). It holds office at Shop 3-5, Ayala Tower, The Peninsula Manila, Ayala cor. Makati Avenue, Makati City.[1]

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[1] Par. 1, Admitted Facts, Joint Stipulation of Facts and Issues (JSFI), CTA Docket, p. 380.

Respondent Commissioner of Internal Revenue (CIR), on the other hand, is being sued in his official capacity, having been duly appointed to exercise the powers and perform the duties of his office including, *inter alia*, the power to decide disputed assessments, refunds of internal revenue taxes, fees and other charges, penalties imposed in relation thereto, or other matters arising under the National Internal Revenue Code.[2]

THE FACTS

Petitioner is a membership organization which was incorporated and registered with the SEC on November 8, 2001, with SEC Company Registration No. A200116758. The purposes for which it was created are: to enhance a) forums for networking at the national and international levels through call centers; b) programs for business learning and contact center skills development; c) advocacy of contact center - Outsourced Services Providers (OSPs), allied industries, vendors and suppliers relative to the purposes of the Association; d) research on topics of interest to contact center service users and providers; e) consensus voluntary guidelines for the outsourced contact center services industry; f) dissemination of information about the global developments in the contact center service industry; and g) education of the government, the general public and the media to promote the business interest of contact center OSPs and their strong commitment to customer service and satisfaction.[3]

Petitioner initially registered with the Bureau of Internal Revenue (BIR) on April 24, 2006. Its registration was updated on January 10, 2014. It is currently registered for the following types of taxes: (i) Income Tax, (ii) Value-Added Tax, (iii) Withholding Tax - Expanded, (iv) Registration Fee, and (v) Withholding Tax - Compensation.[4]

For taxable year 2013, petitioner filed the following tax returns on the following dates:[5]

a. Annual Income Tax Return (ITR),[6] with attached Audited Financial Statements,[7] on September 12, 2014. Compromise penalties were paid for late filing;

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[2] Par. 2, Admitted Facts, JSFI, CTA Docket, p. 380.
[3] Par. 3, Admitted Facts, JSFI, CTA Docket, p. 381; Exhibit "P-1", CTA Docket, pp. 571-581.
[4] Par. 4, Admitted Facts, JSFI, CTA Docket, p. 381; Exhibits "P-2" and "P-3", CTA Docket, pp. 582-583.
[5] Par. 5, Admitted Facts, JSFI, CTA Docket, pp. 381-382.
[6] Exhibit "P-7", CTA Docket, pp. 584-591.
[7] Exhibit "P-8", CTA Docket, pp. 592-599.

b. Monthly Remittance Return of Income Taxes Withheld (Expanded and Final), *viz.:*

BIR FORM	PERIOD COVERED	DATE FILED
1601E	January	02/11/2013
1601E	February	03/08/2013
1601E	March	04/10/2013
1601E	April	05/10/2013
1601E	May	06/10/2013
1601E	June	07/10/2013
1601E	July	12/17/2013 with penalties
1601E	August	12/17/2013 with penalties
1601E	September	10/09/2013
1601E	October	11/19/2013 with penalties
1601E	November	12/10/2013
1601E	December	01/15/2014

c. Annual Information Return of Creditable Income Taxes Withheld (Expanded)/ Income Payments Exempt from Withholding Taxes (Form 1604E) and Alphabetical List on February 25, 2014, through BIR's e-submission facility;

d. Monthly Remittance Return of Income Taxes Withheld on Compensation, *viz.*:

BIR FORM	PERIOD COVERED	DATE FILED
1601C	May	06/10/2013
1601C	June	07/10/2013
1601C	July	12/17/2013 with penalties
1601C	August	12/17/2013 with penalties
1601C	September	10/09/2013
1601C	October	11/19/2013 with penalties
1601C	November	12/10/2013
1601C	December	01/15/2014

e. Annual Information Return of Income Tax Withheld on Compensation and Final Withholding Taxes and Alphabetical List on February 3, 2014.

On December 10, 2014[8], petitioner received a Letter of Authority (LOA) No. LOA-050-2014-0000387[9] dated November 25, 2014, signed by Regional Director Jonas DP. Amora, authorizing Revenue Officer Kadapi Manarondong and Group Supervisor Josephine Elarmo of Revenue District Office (RDO) No. 50-South Makati to conduct an examination of its books of accounts and other accounting records for the taxable period January 1, 2013 to December 31, 2013.[10]

On December 15, 2016, petitioner received a Preliminary Assessment Notice (PAN)[11] dated December 9, 2016, with Details of Discrepancies and supporting schedules.[12]

Shortly thereafter, petitioner received the Final Assessment Notices (FAN) on January 12, 2017, together with the attached Details of Discrepancies and Assessment Notice Nos. IT-ELA80502-13-17-045[13], VT-ELA80502-13-17-045[14], WE-ELA80502-13-17-045[15], and MC-ELA80502-13-17-[16], all dated January 11, 2017 and signed by Ms. Clavelina S. Nakar (Officer in Charge, Revenue Region 08 - Makati City).[17]

Respondent assessed petitioner for taxable year 2013 for deficiency income tax, VAT, EWT and compromise penalty, in the aggregate amount of ₱10,183,719.10:[18]

	INCOME TAX	VALUE-ADDED TAX	EXPANDED WITHHOLDING TAX	COMPROMISE PENALTY	TOTAL
Basic Tax	2,991,967.94	2,803,183,56	155,508.31		5,950,659.81
Surcharge		700,795.89			700,795.89
Interest	1,690,256,96	1,706,485,99	95,520.45		3,492,263.40
Compromise Penalty				40,000.00	40,000.00
TOTAL AMOUNT DUE	**4,682,224.90**	**5,210,465.44**	**251,028.76**	**40,000.00**	**10,183,719.10**

On January 30, 2017, petitioner filed its protest to the FAN through a Letter dated January 27, 2017.[19]

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[8] The parties alleged in their JSFI that petitioner received the LOA on November 3, 2014. However, the date of receipt of petitioner indicated in the LOA is December 10, 2014.
[9] Exhibits "P-3"; BIR Records, p. 1.
[10] Par. 6, Admitted Facts, JSFI, CTA Docket, p. 382.
[11] Exhibit "P-4", BIR Records, p. 351-356.
[12] Par. 7, Admitted Facts, JSFI, CTA Docket, p. 382.
[13] Exhibit "P-5-A", BIR Records, p. 381.
[14] Exhibit "P-5-B", BIR Records, p. 380.
[15] Exhibit "P-5-C", BIR Records, p. 379.
[16] Exhibit "P-5-D", BIR Records, p. 378.
[17] Par. 7, Admitted Facts, JSFI, CTA Docket, p. 382.
[18] Par. 7, Admitted Facts, JSFI, CTA Docket, p. 382.
[19] Exhibit "P-6", BIR Records, pp. 502-512.

In view of respondent's failure to act on petitioner's protest to the FAN within 180 days, petitioner filed the present Petition for Review on August 25, 2017.[20]

On October 23, 2017, within the extended period[21], respondent filed his Answer, with the following special and affirmative defenses: (1) petitioner does not fall under the category of tax-exempt corporations within the purview of Section 30 of the National Internal Revenue Code (NIRC) of 1997, as amended; (2) majority of petitioner's income inures to the benefit of its members as its expenses are exorbitant, questionable and unjustified for a non-profit organization; (3) no deduction from gross income shall be allowed unless the taxpayer is able to substantiate the same with sufficient evidence; (4) tax exemptions are to be construed *strictissimi juris* against the person or entity claiming the same; (5) petitioner's expenses which are subject to EWT were not accurately subjected thereto; (6) under Revenue Memorandum Circular (RMC) No. 35-2012, association dues, membership fees and other charges collected by the association are subject to VAT since they constitute income payments or compensation for the beneficial services it provides to its members; (7) imposing penalties for delinquencies are intended to hasten tax payments; and, (8) the burden of proof is on the taxpayer contesting the validity or correctness of an assessment.

The Pre-Trial Brief for the Petitioner[22] was filed on February 23, 2018, while the Respondent's Pre-Trial Brief[23] was filed on March 5, 2018. The Pre-Trial Conference was held on March 6, 2018[24] and on March 19, 2018, the parties filed their Joint Stipulation of Facts and Issues[25]. On April 16, 2018, the Court issued the Pre-Trial Order[26] thereby terminating the pre-trial.

During trial, petitioner presented testimonial and documentary evidence. It presented the following witnesses: Mr. Joselito J. Uligan,[27] petitioner's President; and Ms. Criselda S. Oplas,[28] the commissioned Independent Certified Public Accountant (ICPA).

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[20] CTA Docket, pp. 10-31.
[21] CTA Docket, pp. 176-177.
[22] CTA Docket, pp. 192-201.
[23] CTA Docket, pp. 361-367.
[24] CTA Docket, p. 370.
[25] CTA Docket, pp. 380-391.
[26] CTA Docket, pp. 393-404.
[27] Judicial Affidavit of Joselito J. Uligan (In Question and Answer Form), CTA Docket, pp. 208-224; and Minutes of Hearing dated June 4, 2018, CTA Docket, p. 412.
[28] Exhibit "P-40", CTA Docket, pp. 523-544; and TSN dated July 9, 2019.

The Formal Offer of Evidence for the Petitioner[29] was filed on July 17, 2019, and the exhibits offered therein were admitted in the Resolution[30] dated September 11, 2019, except for Exhibits P-10-1, P-11 and series, and P-12 and series, for failure of petitioner to present the originals for comparison, and Exhibit P-31-j, for being blank.

During the hearing on July 9, 2019, counsel for respondent manifested that he will not present any evidence.[31]

After the filing of the Memorandum for the Petitioner on October 14, 2019,[32] and the Memorandum for Respondent on October 18, 2019,[33] the case was submitted for decision on November 7, 2019.[34]

THE ISSUES

The parties stipulated the following issues[35] for resolution:

(1) Is the petitioner liable to pay deficiency income tax as an exempt membership organization not organized for profit under Section 30(F) of the NIRC of 1997, amended?

(2) Does the disallowance of expenses by respondent in the amount of ₱7,775,415.47 for alleged non-withholding thereof have factual and legal bases?

(3) Is the petitioner liable to pay deficiency VAT amounting to ₱23,359,863.00 pursuant to Section 105 of the NIRC of 1997, as amended?

(4) Is the petitioner liable to pay compromise penalty amounting to ₱40,000.00 pursuant to Sec. 255 of the NIRC of 1997, as amended?

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29 CTA Docket, pp. 551-570.
30 CTA Docket, pp. 626-629.
31 TSN dated July 9, 2019, pp. 15-16.
32 CTA Docket, pp. 635-658.
33 CTA Docket, pp. 659-667.
34 CTA Docket, p. 671.
35 Issues, JSFI, CTA Docket, p. 385.

THE PARTIES' ARGUMENTS

Petitioner argues that the deficiency assessment for income tax, VAT, EWT and compromise penalty issued against it should be cancelled and set aside for want of legal basis.

According to petitioner, as a non-profit business organization that enjoys exemption from income tax under Sec 30(F) of the NIRC of 1997, as amended, it should not be taxed on its receipts, not being income, but rather membership dues, sponsorships from its member companies for the funding of its non-profit projects as stated in its Articles of Incorporation and funds reserved for training. It avers that these amounts are not meant to inure to the benefit of any private individual pursuant to its Articles of Incorporation.

Petitioner claims that it should not be made to suffer the consequences of the failure of the Revenue District Officer to act upon the Application for the issuance of the Tax Exemption Certificate pursuant to Revenue Memorandum Order (RMO) No. 20-2013. Corollary thereto, Section 8 of the said RMO provides that it is only upon the denial of the application shall the applicant be liable for income tax and shall accordingly be assessed for deficiency taxes, inclusive of penalties and interest. In this case, petitioner was assessed prior to the denial of the application. Clearly, this violates the very order issued by respondent himself and is contrary to the principles of law, justice and equity.

Petitioner also contends that its tax-exempt status is derived not from the issuance of the Tax Exemption Certificate but from the very law itself, specifically Section 30(F) of the NIRC of 1997, as amended. The RMO published by the BIR is meant to ensure the monitoring of the said corporations and associations as well as to set out the policies and guidelines in the processing of tax exemption applications and for the revalidation of tax exemption rulings/certificates of corporations and associations listed under Section 30 of the NIRC of 1997, as amended.

Petitioner likewise avers that in view of its status, it should not be held liable to pay VAT on its receipts for the reason that Sections 106 to 108 of the NIRC of 1997, as amended, impose VAT on the gross sales/receipts of goods and/or services, sale or lease of properties in the ordinary course of trade or business. Petitioner claims that it is not engaged in any regular conduct or pursuit of commercial or economic activity nor was it registered for VAT in the subject taxable year of 2013.

Finally, petitioner argues that it is not liable for compromise penalty there being no basis for the imposition thereof since there is no showing of willfulness on the part of petitioner to violate the provisions of the NIRC of 1997, as amended; and there also being no mutual agreement between the parties to serve as a basis for the payment of compromise penalty.

On the other hand, respondent in his Memorandum insists that all presumptions are in favor of the correctness of a tax assessment and that the burden of proof rests upon the party claiming the exemption. In this case, respondent contends that petitioner failed to present sufficient evidence to prove that it is exempted from income tax, VAT and EWT.

THE COURT'S RULING

The Petition for Review was timely filed.

Before delving into the merits of the case, the Court shall first determine the timeliness of the filing of the Petition for Review.

Section 228 of the NIRC of 1997, as amended, provides for the procedure and manner upon which a taxpayer may protest an assessment, viz.:

> "SEC. 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: *Provided, however*, That a preassessment notice shall not be required in the following cases:
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> xxx xxx xxx
>
> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> **Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice.** If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

> Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.
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> **If the protest is denied in whole or in part**, or is not acted upon within one hundred eighty (180) days from submission of documents, **the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision,** or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable." *(Boldfacing supplied)*

Revenue Regulations (RR) No. 12-99, as amended by RR No. 18-13, implements Section 228 of the NIRC of 1997, as amended. Section 3.1.4 thereof provides:

> "3.1.4 **Disputed Assessment**. - The taxpayer or its authorized representative or tax agent may protest administratively against the aforesaid FLD/FAN within thirty (30) days from date of receipt thereof. The taxpayer protesting an assessment may file a written request for reconsideration or reinvestigation defined as follows:
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> (i) **Request for reconsideration** - refers to a plea of re-evaluation of an assessment on the basis of existing records without need of additional evidence. It may involve both a question of fact or of law or both.
>
> (ii) **Request for reinvestigation** - refers to a plea of re-evaluation of an assessment on the basis of newly discovered or additional evidence that a taxpayer intends to present in the reinvestigation. It may also involve a question of fact or of law or both.
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> xxx xxx xxx
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> If the protest is denied, in whole or in part, by the Commissioner's duly authorized representative, the taxpayer may either: (i) appeal to the Court of Tax Appeals (CTA) within thirty (30) days from date of receipt of the said decision; or (ii) elevate his protest through request for reconsideration to the Commissioner within thirty (30) days from date of receipt of the said decision. No request for reinvestigation shall be allowed in administrative appeal and only issues raised in the decision of the Commissioner's duly authorized representative shall be entertained by the Commissioner.

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> **If the protest is not acted upon by the Commissioner's duly authorized representative within one hundred eighty (180) days counted from the date of filing of the protest in case of a request for reconsideration; or from date of submission by the taxpayer of the required documents within sixty (60) days from the date of filing of the protest in case of a request for reinvestigation, the taxpayer may either: (i) appeal to the CTA within thirty (30) days after the expiration of the one hundred eighty (180)-day period;** or (ii) await the final decision of the Commissioner's duly authorized representative on the disputed assessment.
>
> If the protest or administrative appeal, as the case may be, is denied, in whole or in part, by the Commissioner, the taxpayer may appeal to the CTA within thirty (30) days from date of receipt of the said decision. Otherwise, the assessment shall become final, executory and demandable. A motion for reconsideration of the Commissioner's denial of the protest or administrative appeal, as the case may be, shall not toll the thirty (30)-day period to appeal to the CTA. xxx" *(Boldfacing supplied)*

Relatedly, Section 11 of RA No. 1125,[36] as amended, in relation to Section 3(a), Rule 8 of the Revised Rules of the Court of Tax Appeals,[37] provides that a party adversely affected by the inaction of the CIR may appeal to the Court of Tax Appeals (CTA) by a petition for review within thirty (30) days after the expiration of the period fixed by law for the CIR to act on the disputed assessment.

As borne by the records, petitioner filed its protest to the FAN on January 30, 2017 through a Letter dated January 27, 2017, with attached supporting documents, wherein petitioner requested for the reconsideration of the deficiency tax assessments and the subsequent cancellation thereof.[38] Respondent had 180 days from said date or until July 29, 2017 within which to act on petitioner's protest to the FAN.

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[36] SEC. 11, Who may appeal; Mode of Appeal; Effect of Appeal. -Any party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue, the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry or the Secretary of Agriculture or the Central Board of Assessment Appeals or the Regional Trial Courts may file an appeal with the CTA within thirty (30) days after the receipt of such decision or ruling or after the expiration of the period fixed by law for action as referred to in Section 7(a)(2) herein. xxx

[37] SEC. 3. Who may appeal; period to file petition. –
(a) A party adversely affected by a decision, ruling or inaction of the Commissioner of Internal Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of the copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on disputed assessments. In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of taxes.

[38] Exhibit "P-6", BIR Records, pp. 502-512.

Respondent, however, failed to act on petitioner's protest within the 180-day period. Counting 30 days from the lapse of the 180-day period on July 29, 2017, petitioner had until August 28, 2017 within which to file its appeal to the CTA. Thus, the Petition for Review was timely filed on August 25, 2017.[39] Considering that the filing of the Petition for Review was made within the reglementary period to appeal, this Court has jurisdiction to take cognizance of the same.

The Court shall proceed to determine the merits of each assessment item.

I. Income Tax — ₱2,991,967.94

Respondent assessed petitioner of deficiency income tax, inclusive of interest, amounting to ₱4,682,224.90, detailed as follows:

Taxable Income per Return				-
Add: Taxable Income Per Audit	₱	2,197,811.00		
Disallowed expenses due to non-withholding		7,775,415.47	₱	9,973,226.47
Adjusted Taxable Income				9,973,226.47
Income Tax Due				2,991,967.94
Less: Tax Credits/Payments				-
Basic Tax Due				2,991,967.94
Add: 20% interest p.a. from 4/16/2014 to 1/06/2017				1,690,256.96
Total Amount Due			₱	**4,682,224.90**

A. Taxable Income per Audit — ₱2,197,811.00

Respondent's verification disclosed that petitioner failed to establish that its income is exempt from income tax for the latter's failure to present its Tax Exemption Certificate.[40] For this reason, respondent assessed petitioner for deficiency income tax pursuant to the principle that tax exemptions are construed in *strictissimi juris* against the taxpayer and liberally in favor of the government.[41]

Petitioner contends, on the other hand, that it is exempt from income tax as provided under Section 30(F) of the NIRC of 1997, as amended. It avers that during the time of its registration with the BIR in 2006, it was not required to apply for a tax exemption certificate or

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[39] CTA Docket, pp. 10-31.
[40] Details of Discrepancy Attached to the FAN,
[41] Memorandum for Respondent, CTA Docket, p. 665.

BIR ruling.[42] Nevertheless, petitioner filed a request for tax exemption certificate on December 26, 2013[43], but as of the time of the filing of the present Petition for Review, such certificate has not been issued.[44] Petitioner points out that a tax exemption ruling cannot abrogate the exemption which is granted by law, in this case, Section 30(F) of the NIRC of 1997, as amended. Hence, petitioner insists that a certificate of tax exemption is not a condition *sine qua non* for a taxpayer to be entitled to income tax exemption, as the basis of such exemption is the NIRC of 1997, as amended, and not the BIR certificate or ruling.

Section 30(F) of the NIRC of 1997, as amended, and the last paragraph thereof, provide:

> "SEC. 30. **Exemptions from Tax on Corporations**. - The following organizations shall not be taxed under this Title in respect to income received by them as such:
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> x x x x x x x x x
>
> (F) **Business league**, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stock-holder, or individual;
>
> xxx xxx xxx
>
> **Notwithstanding the provisions in the preceding paragraphs, the income of whatever kind and character of the foregoing organizations from any of their properties, real or personal, or from any of their activities conducted for profit regardless of the disposition made of such income, shall be subject to tax imposed under this Code.**" *(Boldfacing supplied)*

Otherwise stated, to be exempt from income tax, the following requirements must be met:

1) The business league, chamber of commerce, or board of trade, is not organized for profit;

2) No part of the net income inures to the benefit of any private stock-holder, or individual; and,

3) The income must not be from any of their properties, real or personal, or from any of their activities conducted for profit.

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[42] Memorandum for Petitioner, CTA Docket, p. 642.
[43] Exhibit "P-33", CTA Docket, pp. 600-607.
[44] Memorandum for Petitioner, CTA Docket, p. 643.

In the case at bar, to prove the first requirement, petitioner submitted in evidence its Certificate of Incorporation, issued by the SEC, with attached Articles of Incorporation (AOI).[45] As stated in the said Articles, the purposes for which petitioner was incorporated are as follows:

"To enhance the following:

- Forums for networking at the national and international levels through call centers;
- Programs for business learning and contact center skills development;
- Advocacy of Contact Center – Outsourced Services Providers' (OSPs), allied industries, vendors and suppliers relative to the purposes of the Association;
- Research on topics of interest to contact center service users and providers;
- Consensus voluntary guidelines for the outsourced contact center services industry;
- Information about global developments in the contact center services industry; and
- Education of the government, the general public and the media to promote the business interests of contact center OSPs and their strong commitment to customer service and satisfaction."[46]

The petitioner's AOI likewise provides that no part of the income that petitioner may obtain as an incident to its operation shall be distributed as dividends to its members, trustees or offices, subject to the provisions of the Corporation Code on dissolution, and any profit obtained by petitioner as a result of its operation shall be used for the furtherance of the purposes for which petitioner was incorporated.[47]

Based on the foregoing, petitioner falls under the category of "business league, chamber of commerce, or board of trade" which is not organized for profit and whose income does not inure to the benefit of any private stockholder as its AOI expressly prohibits the declaration of any dividends, but only allows the use of petitioner's income for the furtherance of its purposes.

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[45] Exhibit "P-1", CTA Docket, p. 571.
[46] Exhibit "P-1-a", CTA Docket, p. 573.
[47] Exhibit "P-1-a", CTA Docket, p. 576.

Thus, the Court finds merit in petitioner's argument that the absence of a Tax Exemption Certificate does not operate to divest a taxpayer of the exemption that is specifically granted under the law.

In *Republic of the Philippines vs. Sunlife Assurance Company of Canada*,[48] the Supreme Court ruled that a memorandum circular issued by the BIR "cannot add a registration requirement, when there is none under the law to begin with." Section 30 of the NIRC of 1997, as amended, does not provide that a "business league, chamber of commerce, or board of trade" should have first secured a Tax Exemption Certificate issued by the BIR for such entity to be considered exempt from income tax. Hence, even if petitioner has not secured a Tax Exemption Certificate from respondent, such shall not operate to remove the income tax exemption which is granted by law. The Tax Exemption Certificate should merely operate to confirm the entitlement of petitioner to income exemption but the basis of the entitlement thereto is not such Tax Exemption Certificate but Section 30 of the NIRC of 1997, as amended, itself.

While petitioner is classified as a business league, falling within the ambit of Section 30(F) of the NIRC of 1997, as amended, it does not necessarily follow that petitioner may not be held liable for income tax. Pursuant to the last paragraph of Section 30(F), any income derived by petitioner from its real or personal properties, or from any activities conducted for profit regardless of the disposition made, shall be subject to tax.

The last paragraph of Section 30(F) of the NIRC of 1997, as amended, was clarified by the BIR in Revenue Memorandum Circular (RMC) No. 76-2003 dated November 14, 2003, as follows:

> "Organizations enumerated under Section 30 of the Tax Code of 1997 are exempt from the payment of income tax on income received by them as such organization.
>
> However, they are subject to the corresponding internal revenue taxes imposed under the Tax Code of 1997 on their income derived from any of their properties, real or personal, or any activity conducted for profit regardless of the disposition thereof (i.e. rental payment from their building/premises), which income should be returned for taxation."

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[48] G.R. No. 158085, October 14, 2005.

In *Commissioner of Internal Revenue vs. De La Salle University, Inc.*,[49] the Supreme Court clarified that pursuant to the last paragraph of Section 30 of the NIRC of 1997, as amended, the source of income is a factor in determining whether such income derived by a business league, chamber of commerce, or board of trade, is exempt from tax or not.

Indubitably, apart from proving that it is included in the enumeration in Section 30 of the NIRC of 1997, as amended, an entity which claims the benefit of income tax exemption must likewise establish that its income is **not** derived from any of its properties, real or personal, or any activity conducted for profit, regardless of the disposition thereof.

Tax exemptions are construed strictly against the one invoking such exemption, and the burden of proof rests upon the party claiming the exemption to prove that it is, in fact, covered by the exemption so claimed.[50] Thus, the burden of proof lies with petitioner to show that the income subject of the assessment was not sourced from its real or personal properties, or from any profit-generating activity. Absent such proof, the assessment made by respondent shall be upheld because tax assessments are presumed correct and made in good faith, and all presumptions are in favor of the correctness of a tax assessment unless proven otherwise.[51]

In this case, petitioner has proved that it is a "business league, chamber of commerce, or board of trade" that falls under Section 30(F) of the NIRC, as amended. Notwithstanding such fact, however, petitioner failed to discharge its burden of proof that the income being assessed by respondent was **not** derived from its real or personal properties, or from any activity conducted for profit, regardless of the disposition thereof. The Court is constrained to sustain the assessment made by respondent as it is presumed correct and made in good faith.

Thus, the assessment of taxable income per audit in the amount of ₱2,197,811.00 is upheld.

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[49] G.R. Nos. 196596, 198841 and 198941, November 9, 2016.
[50] *Philippine Amusement and Gaming Corp. vs. Bureau of Internal Revenue*, G.R. No. 172087, March 15, 2011.
[51] *Commissioner of Internal Revenue vs. Gonzalez*, G.R. No. 177279, October 13, 2010.

B. Disallowed expenses due to non-withholding — ₱7,775,415.47

The other item of assessment is sourced from the non-withholding of expenses amounting to ₱7,775,415.47. Finding that petitioner failed to withhold EWT on certain income payments, respondent disallowed the said amount, computed below, as deductions from petitioner's gross income pursuant to Section 34(K) of the NIRC of 1997, as amended:

	Amount
Income Payments Per ITR/FS	₱11,378,185.93
Income Payments per 1601E	3,602,770.46
Discrepancy	₱ 7,775,415.47

Petitioner submits that the assessment on the income payments subject to EWT has no basis in law because it presumed that the entire expenses under the International Contact Center Conference & Expo (ICCCE) Expense account are all subject to withholding tax. Petitioner further submits that RR No. 02-98, as amended, identifies which income payments are subject to withholding taxes. Petitioner maintains that the expenses included in the ICCCE Expense account are not subject to withholding, being miscellaneous expenses, giveaways, supplies and materials and the like, thus, the assessment for deficiency expanded withholding taxes is capricious, arbitrary and without factual and legal bases.[52]

The Court notes that deficiency EWT assessment amounting to ₱155,508.31 resulted from respondent's finding that there were income payments made by petitioner that were not subjected to EWT as required under Section 2.57.2 of RR No. 02-98, as amended, computed as follows:

	Amount
Income Payments Per ITR/FS	₱11,378,185.93
Income Payments per 1601E	3,602,770.46
Discrepancy	₱7,775,415.47
x EWT rate	2%
EWT due	₱155,508.31

Petitioner disclosed a total expenses of ₱11,378,185.93 under "ICCCE Expenses" account in its Audited Financial Statements[53] and

[52] CTA Docket, p. 23.
[53] Annex "G", CTA Docket, p. 82.

in its Annual ITR for the taxable year ended December 31, 2013. Out of this amount, certain expenses amounting to ₱8,307,859.35, as shown in the Schedule of Vouched Purchases Lodged to ICCCE Expense Account,[54] were verified by the ICPA, Ms. Ma. Criselda S. Oplas, and found the same to be substantiated. This resulted to an unaccounted difference of ₱3,070,859.35, computed as follows:

Exhibit No.	Description	Amount
P-26	ICCCE Expense in Audited Financial Statement for TY2013	₱11,378,185.93
P-30	Schedule of Vouched Purchases Lodged to ICCCE Expense Account	8,307,326.58
Unaccounted Difference		₱3,070,859.35

As for the unaccounted difference, the ICPA cannot confirm whether or not these expenses have been subjected to proper withholding tax. Considering that tax assessments are presumed correct and in good faith,[55] and for failure of petitioner to substantiate the unaccounted difference, the disallowance in the amount of ₱3,070,859.35 is sustained.

On the other hand, the ICCCE expenses with supporting documents amounting to ₱8,307,326.58 were classified by the ICPA based on the nature of the transactions, summarized as follows:

Exhibit No.	Nature of Transactions	Amount
P-31	Purchase of Goods	₱508,965.01
P-32	Purchase of Services	
P-32-a	Reimbursement	801,768.54
P-32-b	Rental	516,678.40
P-32-c	Honorarium	110,000.00
P-32-d	Gift Certificates	238,000.00
P-32-e	Printing	50,000.00
P-32-f	Hotel Accommodation	3,787,701.39
P-32-g	Professionals	83,000.00
P-32-h	Others	2,211,213.24
Total		₱8,307,326.58

[54] ICPA Report Exhibit No. "P-30"
[55] CIR v. Gonzalez, G.R. No. 177279, October 13, 2010.

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a) Purchase of Goods – ₱508,965.01

The ICPA noted in her Report that a total of ₱508,965.01 pertained to the purchase of goods made by petitioner. However, upon evaluation of the evidence presented, only the following expenses have been properly substantiated which pertain to purchase of goods, as follows:

Exhibit No.	Supplier	Gross Amount
P-31-a	Sylphide Corporation	₱32,000.00
P-31-b	Chase Technologies Corporation	13,380.00
P-31-c	Chase Technologies Corporation	13,380.00
P-31-e	Pink Flora Flower Shop	57,680.00
P-31-f	Promo Lines Enterprises	104,000.00
P-31-g	Promo Lines Enterprises	104,000.00
P-31-h	Sylphide Corporation	63,450.00
P-31-i	Sylphide Corporation	63,450.00
Total		₱451,340.00

The report of the ICPA showed that it applied a 0% EWT rate for this item of assessment, signifying that purchase of goods is not subject to EWT. This finding by the ICPA is appropriate.

Income payments made by top withholding agents to their local/resident suppliers of goods other than those covered by other rates of withholding tax is subject to EWT. No evidence was however offered to show that petitioner is a large taxpayer or one belonging to the top 20,000 corporations required to withhold 1% or 2% for every purchase of goods as provided under Section 2.57.2(I) of RR No. 2-98, as amended. This was likewise observed by the ICPA in her Report.[56] On this basis, the Court holds that petitioner is not required to withhold taxes on its payments for purchases of goods in the total substantiated amount of ₱451,340.00.

The Court finds that this item of assessment should be cancelled.

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[56] ICPA Report, p. 2.

b) Reimbursement – ₱801,768.54

The ICPA found that a total of ₱801,768.54 pertained to reimbursement in connection with ICCCE expenses, broken down as follows:

Exhibit No.	Supplier	Gross Amount
P-32-a-1	Joselito Uligan	₱ 50,000.00
P-32-a-2	Joselito Uligan	1,461.25
P-32-a-3	Philippine Airlines	7,921.00
P-32-a-4	Philippine Airlines	7,921.00
P-32-a-5	Philippine Airlines	7,921.00
P-32-a-6	Philippine Airlines	15,842.00
P-32-a-7	Philippine Airlines	7,921.00
P-32-a-8	Cebu Pacific	21,811.04
P-32-a-9	Philippine Airlines	2,921.00
P-32-a-10	Philippine Airlines	448.00
P-32-a-11	Property Specialist Resources, Inc.	19,600.00
P-32-a-12	Green Apple Business Venture Inc.	2,429.11
P-32-a-13	Philippine Airlines	7,921.00
P-32-a-14	Philippine Airlines	7,921.00
P-32-a-15	Philippine Airlines	23,763.00
P-32-a-16	Benedict Hernandez	7,751.72
P-32-a-17	Louie Hernandez	7,751.72
P-32-a-18	DL Media Focus International Inc.	600,463.70
Total		**₱ 801,768.54**

Upon evaluation, however, only the amount of ₱19,600.00 pertaining to payment to Property Specialist Resources, Inc. was found to be properly substantiated. The rest of the payments, except for the payment made to DL Media Focus International, Inc., which did not comply with the substantiation requirements were added to the Unaccounted Expenses found by ICPA to arrive at the total unaccounted expenses for the period. While the payment made to DL Media Focus International, Inc., amounting to ₱600,463.70, was included in the computation under "i) Others - ₱2,211,213.24" to better reflect the classification of expenses.

It must be noted that reimbursement of expenses is not within the scope of Section 2.57.2 of RR No. 02-98, as amended. Mere reimbursement of actual expenses/costs without any mark-up or profit element do not constitute income payments and are, therefore, not subject to income tax and consequently, to withholding tax. [57] It has

[57] *Philippine Securities Settlement Corp. vs. CIR*, CTA Case No. 9058, August 15, 2018, *citing* BIR Ruling Nos. UN262-95 dated July 11, 1995; UN245-95 dated July 5, 1995; 1-90 dated January 4, 1990; 345-88 dated July 20, 1988; 202-81dated October 22, 1981 and 061-79 dated July 23, 1979.

likewise been held that by its very nature, reimbursement of expenses is not income but mere return of capital. Hence, this item of assessment to the extent of ₱19,600.00 is cancelled. The rest of the payments, amounting to ₱782,168.54, are sustained by the Court but transferred to their proper classification.

c) Rental – ₱516,678.40

Section 2.57.2(C)(1) and (2) of RR No. 02-98, as amended, prescribes the withholding of 5% tax on rentals of real properties used in business and rentals of personal properties in excess of ₱10,000.00 annually, to wit:

> "Sec. 2.57.2. Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:
>
> xxx xxx xxx
>
> (C) Rentals
>
> (1) Real properties. – On gross rental for the continued use or possession of real property used in business which the payor or obligor has not taken or is not taking title, or in which he has no equity – Five percent (5%);
>
> (2) Personal properties. – On gross rental of lease in excess of ₱10,000.00 per payment for the continued use or possession of personal property used in business which the payor or obligor has not taken or is not taking title, or in which he has no equity which include, but not limited to the following: land transport equipment, water transport equipment, air transport equipment, industrial equipment, commercial equipment, scientific equipment, agricultural machinery and equipment, construction/civil engineering machinery and equipment, telecommunication equipment, office furniture/machines/equipment, main frame computer and all other computer machines/equipment, materials handling equipment and auxiliary equipment – Five (5%);
>
> However, the Ten Thousand Pesos (₱10,000.00) threshold shall not apply when the accumulated gross rental or lease paid by the lessee to the same lessor exceeds or is reasonably expected to exceed P10,000.00 within the year. In which case, the lessee shall withhold five percent (5%) withholding tax on the entire amount."

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The ICPA provided a breakdown of the rental expenses. Upon evaluation of the supporting documents, the Court finds that the rental expenses pertain to rentals of audio-visual equipment and booth shells, detailed as follows:

Exhibit No.	Supplier	Gross Amount
P-32-b-1	Microdata Systems and Management Inc.	₱ 187,500.00
P-32-b-2	Microdata Systems and Management Inc.	187,500.00
P-32-b-3	Exist Exhibit Systems Technology Corp.	141,678.40
Total		₱ 516,678.40

Petitioner failed, however, to offer any evidence to prove that the said rental expenses have been properly subjected to withholding tax. Hence, this item of assessment is sustained.

d) Honorarium – ₱110,000.00

Section 2.57.2(A) of RR No. 02-98, as amended, imposes 10% or 15% on payments for professional fees as follows:

> "Sec. 2.57.2. Income payments subject to creditable withholding tax and rates prescribed thereon. – xxx
>
> (A) Professional fees, talent fees, etc., for services rendered by individuals. – On the gross professional, promotional and talent fees or any other form of remuneration for the services of the following individuals – Fifteen percent (15%), if the gross income for the current year exceeds P720,000; and Ten percent (10%), if otherwise;
>
> xxx."

The ICPA found that these pertain to payments to the following:

Exhibit No.	Supplier	Gross Amount
P-32-c-1	Federico Hizon	₱ 100,000.00
P-32-c-2	Francis Kong	10,000.00
Total		₱ 110,000.00

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As found by the ICPA, these payments should have been subjected to 15% withholding tax. The submitted evidence consists only of the check vouchers used for the payment of said individuals. Petitioner failed to adduce any evidence that would substantiate said expenses, and to prove the fact that they have been subjected to proper withholding of taxes. Hence, this item of assessment is upheld.

e) Gift Certificates – ₱238,000.00

The ICPA found that the total amount of ₱238,000.00 pertained to the purchase of gift certificates, broken down as follows:

Exhibit No.	Supplier	Gross Amount
P-32-d-1	Edsa Shangri-La Hotel and Resort Inc.	₱ 119,000.00
P-32-d-2	Edsa Shangri-La Hotel and Resort Inc.	119,000.00
Total		₱ 238,000.00

It must be noted that purchase of gift certificates does not fall under any of the items of income payments enumerated in Section 2.57.2 of RR No. 02-98, as amended; thus, the same is not subject to withholding tax. Hence, this item of assessment is cancelled and set aside.

f) Printing – ₱50,000.00

Section 2.57.2(E) of RR No. 02-98, as amended, imposes a 2% withholding tax on payments to printers which are not those principally engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals, with fixed prices for subscription and sale, as follows:

> "Sec. 2.57.2. Income payments subject to creditable withholding tax and rates prescribed thereon. – xxx
>
> (E) Income payments to certain contractors – on gross payments to the following contractors, whether individual or corporate – *Two percent (2%)* –
>
> (1) General engineering contractor
>
> xxx xxx xxx
>
> (4) Other contractors –

OM

(a) xxx

xxx xxx xxx

(f) Printers, bookbinders, lithographers and publishers except those principally engaged in the publication or printing of any newspaper, magazine, review or bulletin which appears at regular intervals, with fixed prices for subscription and sale;

xxx xxx xxx."

The ICPA found that there was a ₱50,000.00 payment to G.A. Printing, Inc.[58] for the printing of brochures which was not subjected to 2% EWT. For petitioner's failure to adduce evidence to show that this expense was subjected to proper withholding tax, this item of assessment is sustained.

g) Hotel Accommodation – ₱3,787,701.39

The ICPA found that among the expenses disallowed were payments for hotel accommodation in the total amount of ₱3,787,701.39, as follows:

Exhibit No.	Supplier	Gross Amount
P-32-f-1	Shangri-La's Mactan & Resort	₱ 1,262,567.13
P-32-f-2	Shangri-La's Mactan & Resort	1,262,567.13
Total		₱ 2,525,134.26

It must be noted that payments for hotel accommodation is not among those items of income payments enumerated in Section 2.57.2 of RR No. 02-98, as amended, thus, it is not subject to withholding tax. Hence, this item be cancelled and set aside.

h) Professionals – ₱83,000.00

The ICPA found that a total of ₱83,000.00 were incurred by petitioner as payment to professionals, as follows:

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[58] Exhibit "P-32-e-1".

Exhibit No.	Supplier	Gross Amount
P-32-g-1	Gahte Navarro Photography	₱ 45,000.00
P-32-g-2	SanDiego Dance Arts Studio	38,000.00
Total		₱ 83,000.00

Under Section 2.57.2(A) of RR No. 02-98, as amended, income payments to professionals are subject to 15% or 10% withholding tax. Here, petitioner failed to adduce evidence that the income payments on the above professionals were subjected to the proper withholding tax. Hence, this item of assessment is sustained.

i) Others – ₱2,211,213.24

The ICPA found that there were unaccounted expenses that were not subjected to EWT, all of which pertained to payments to a certain contractor in the total amount of ₱2,211,213.24. However, upon evaluation of the evidence presented, the total payments to said contractor is actually ₱2,811,676.94, as follows:

Exhibit No.	Supplier	Gross Amount
P-32-h-1	DL Media Focus International Inc.	₱ 1,292,940.24
P-32-h-2	DL Media Focus International Inc.	500,000.00
P-32-h-3	DL Media Focus International Inc.	350,000.00
P32-h-4	DL Media Focus International Inc.	68,273.00
P-32-a-18	DL Media Focus International Inc.	600,463.70
Total		₱ 2,811,676.94
Less:	Payment already subjected to EWT (agency fee)	₱ 1,292,940.24
Net amount subject to EWT		₱ 1,518,736.70

Review of the petitioner's Profit and Loss Report for ICCCE 2013[59] disclosed that the payment to abovementioned contractor amounting to ₱1,292,940.24 was part of the ₱2,548,450.68 which represents the agency fee and net income share of DL Media Focus International Inc. The amount of ₱2,548,450.68 was subjected to 2% EWT as shown in the Alphalist.[60]

Other than the breakdown of the expenses allegedly claimed as reimbursements not subject to withholding tax, petitioner failed to present documents to prove that the proper withholding of taxes has been withheld. Without the corresponding invoices and/or official

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[59] Exhibit "P-32-h-1", pp. 4-5
[60] Annex "H-11", CTA Docket, p. 120

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receipts, the Court cannot ascertain the actual nature of the assessed expenses and the taxability of the same. Thus, the Court finds that respondent was correct in subjecting to 2% EWT the income payments amounting to ₱1,518,736.70.

Moreover, a review of the submitted evidence shows that petitioner failed to substantiate certain expenses as provided under Section 34(A)(1)(b) of the NIRC of 1997, as amended, *viz.*:

Unaccounted Expenses per ICPA				₱3,070,859.35
Add:		Reason for Disallowance		
P-31-d	Sheentrade Marketing	No invoice/OR	₱ 54,500.00	
P-31-j	M.M. Yamat Motorist's Center	Not readable	3,125.01	
P-32-a-1	Joselito Uligan	Petitioner not named in OR; other invoice/OR not readable	50,000.00	
P-32-a-2	Joselito Uligan	Petitioner not named in OR; other invoice/OR not readable	1,461.25	
P-32-a-3	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-4	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-5	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-6	Philippine Airlines	Petitioner not named in OR	15,842.00	
P-32-a-7	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-8	Cebu Pacific	Petitioner not named in OR	21,811.04	
P-32-a-9	Philippine Airlines	Petitioner not named in OR	2,921.00	
P-32-a-10	Philippine Airlines	Petitioner not named in OR	448	
P-32-a-12	Green Apple Business Venture INC	Petitioner not named in OR	2,429.11	
P-32-a-13	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-14	Philippine Airlines	Petitioner not named in OR	7,921.00	
P-32-a-15	Philippine Airlines	Petitioner not named in OR	23,763.00	
P-32-a-16	Benedict Hernandez	No invoice/OR	7,751.72	
P-32-a-17	Louie Hernandez	No invoice/OR	7,751.72	
P-32-f-3	Shangri-La's Mactan & Resort	No invoice/OR	1,262,567.13	₱1,501,896.98
Total unaccounted expenses				₱4,572,756.33

In sum, the total disallowed expenses due to non-withholding amounted to ₱6,851,171.43, computed as follows:

Exhibit No.	**Nature of Transactions**	**Amount**
P-32-b	Rental	₱ 516,678.40
P-32-c	Honorarium	110,000.00
P-32-e	Printing	50,000.00
P-32-g	Professionals	83,000.00
P-32-h	Others	1,518,736.70
Add: Unaccounted Expenses, as adjusted		4,572,756.33
Total Disallowed Expenses due to Non-withholding		₱ 6,851,171.43

In view of the foregoing, the assessment for basic deficiency income tax for 2013 stands at ₱2,714,694.73, computed as follows:

Taxable Income per Return		-
Add: Taxable Income Per Audit	₱ 2,197,811.00	
Disallowed expenses due to non-withholding	6,851,171.43	₱ 9,048,982.43
Adjusted Taxable Income		9,048,982.43
Income Tax Due		2,714,694.73
Less: Tax Credits/Payments		-
Basic Tax Due		**₱ 2,714,694.73**

II. Value-Added Tax – ₱2,803,183.56

Verification by respondent found that certain receipts by petitioner were not subjected to VAT, as follows:

Sales/Receipts per ITR	₱23,359,863.00
Less: Sales/Receipts per VAT Returns	0.00
Undeclared Sales/Receipts	₱23,359,863.00
VAT rate	12%
VAT Deficiency	₱2,803,183.56

Petitioner contends that it is not liable to pay VAT since its receipts are not derived in the course of its trade or business. It argues that petitioner is not engaged in any trade or business as petitioner neither sells any goods or properties, nor renders, any services, thus, it is not subject to VAT.[61] Petitioner posits that the amounts it received are held solely for the purpose of funding its projects in accordance with its purposes and no part thereof inured to the benefit of petitioner or any of its officers.[62]

Section 105 of the NIRC of 1997, as amended, states:

> "Sec. 105. *Persons Liable.* – Any person who, in the course of trade or business, sells, barters, exchanges, leases goods or properties, renders services, and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 106 to 108 of this Code.
>
> xxx xxx xxx

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[61] Memorandum for Petitioner, CTA Docket, p. 651.
[62] *Id.*

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> The phrase "*in the course of trade or business*" means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person **regardless of whether or not the person engaged therein is a nonstock, nonprofit private organization** (irrespective of the disposition of its net income and whether or not it sells exclusively to its members or their guests), or government entity." (*Boldfacing Supplied.*)

Pertinent thereto, Section 4.109-1(B)(v) of RR 16-2005, as amended by RR 16-2011, provides:

> "Sec. 4.109-1. VAT Exempt Transactions. –
>
> (A) xxx
>
> (B) Exempt transactions. –
>
> (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from VAT:
>
> xxx xxx xxx
>
> (v) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount of One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (₱1,919,500.00); *Provided*, That every three (3) years thereafter, the amount shall be adjusted to its present value using the Consumer Price Index, as published by NSO; Provided, further, that such adjustment shall be published through revenue regulations to be issued not later than March 31 of each year;
>
> For purposes of the threshold of ₱1,919,500.00, the husband and the wife shall be considered separate taxpayers. However, the aggregation rule for each taxpayer shall apply. For instance, if a professional, aside from the practice of his profession, also derives revenue from other lines of business which are otherwise subject to VAT, the same shall be combined for purposes of determining whether the threshold has been exceeded. Thus, the VAT-exempt sales shall not be included in determining the threshold."

Also, Sec. 9.236-1 of RR No. 16-2005, as amended, provides for the mandatory registration of VAT taxpayers, viz:

> "Sec. 9.236-1. Registration of VAT Taxpayers. –
> (a) In general. – xxx
>
> (b) Mandatory:

> Any person who, in the course of trade or business, sells barters or exchanges goods or properties or engages in the sale or exchange of services shall be liable to register if:
>
> i. His gross sales or receipts for the past twelve (12) months, other than those that are exempt under Sec. 109(1)(A) to (U) of the Tax Code, have exceeded One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (₱1,919,500.00); or
>
> ii. There are reasonable grounds to believe that his gross sales or receipts for the next twelve (12) months, other than those that are exempt under Sec. 109(1)(A) to (U) of the Tax Code, will exceed One Million Nine Hundred Nineteen Thousand Five Hundred Pesos (₱1,919,500.00)."

While petitioner was able to prove that it is a "business league, chamber of commerce, or board of trade" that falls under Section 30(F) of the NIRC, as amended, it failed to discharge its burden of proof that its receipts were derived solely from the mandatory contributions of its members for its operating expenses, and not from rendering services in the course of trade or business.

Petitioner's comparative financial statements[63] disclose that for taxable year 2012, the total receipts of petitioner amounted to ₱9,793,046.02, which is well beyond the VAT threshold of ₱1,919,500.00 provided under Section 9.236-1 of RR No. 16-2005, as amended. Despite having exceeded the VAT threshold for the past twelve (12) months, petitioner failed to register as a VAT taxpayer and still issued non-VAT receipts during taxable year 2013. Petitioner admitted this fact when it averred that it only updated its VAT registration with the BIR in January 2014.[64]

Further evaluation of the transactions of petitioner shows that out of the total reported receipts in the ITR for the taxable year 2013, official receipts amounting to ₱7,994,796.57 were vouched by the ICPA, leaving unaccounted receipts amounting to ₱15,365,066.43, as follows:

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[63] Exhibit "P-8", CTA Docket, pp. 592-599.
[64] Memorandum for Petitioner, CTA Docket, pp. 652-653.

Exhibit No.	Particulars	Amount
P-26	Receipts per AFS/ITR	₱23,359,863.00
P-34	Schedule of Vouched Official Receipts Not Void	7,999,796.57[65]
Unaccounted Receipts		₱15,360,066.43

Thus, for petitioner's failure to substantiate the unaccounted receipts in the amount of ₱15,360,066.43, respondent's deficiency VAT assessment representing such amount is sustained.

On the accounted receipts of petitioner, the ICPA was able to classify each receipt based on the examination of the official receipts submitted by petitioner, as follows:

Exhibit No.	Particulars	Amount
P-34-a	Annual Membership	₱1,533,750.00
P-34-b	Registration	1,171,981.80
P-34-c	Sponsorships	4,943,650.04
P-34-d	Other Collection	345,414.73
Total		₱7,994,796.57

a) Annual Membership - ₱1,533,750.00

Review of the evidence presented by petitioner shows that receipts sourced from membership fees substantiated by valid official receipts amounted to ₱1,115,750.00, computed below:

Exhibit No.	OR No.	Payor	Gross Amount
P-34-a-1	524	Citibank	₱75,000.00
P-34-a-2	525	IBM	75,000.00
P-34-a-3	529	KGB Philippines Inc.	73,500.00
P-34-a-4	528	Startek Philippines Inc	75,000.00
P-34-a-5	602	I-Tech Global Business Solutions	75,000.00
P-34-a-6	599	IPP Technologies	37,500.00
P-34-a-7	535	Philippine Interactive Audiotext Services, Inc.	73,500.00
P-34-a-9	603	East & West Center of Excellence in Training	75,000.00
P-34-a-10	608	E-Trade Information Services, LLC	75,000.00
P-34-a-11	609	Startek Philippines Inc.	75,000.00
P-34-a-12	614	Collabera	75,000.00
P-34-a-13	612	US Autoparts Networks Phils Corp.	75,000.00
P-34-a-14	616	E-Business BPO Inc.	31,250.00
P-34-a-15	501	Divine Care Inc.	75,000.00
P-34-a-16	618	Vcostumer Philippines Inc.	75,000.00

[65] ₱7,994,796.57 + ₱5,000 (discrepancy of ₱5,000 attributable to error; instead of ₱50,000 receipt from C.H. Pena, only ₱45,000 was noted by the ICPA)

P-34-a-17	622	Pacific Hubs Corporation	75,000.00
Total			**₱1,115,750.00**

Petitioner offered in evidence Exhibits "P-36-a" to "P-36-c" to show the nature of its operations, membership, list of officers, company background, qualifications and requirements for membership, and how to apply membership to the association. Said evidence disclosed that the entrance fee collected from prospective members is ₱75,000, inclusive of one (1) year subscription fee and granting of full membership while the succeeding annual subscription fee is also ₱75,000.00.

In *Association of Non-Profit Clubs, Inc. vs. Bureau of Internal Revenue*,[66] the Supreme Court ruled that:

> "The distinction between "capital" and "income" is well-settled in our jurisprudence. As held in the early case of *Madrigal v. Rafferty*, "capital" has been delineated as a "fund" or "wealth," as opposed to "income" being "the flow of services rendered by capital" or the "service of wealth":
>
>> Income as contrasted with capital or property is to be the test. The essential difference between capital and income is that capital is a fund; income is a flow. A fund of property existing at an instant of time is called capital. A flow of services rendered by that capital by the payment of money from it or any other benefit rendered by a fund of capital in relation to such fund through a period of time is called income. Capital is wealth, while income is the service of wealth. (See Fisher, "The Nature of Capital and Income.") The Supreme Court of Georgia expresses the thought in the following figurative language: "The fact is that property is a tree, income is the fruit; labor is a tree, income the fruit; capital is a tree, income the fruit." (Waring vs. City of Savannah [1878], 60 Ga., 93.) A tax on income is not a tax on property. "Income," as here used, can be defined as "profits or gains." (London County Council vs. Attorney -General [1901], A. C., 26; 70 L. J. K. B. N. S., 77; 83 L. T. N. S., 605; 49 Week. Rep., 686; 4 Tax Cas., 265. See further Foster's Income Tax, second edition [1915], Chapter IV; Black on Income Taxes, second edition [1915], Chapter VIII; Gibbons vs. Mahon [1890], 136 U.S., 549; and Towne vs. Eisner, decided by the United States Supreme Court, January 7, 1918.)

[66] G.R. No. 228539, June 26, 2019.

In *Conwi v. Court of Tax Appeals*, the Court elucidated that "income may be defined as an amount of money coming to a person or corporation within a specified time, whether as payment for services, interest or profit from investment. Unless otherwise specified, it means cash or its equivalent. Income can also be thought of as a flow of the fruits of one's labor."

As correctly argued by ANPC, **membership fees, assessment dues, and other fees of similar nature only constitute contributions to and/or replenishment of the funds for the maintenance and operations of the facilities offered by recreational clubs to their exclusive members. They represent funds "held in trust" by these clubs to defray their operating and general costs and hence, only constitute infusion of capital.**

Case law provides that in order to constitute "income," there must be realized "gain." Clearly, because of the nature of membership fees and assessment dues as funds inherently dedicated for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, nothing is to be gained from their collection. This stands in contrast to the fees received by recreational clubs coming from their income-generating facilities, such as bars, restaurants, and food concessionaires, or from income-generating activities, like the renting out of sports equipment, services, and other accommodations: In these latter examples, regardless of the purpose of the fees' eventual use, gain is already realized from the moment they are collected because capital maintenance, preservation, or upkeep is not their pre-determined purpose. As such, recreational clubs are generally free to use these fees for whatever purpose they desire and thus, considered as unencumbered "fruits" coming from a business transaction.

Further, **given these recreational clubs' non-profit nature, membership fees and assessment dues cannot be considered as funds that would represent these clubs' interest or profit from any investment**. In fact, these fees are paid by the clubs' members without any expectation of any yield or gain (unlike in stock subscriptions), but only for the above-stated purposes and in order to retain their membership therein.

In fine, **for as long as these membership fees, assessment dues, and the like are treated as collections by recreational clubs from their members as an inherent consequence of their membership, and are, by nature, intended for the maintenance, preservation, and upkeep of the clubs' general operations and facilities, then these fees cannot be classified as "the income of recreational clubs from whatever source" that are "subject to income tax." Instead, they only form part of capital from which no income tax may be collected or imposed.**

xxx xxx xxx

As ANPC aptly pointed out, **membership fees, assessment dues, and the like are not subject to VAT because in collecting**

> **such fees, the club is not selling its service to the members. Conversely, the members are not buying services from the club when dues are paid; hence, there is no economic or commercial activity to speak of as these dues are devoted for the operations/maintenance of the facilities of the organization.** As such, there could be no "sale, barter or exchange of goods or properties, or sale of a service" to speak of, which would then be subject to VAT under the 1997 NIRC." (*Boldfacing supplied.*)

A business league, chamber of commerce, or board of trade formed not for profit and for which no part of its income inures to the benefit of any private stockholder or officer, and which receives membership fees for the purpose of furthering the objectives of the association, is similarly situated with a recreational club or a condominium corporation. The membership dues received by such trade association, which is held in trust and used for the furtherance of the purposes for which the association was incorporated, constitutes capital and not income. It cannot, therefore, be considered as a sale, barter or exchange of goods or properties, or sale of service, in the ordinary course of trade of business, subject to VAT, as the primary purpose of exacting membership fees is to support the administrative operations of the association in the furtherance of the purposes for which it was formed.

Here, the membership fees were sourced from the members of petitioner, and used for the purposes for which it was formed. As pointed out by petitioner: "The amounts received, which mainly are membership dues, sponsorship fees, and training funds, are held solely for the purpose of funding the projects of the Petitioner in accordance with its purposes, for its members, xxx and no part of such receipts inured to the benefit of the Petitioner or any of its officers."[67] Thus, the membership fees received by petitioner in the amount of ₱1,115,750.00 are considered exempt from VAT. Consequently, the assessment in the said amount is cancelled and set aside.

b) Registration - ₱1,171,981.80

The ICPA found that a total of ₱1,171,981.80 pertained to receipts from registration fees collected from **non-members** in relation to the conduct of petitioner's events. Upon evaluation of the evidence presented, the amount of ₱727,061.80 is found to be supported by official receipts, computed below:

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[67] Memorandum for Petitioner, CTA Docket, p. 651.

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Exhibit No.	OR No.	Payor	Gross Amount
P-34-b-1	540	Talleco	₱7,200.00
P-34-b-2	539	Talleco	28,800.00
P-34-b-3	502	Jebsen & Jessen Communication Inc.	8,000.00
P-34-b-4	503	Universaltech Inc.	4,900.00
P-34-b-5	504	Helicon Technology Inc.	25,000.00
P-34-b-6	505	Jones Lang Lasalle Philippine Inc.	34,400.00
P-34-b-7	513	Fperformax Contact Center (Cebu) Corp.	41,160.00
P-34-b-8	514	Sutherland Global Service	54,000.00
P-34-b-9	515	Innovathink Corporation	9,600.00
P-34-b-10	555	Olivia Piranide	5,600.00
P-34-b-11	556	Vilma Lastimosa - AMA- Cebu/Mabolo	7,000.00
P-34-b-12	557	Cheryl Ann Cabarubias - LCI Solutions - Cebu Inc.	12,000.00
P-34-b-13	558	Alin Adrian Florea - LCI Solutions - Cebu Inc.	12,000.00
P-34-b-14	559	Marfr Herdry	12,513.20
P-34-b-15	560	Heryanto Almadja	12,513.20
P-34-b-16	561	Rico Pelaez * CCA rate c/o Sir Ben	8,000.00
P-34-b-17	562	Thien Nguyen	12,513.20
P-34-b-18	563	Hoai Pham	16,982.20
P-34-b-19	564	Jebsen & Jebsen	11,200.00
P-34-b-20	565	Amber Douglas	11,200.00
P-34-b-21	567	Paul Albert Santos - Teledatacom	11,200.00
P-34-b-22	568	Paul Alber Santos - Delegate Teledatacom Phils.	8,000.00
P-34-b-23	569	Rayson Ng	9,600.00
P-34-b-24	570	Tritel Communications Inc.	9,600.00
P-34-b-25	572	Manuela Corporation	9,600.00
P-34-b-26	573	Broad Electronics Inc.	15,600.00
P-34-b-27	574	Birches Group Inc.	9,800.00
P-34-b-28	575	Taskus Inc.	7,000.00
P-34-b-29	576	IntellMed	26,400.00
P-34-b-30	577	Proweaver	11,200.00
P-34-b-31	578	Jardine Lloyd	9,600.00
P-34-b-32	580	Aon Hewitt	4,900.00
P-34-b-33	581	24/7	9,600.00
P-34-b-34	554	Edwin Barbudo	9,600.00
P-34-b-35	584	Christine Montecino - Electrodry	5,000.00
P-34-b-36	586	Duros Land	5,600.00
P-34-b-37	588	Celo Business Solutions, Inc.	5,600.00
P-34-b-38	589	Celo Business Solutions, Inc.	5,600.00
P-34-b-39	590	Lexmark Research & Dev't Corp.	5,600.00
P-34-b-40	591	Jerry Garcia	5,600.00
P-34-b-41	598	SPI CRM, Inc. c/o Ms. Erlinda	16,000.00
P-34-b-42	518	Sitel Philippines Corporation	18,000.00
P-34-b-43	533	Hinduja Global Solutions	14,000.00
P-34-b-45	607	Marsh Philippines Inc.	9,600.00
P-34-b-46	610	Startek Philippines Inc.	46,000.00
P-34-b-47	619	Salmat Services Inc.	24,300.00

P-34-b-48	621	Docomo Papertouch Business Solutions, Inc.	9,000.00
P-34-b-49	617	Salmat Services Inc.	1,800.00
P-34-b-50	579	Joey Cargill - Eca 2013	24,000.00
P-34-d-2	509	iPlus Intelligent Network	45,080.00
Total			**₱ 727,061.80**

The receipt of fees collected from non-members for them to be able to participate in the events undertaken by petitioner is subject to VAT.

It is a basic principle that before a transaction is imposed VAT, a sale, barter or exchange of goods or properties, or sale of a service is required.[68] Section 108 of the NIRC of 1997, as amended defines the phrase "sale of services" as the "performance of all kinds of services for others for a fee, remuneration or consideration."[69]

In this case, in exchange of the payment of the registration fee, the non-member is permitted to join and participate in the events of petitioner. This constitutes a clear sale of service in petitioner's ordinary course of trade or business which is subject to VAT.

Thus, this item of assessment, receipts from registration fees collected from non-members in relation to the conduct of petitioner's events, in the amount of ₱727,061.80, is sustained.

c) Sponsorships - ₱4,943,650.04

The ICPA, in her report, concluded that the amount of ₱4,943,650.04 pertained to receipts from **sponsorship deals entered into by petitioner with different entities** as evidenced by their respective Sponsorship Agreements.[70] Upon further examination of the evidence, it shows that the actual amount of receipts from sponsorship fees amounted to ₱6,026,650.04, as follows:

Exhibit No.	OR No.	Payor	Gross Amount
P-34-c-1	511	Daishti Philippines Inc.	₱500,000.00
P-34-c-2	510	Quanta Paper Marketing Inc.	49,000.00
P-34-c-3	512	Philippine Axa Life Insurance Corp.	90,000.00
P-34-c-4	582	Regus Philippines Centre Three, Inc.	50,000.00

[68] *Association of Non-Profit Clubs, Inc. vs. Bureau of Internal Revenue*, G.R. No. 228539, June 26, 2019.
[69] *Commissioner of Internal Revenue vs. Court of Appeals*, G.R. No. 125355, March 30, 2020.
[70] Exhibit "P-37-a" to "P-37-ai".

P-34-c-5	587	Ng Kai Development Corporation	26,000.00
P-34-c-6	593	Innovaland Dev't Corp.	80,000.00
P-34-c-7	594	Jiangsu Nanjing - University Electronic Info Technology Co., Ltd / Addasound	216,250.00
P-34-c-8	596	Cleaver Learn English Language	100,000.00
P-34-c-9	597	Sodexo Motivation	50,000.04
P-34-c-10	516	St. Lukes Medical Center Global City	372,400.00
P-34-c-11	517	Skycable Corporation	350,000.00
P-34-c-12	519	Brady Philippines Direct Marketing Inc.	50,000.00
P-34-c-13	521	Asalus Corp.	250,000.00
P-34-c-14	522	Medicard	196,000.00
P-34-c-15	523	Globe Telecom, Inc.	588,000.00
P-34-c-16	526	WorldText Systems Inc.	343,000.00
P-34-c-17	527	Trends and Technologies Inc.	147,000.00
P-34-c-18	531	San Miguel Mills, Inc.	49,000.00
P-34-c-19	532	Hinduja Global Solutions	50,000.00
P-34-c-20	520	Aegis People Support	50,000.00
P-34-c-21	538	JSC Naumen	500,000.00
P-34-c-22	537	R&B Promo Services, Inc.	100,000.00
P-34-c-23	611	Sutherland Global Services Philippines	392,000.00
P-34-c-24	613	AON	100,000.00
P-34-c-25	615	St. Lukes Medical Center	49,000.00
P-34-c-26	623	Globe Telecom, Inc.	196,000.00
P-34-d-1	530	C.H. Pena	50,000.00
P-34-d-7	604	Concepcion - Carrier Air Conditioning Company	200,000.00
P-34-a-18	536	Accenture Inc.	343,000.00
P-34-b-44	541	Telstra Philippines Inc.	490,000.00
Total			**₱6,026,650.04**

It must be noted that receipts from sponsorships were in exchange for some benefits relative to the sponsor's participation in the events of petitioner. Clearly, such receipts are subject to VAT. Thus, the assessment in the amount of ₱6,026,650.04 pertaining to receipts from sponsorship fees is sustained.

d) Other Collections - ₱345,414.73

The ICPA found that other collections, which are receipts without any description on the face of the official receipts, amounted to ₱345,414.73. Examination of the evidence, however, reveals that only receipts in the amount of ₱130,334.73 should be classified in this amount, and should be subjected to VAT for failure of petitioner to offer evidence on their source, as follows:

Exhibit No.	OR No.	Payor	Gross Amount
P-34-a-9	606	No name	₱75,000.00
P-34-d-3	507	Cathy Ileto c/o Sutherland Global Services	18,000.00
P-34-d-4	571	Brian Flycare	9,600.00
P-34-d-5	583	Regus Philippines Centre Three, Inc.	6,000.00
P-34-d-6	585	DJ Sanbchez - bitsi	3,600.00
P-34-d-8	620	RCBC c/o Bankard	5,812.34
P-34-d-9	542	RCBC c/o Bankard	12,322.39
Total			**₱130,334.73**

The rest of the receipts, amounting to ₱215,080.00, are also subject to VAT, albeit the Court included the same in the other categories to better reflect the income/receipt classification of petitioner.

In *Commissioner of Internal Revenue vs. Court of Appeals and Commonwealth Management and Services Corporation*,[71] it was clarified that an entity which provides service for a fee, remuneration or consideration, in the ordinary course of trade of business, even without realizing profit therefrom, is subject to VAT."

Based on the foregoing, petitioner's receipts pertaining to registration, sponsorships and other collections are subject to VAT, computed as follows:

Particulars	Amount
Registration	₱ 727,061.80
Sponsorships	6,026,650.04
Other Collections	130,334.73
Total	₱ 6,884,046.57
Add: Unaccounted receipts	15,360,066.43
Total VATable receipts	₱ 22,244,113.00
x VAT rate	12%
VAT amount due	₱ 2,669,293.56

III. Expanded Withholding Tax — ₱155,508.31

Respondent assessed petitioner of basic deficiency EWT in the amount of ₱155,508.31 for failure of petitioner to withhold and remit the correct income tax due on its various income payments.

[71] G.R. No. 125355, March 30, 2000.

The ICPA, in her report, found that petitioner is subject to withholding tax in the amount of ₱55,783.92. Upon evaluation of the evidence presented, and as afore-discussed, petitioner is liable for basic deficiency EWT in the amount of ₱177,613.78, computed as follows:

Exhibit No.	Nature of Transactions	Amount	EWT Rate	EWT Due
P-32-b	Rental	516,678.40	5%	₱ 25,833.92
P-32-c	Honorarium	110,000.00	15%	16,500.00
P-32-e	Printing	50,000.00	2%	1,000.00
P-32-g	Professionals	83,000.00	15%	12,450.00
P-32-h	Others	1,518,736.70	2%	30,374.73
Total Income Payments Not Subjected to Withholding Tax		2,278,415.10		₱ 86,158.65
Add: Unaccounted Expenses		4,572,756.33	2%	91,455.13
Total EWT due		6,851,171:43		₱ 177,613.78

However, considering that the revised computation resulted in the total basic deficiency EWT in the amount of ₱177,613.78, which is higher than the assessed amount of ₱155,508.31, the latter assessment amount is sustained.

IV. Compromise Penalty

Pursuant to Revenue Memorandum Order No. 19-07, compromise penalties are only amounts suggested in settlement of criminal liability, and may not be imposed or exacted on the taxpayer in the event that a taxpayer refuses to pay the same.

It is well-settled that the Court has no jurisdiction to compel a taxpayer to pay the compromise penalty because by its very nature, it implies a mutual agreement between the parties in respect to the thing or subject matter that is so compromised, and the choice of paying or not paying it distinctly belongs to the taxpayer.[72] Absent a showing that herein petitioner consented to the compromise penalties, its imposition should be deleted. The imposition of the same without the conformity of the taxpayer is illegal and unauthorized.[73]

Considering that petitioner did not pay the compromise penalty imposed by the respondent, it clearly did not agree to settle the same.

[72] *The Philippines International Fair, Inc. vs. The Collector of Internal Revenue, et. al.*, G.R. Nos. L-12928 and L-12932, March 31, 1962.
[73] *Commissioner of Internal Revenue vs. Lianga Bay Logging Co., Inc., et. al.*, G.R. No. L-35266, January 21, 1991.

Thus, the compromise penalty in the total amount of ₱40,000.00 should not be imposed and must be cancelled.

WHEREFORE, premises considered, the Petition for Review is hereby **PARTIALLY GRANTED**. The assessment for compromise penalty is **CANCELLED AND SET ASIDE**. The assessments for basic deficiency income tax, VAT and EWT are **MODIFIED**. Accordingly, petitioner is **ORDERED TO PAY** the amounts of **₱6,278,079.75, ₱6,310,674.81 and ₱368,650.70** representing deficiency income tax, VAT and EWT, respectively, or the total amount of **₱12,957,405.26**, inclusive of the 25% surcharge, 20% deficiency interest, and 20% delinquency interest imposed thereon under Sections 248(A)(3), and 294(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, detailed below:

		Income Tax	VAT	EWT	Total
Basic Deficiency Tax	₱	2,714,694.73	2,669,293.56	155,508.31	5,539,496.60
Add: 25% Surcharge		678,673.68	667,323.39	38,877.08	1,384,874.15
Deficiency Interest from April 16, 2014 to February 13, 2017* (₱2,714,694.73 x 20% x 1,035/365 days)		1,539,566.60			1,539,566.60
Deficiency Interest from January 26, 2014 to February 13, 2017* (₱2,669,293.56 x 20% x 1,115/365 days)			1,630,828.67		1,630,828.67
Deficiency Interest from January 16, 2014 to February 13, 2017* (₱155,508.31 x 20% x 1,125/365 days)				95,861.29	95,861.29
Total Amount Due, February 13, 2017	₱	4,932,935.01	4,967,445.62	290,246.67	10,190,627.31
Deficiency Interest From February 14, 2017 to December 31, 2017					
(₱2,714,694.73 x 20% for 321/365 days)	₱	477,488.77			477,488.77
(₱2,669,293.56 x 20% for 321/365 days)			469,503.14		469,503.14
(₱155,508.31 x 20% for 321/365 days)				27,352.42	27,352.42
Delinquency Interest From February 14, 2017 to December 31, 2017					
(₱4,932,935.01 x 20% x 321/365 days)	₱	867,655.97			867,655.97
(₱4,967,445.62 x 20% x 321/365 days)			873,726.05		873,726.05
(₱290,246.67 x 20% x 321/365 days)				51,051.61	51,051.61
Total Amount Due, December 31, 2017	₱	6,278,079.75	6,310,674.81	368,650.70	12,957,405.26

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) computed from January 1, 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 the Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018, on the following amounts:

Tax	Amount
Income Tax	₱ 4,932,935.01
VAT	₱ 4,967,445.62
EWT	₱ 290,246.67

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ESPERANZA R. FABON-VICTORINO
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

CERTIFICATION

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

ROMAN G. DEL ROSARIO
Presiding Justice