

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SPECIAL SECOND DIVISION

**NATIONAL REINSURANCE
CORPORATION OF THE
PHILIPPINES,**

Petitioner,

- versus -

CTA CASE NO. 11156

Members:

**RINGPIS-LIBAN, P.J., Chairperson,
MODESTO-SAN PEDRO, and
FERRER-FLORES, JJ.**

**COMMISSIONER
INTERNAL REVENUE,**

Respondent. **OF Promulgated:**
SEP 15 2026

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11:49 AM


RESOLUTION

RINGPIS-LIBAN, P.J.:

Submitted before the Court is petitioner's **Motion for Partial Reconsideration with Motion to Suspend Tax Collection (Re: Decision dated 13 February 2026)** filed on March 11, 2026, with respondent's **Comment/Opposition** filed on April 13, 2026.

On February 13, 2026, the Court promulgated the assailed Decision,¹ partially granting the present *Petition for Review* by cancelling respondent's compromise penalties but upholding with modifications the deficiency value-added tax (VAT) assessment for the calendar year 2017 in the amount of ₱62,080,607.01, the dispositive portion of which is quoted as follows:

ACCORDINGLY, the present *Petition for Review* is **PARTIALLY GRANTED**. The assessment issued by respondent against petitioner covering compromise penalties for CY 2017 are **CANCELLED** and **SET ASIDE**. However, the deficiency VAT assessment for CY 2017 is **UPHELD** with **MODIFICATIONS**.

Consequently, petitioner is **ORDERED TO PAY** respondent the aggregate amount of **₱62,080,607.01**, inclusive of surcharge and deficiency interest imposed under Sections 248(A)(3)

¹ Docket, Vol. V, pp. 1847-1867.

and 249(B) of the NIRC of 1997, as amended, by Republic Act (RA) No. 10963, also known as Tax Reform for Acceleration and Inclusion (TRAIN), as implemented by RR No. 21-2018, computed as follows:

Basic Tax	₱ 33,700,821.81
Add: 25% Surcharge	8,425,205.45
12% Deficiency Interest from Jan. 26, 2018 to Dec. 31, 2022	
$\left[\frac{33,700,821.81}{1801/365 \text{ days}} \times 12\% \times \right]$	19,954,579.75
Total Amount Due – December 31, 2022	₱62,080,607.01

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the ₱62,080,607.01 total amount due as of December 31, 2022, or an amount equivalent to ₱20,410.06 per day, from December 31, 2022 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by RA No. 10963 and implemented by RR No. 21-2018.

Lastly, pursuant to Section 13 of RA No. 9282, considering that this decision is partly favorable to the national government, the BIR, through respondent, is hereby authorized to seize and distraint any goods, chattels, or effects, and the personal property, including stocks and other securities, debts, credits, bank accounts, and interests in and rights to personal property and/or levy the real property of petitioner in sufficient quantity to satisfy the tax or charge with any increment thereto incident to delinquency.

SO ORDERED.²

In its Motion, petitioner prays that the above Decision, and the conclusions initially found therein, be partially modified based on the following grounds, *viz.*

- A. The Court erred in upholding the correctness of respondent’s assessment.
- B. The Court erred in ruling that petitioner cannot utilize its excess input tax carry-over to apply against the assessment.

² See Note 1, pp. 1865-1866.

- C. Assuming that petitioner should be obliged to pay the input tax erroneously carried forward, the same should not be subject to surcharge and interest.
- D. Further, if petitioner is made liable to pay the disallowed input VAT (to make good the input VAT carried over to 2018), it is but equitable to allow petitioner to utilize in full the said input taxes.
- E. Petitioner seeks the Court's aid to enjoin the respondent from collecting the assessed deficiency VAT.

As to the first ground, petitioner argues that the Court erred in upholding respondent's deficiency VAT assessment considering that there is no law which imposes VAT on mere disallowance of input tax. Petitioner explains that reading Sections 106(A), 110(A)(3) and 110(B) of the National Internal Revenue Code (NIRC) of 1997, as amended, shows that the law is clear and consistent that VAT liability arises only from sale, barter or exchange of goods or properties—these are the only transactions that would result in an output tax. Petitioner asserts that there is nothing the aforesaid provisions which state nor imply that VAT liability can be incurred from input tax arising from purchases, more so on mere disallowance of input tax. Petitioner also insists that respondent's deduction of the input tax carried over to the succeeding period without offering any factual or legal bases in the assessment notices violates petitioner's right to due process of law.

With respect to the second ground, petitioner contends that tax assessments are made by respondent to verify the correctness of any return, as well as to determine and collect tax liability for the period under audit. As such, the deficiency VAT assessment for calendar year (CY) 2017 should have been computed without any reference to the succeeding taxable years, in line with the nature and process of tax assessments. Petitioner argues that impact of the excess input tax credits carried over to succeeding periods can only be determined in the succeeding taxable year it is claimed and not during the taxable year it was accrued. Petitioner submits that the disallowance of excess input tax carried forward to succeeding period is improper because any tax benefit from the portion of the overstated input carried over will be determined only in the next quarter which is already beyond the scope of the CY 2017 assessment. Moreover, petitioner likewise maintains that it was able to prove that it did not utilize the input tax carried over to subsequent periods.

Regarding the third ground, petitioner argues that the interest and surcharge imposed by Sections 248(A) and 249 of the NIRC of 1997, as amended, only accrue when there is an unpaid tax due on the date prescribed for its payment. Petitioner expounds that respondent's assessment is only necessary to validate petitioner's input tax for CY 2017 and not is VAT liability arising from output tax due—thus, there is no unpaid tax to speak of. Petitioner submits that to allow the imposition of interests and surcharge on the total disallowed input

taxes effectively converts the said input taxes into an output VAT liability, which is contrary to Section 106(A) of the NIRC of 1997, as amended.

With regard to the fourth ground, petitioner recalls that in view of the pronouncement in the *Decision*, the payment of the total disallowed VAT amounting to ₱33,700,821.81 effectively validates the entire amount of ₱163,018,863.81 representing input tax carried over to CY 2018 by petitioner's input tax. As such, petitioner maintains that the possible utilization of the over claimed input taxes for CY 2017 in the subsequent periods is already compensated by the payment of CY 2017 deficiency VAT. Consequently, petitioner surmises that it should be able to utilize and recognize in full the amount of ₱163,018,863.81 as input tax asset.

Lastly, concerning the fifth ground, petitioner seeks the indulgence of the Court to reconsider the order authorizing respondent to seize and distrain petitioner's personal properties and/or levy its real properties to satisfy the assessed deficiency VAT and increments thereto for CY 2017 while the present case is still pending reconsideration. More so, petitioner reasons that to allow the tax collection to proceed while the case has not yet attained finality will give rise to added costs in its financial obligations which likely result, not only in petitioner ceasing operations, but also in refunding the collected amount should the Court find merit in the present Motion.

On the other hand, in his Comment, respondent contends that petitioner's Motion for Partial Reconsideration essentially repleads the same facts and arguments which the Court has already resolved in the *Decision* it assails. Respondent asserts that petitioner was not deprived of due process as it was given ample opportunity to contest the assessments. Respondent also maintains that the Court correctly ruled that when there are mixed sale transactions, to which a direct attribution of the input VAT cannot be made on such sales, a proportionate allocation on the basis of volume of sales must be made, and that no tax credit is allowed for input taxes in case of VAT-exempt transactions.

Lastly, respondent argues that petitioner's prayer to enjoin the collection of the assessed deficiency VAT must be denied as petitioner only repeated its arguments in its previous submissions to support its position. Similarly, respondent submits that since the Court found the deficiency VAT assessment proper, petitioner should pay the appropriate surcharge and interest provided under the NIRC of 1997, as amended.

After due consideration, the Court finds petitioner's Motion for Partial Reconsideration bereft of merit.

As correctly pointed out by respondent, the grounds raised in petitioner's Motion are essentially a rehash of the same issues and arguments which have already been thoroughly addressed and discussed in the assailed *Decision*.

Perforce, in the case of *Licomcen Incorporated v. Foundation Specialists, Inc., et seq.*,³ the Supreme Court emphasized that the filing of a motion for reconsideration does not impose on the Court the obligation to deal individually and specifically with the grounds relied upon therefor, in much the same way that the Court does in its judgment or final order as regards the issues raised and submitted for decision. It suffices for the Court to deal generally and summarily with the motion for reconsideration, and merely state a legal ground for its denial, *i.e.*, the motion contains merely a reiteration or rehash of arguments already submitted to and pronounced without merit by the Court in its judgment, or the basic issues have already been passed upon, or the motion discloses no substantial argument or cogent reason to warrant reconsideration or modification of the judgment or final order; or the arguments in the motion are too unsubstantial to require consideration, etc.

Herein, petitioner again insists that pursuant to Sections 106(A), 110(A)(3) and 110(B) of the NIRC of 1997, as amended, VAT liability arises only from sale, barter, or exchange of goods or properties. That in the absence of VAT-able sale transactions, VAT liability does not arise from mere disallowance of input VAT, contrary to the conclusion arrived at the *Decision*.

However, contrary to petitioner's claim, the foregoing ruling of the Court did not unduly expand the provision of Section 106(A) of the NIRC but instead simply gave effect to all related provisions of the said law. After all, the law must not be read in truncated parts. Every part thereof must be considered together with the other parts and kept subservient to the general intent of the whole enactment.⁴

In this case, since petitioner's 2017 Quarterly Value-Added Tax Returns evidently show that it had VATable sales and exempt sales for CY 2017, or in mixed transactions, the tax credits allowable will be computed under an apportionment formula provided in Section 112(A) of the NIRC of 1997, as amended, which categorically states that "xxx where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it **shall be allocated proportionately on the basis of the volume of sales.**" (*Emphasis added*)

In relation thereto, Section 4.110-4 of RR No. 16-2005⁵ provides that "[i]f any input tax cannot be directly attributed to either a VAT taxable or VAT-exempt transaction, the input tax shall be **pro-rated** to the VAT taxable and VAT-exempt transactions and only the ratable portion pertaining to transactions subject to VAT may be recognized for input tax credit." (*Emphasis added*)

³ G.R. Nos. 167022 and 169678, August 31, 2007; citing *Ortigas and Company Limited Partnership v. Judge Tirso Velasco, et al.*, G.R. Nos. 109645 and 112564, March 4, 1996.

⁴ *Office of the President v. Melchor Arthur H. Carandang*, G.R. No. 261757, January 29, 2026.

⁵ SUBJECT: Consolidated Value-Added Tax Regulations of 2005.

Correspondingly, the Court reiterates that, in cases of mixed transactions where a direct attribution of input VAT cannot be made to such sales, a proportionate allocation based on the volume of sales must be made. However, no tax credit is allowed for input taxes in the case of VAT-exempt transactions.

Here, since petitioner had transactions exempt from payment of VAT, the corresponding input taxes attributable thereto were properly deducted from the available input tax pursuant to Section 110(A)(C) of the NIRC of 1997, as amended. Furthermore, it also bears stressing that the apportionment formula was likewise applied by the Supreme Court in the case of *Chevron Holdings, Inc. (Formerly Caltex Asia Limited) v. Commissioner of Internal Revenue*,⁶ in the computation of refundable input tax attributable to zero-rated sales when the taxpayer-claimant is engaged in mixed transactions.

More so, equally unavailing is petitioner's insistence that the Court erred in ruling that petitioner cannot utilize its excess input tax carryover to apply against the assessment, and that if petitioner is made liable to pay the disallowed input VAT, it should be allowed to utilize in full the said input taxes. On this score, the Court has this to say:

It equally bears stressing that if the Court were to allow the offsetting of the assessed disallowed input VAT of P33,700,821.81 against the excess tax credits of P163,018,863.81, petitioner may end up benefiting petitioner twice from it, *i.e.*, as tax credit against output VAT in the subsequent periods; and as settlement/payment of the subject deficiency VAT assessment, at the expense of the government.

Similarly, if the Court should decide not to sustain respondent's assessment or disallow the input VAT of P33,700,821.81, this would not only put an additional burden on the taxpayer to amend subsequent returns to remove the excess input tax already utilized so as to prevent any BIR assessment on the matter, but would also burden the BIR to monitor the decisions of this Court in ensuring that the utilized excess tax credits are not being utilized again in the subsequent periods. This additional burden placed upon both parties would result to an outright disregard of the basic principle in tax law — that taxes are the lifeblood of the government and so should be collected without unnecessary hindrance.⁷

With regard to petitioner's claim that it should not be held liable to pay interest and surcharge imposed under Sections 248(A) and 249 of the NIRC of 1997, as amended, suffice it to state that, in view of the finding that petitioner is

⁶ G.R. No. 215159, July 5, 2022.

⁷ See Note 1, p. 1864.

liable to pay the assessed deficiency VAT, the imposition and collection of civil penalties, as additions to the tax, is mandatory⁸ and automatic.⁹

Similarly, it is worth noting that this Court does not put into issue petitioner's utilization of input VAT, but rather petitioner's failure to sufficiently establish how it plans to utilize its carried-over input tax of ₱163,018,863.81. As this Court has no way to ascertain if, indeed, such excess input tax carried over may be used as a tax credit against output VAT in the subsequent periods and payment for deficiency VAT at the expense of the government. To rule otherwise may result to petitioner benefiting twice from such carry-over.

Petitioner cannot likewise insist that its accumulated ₱143,140,581.42 input tax at the end of CY 2016 is sufficient to fully cover the output VAT amounting to ₱15,677,481.22 and the assessed total disallowed input taxes amounting to ₱33,700,821.81 since taxes is not a debt or contract and, thus, not subject to set-off or compensation. The Court finds the case of *Philex Mining Corporation v. Commissioner of Internal Revenue, et al.*,¹⁰ instructive on the matter, to wit:

“Moreover, the Court of Tax Appeals ruled that ‘taxes cannot be subject to set-off on compensation since claim for taxes is not a debt or contract.’

X X X

We fail to see the logic of Philex's claim for this is an outright disregard of the basic principle in tax law that taxes are the lifeblood of the government and so should be collected without unnecessary hindrance. Evidently, to countenance Philex's whimsical reason would render ineffective our tax collection system. Too simplistic, it finds no support in law or in jurisprudence.

To be sure, we cannot allow Philex to refuse the payment of its tax liabilities on the ground that it has a pending tax claim for refund or credit against the government which has not yet been granted. It must be noted that a distinguishing feature of a tax is that it is compulsory rather than a matter of bargain. Hence, a tax does not depend upon the consent of the taxpayer. If any taxpayer can defer the payment of taxes by raising the defense that it still has a pending claim for refund or credit, this would adversely affect the government revenue system. **A taxpayer cannot refuse to pay his taxes when they fall due simply because he has a claim against the government or that the collection of the tax is**

⁸ *Commissioner of Internal Revenue v. Limpan Investment Corporation and the Court of Tax Appeals*, G.R. Nos. L-28571 and L-28644, July 31, 1970.

⁹ *Republic of the Philippines v. Lim Tian Teng Sons and Co., Inc.*, G.R. No. L-21731, March 31, 1966.

¹⁰ G.R. No. 125704, August 28, 1998.

contingent on the result of the lawsuit it filed against the government. Moreover, Philex's theory that would automatically apply its VAT input credit/refund against its tax liabilities can easily give rise to confusion and abuse, depriving the government of authority over the manner by which taxpayers credit and offset their tax liabilities.

Corollarily, the fact that Philex has pending claims for VAT input claim/refund with the government is immaterial for the imposition of charges and penalties prescribed under Sections 248 and 249 of the Tax Code of 1977. The payment of the surcharge is mandatory and the BIR is not vested with any authority to waive the collection thereof. The same cannot be condoned for flimsy reasons, similar to the one advanced by Philex in justifying its non-payment of its tax liabilities." (*Emphasis added*)

Anent petitioner's contention that the assailed *Decision* violates the principle of administrative feasibility of taxation, suffice to state that such argument is best left to the wisdom of the Congress. Indeed, the power to tax is plenary and unlimited in its range, acknowledging in its very nature no limits, so that the principal check against its abuse is to be found only in the responsibility of the legislature (which imposes the tax) to its constituency who are to pay it.¹¹

Lastly, as to petitioner's Motion to Suspend Tax Collection, the Court finds no reason to grant the same as petitioner merely reiterates its arguments raised in its *Urgent Motion to Suspend Tax Collection (with Prayer for the Issuance of Status Quo Ante Order and/or Writ of Preliminary Injunction)*,¹² integrated to its *Petition for Review* filed on May 16, 2023, which has been already passed upon and resolved by the Court in its Resolution dated October 26, 2023.¹³ To discuss them anew would only be mere superfluity.

In view of the foregoing disquisitions, there being no new matter or substantial issue raised by petitioner in its Motion for Partial Reconsideration, the Court finds no compelling reason to reverse or modify the *Decision* promulgated on February 13, 2026.

FOR THESE REASONS, petitioner's *Motion for Partial Reconsideration with Motion to Suspend Tax Collection (Re: Decision dated 13 February 2026)* is **DENIED** for lack of merit.

¹¹ *Chamber of Real Estate and Builders' Associations, Inc. v. The Hon. Executive Secretary Alberto Romulo, et al.*, G.R. No. 160756, March 9, 2010.

¹² Docket – Vol. I, at pp.18 to 22.

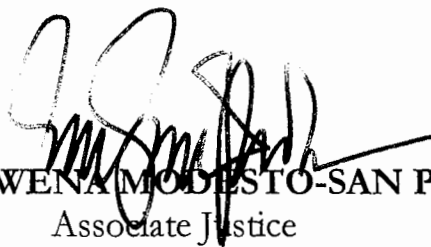
¹³ Docket – Vol. II, pp. 791 to 795.

SO ORDERED.

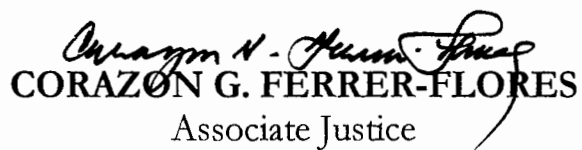


MA. BELEN M. RINGPIS-LIBAN
Presiding Justice

We Concur:



MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice



CORAZON G. FERRER-FLORES
Associate Justice