REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

En Banc

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

- versus -

SUBIC WATER & SEWERAGE CO., INC.,
Respondent.

CTA EB NO. 2185
(CTA Case No. 9074)

Present:

DEL ROSARIO, *PJ,*
CASTAÑEDA, JR.,
UY,
RINGPIS-LIBAN,
MANAHAN,
BACORRO-VILLENA, *and*
MODESTO-SAN PEDRO, *JJ.*

Promulgated:

JUN 01 2021
3:58 p.m.

X---X

DECISION

RINGPIS-LIBAN, *J.*:

Before the Court *En Banc* is a Petition for Review[1] timely filed after an extended period of time[2] granted by the Court[3] by petitioner Commissioner of Internal Revenue (CIR) against respondent Subic Water & Sewerage Co., Inc. (Subic Water) assailing the Decision of this Court's Special Second Division, dated August 14, 2019,[4] which partially granted Subic Water's Petition for Review, and cancelled the assessments issued against it for the period April 1, 2011 to December 31, 2011 covering deficiency income tax subject to special rate of 5%, final withholding value-added tax (FWVAT), withholding tax on compensation (WTC), and expanded withholding tax (EWT), including the imposition of compromise penalties.

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[1] *Rollo*, pp. 6-24, with Annexes on pp. 25-111.
[2] *Id.*, pp. 1-5
[3] *Id.*, p. 5.
[4] *Id.*, pp. 29-107.

The CIR likewise assails the Special Second Division's Resolution dated November 5, 2019[5] which denied the CIR's Motion for Partial Reconsideration (Re: Decision promulgated on 14 August 2019)[6] for lack of merit.

The Parties

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), the government agency charged with, among other powers and duties, the responsibility of collecting all national internal revenue taxes. He holds office at the BIR National Office Building, BIR Road, Diliman, Quezon City.

Respondent Subic Water is a corporation duly organized and existing under Philippine laws with principal office at Subic Water Complex, Rizal Highway, SUBCOM Area, Subic Freeport Zone, 2200, Philippines.[7] Its primary purpose is to carry on the business of providing water and sewerage services in the Subic Special Economic and Free Port Zone.[8]

Subic Water is registered as a Subic Bay Freeport Enterprise, as shown in the Certificate of Registration and Tax Exemption[9] (Certificate No. 96-0064) dated May 5, 2011 issued by the Subic Bay Metropolitan Authority (SBMA) and effective until May 4, 2012.

The Facts[10]

A Letter of Authority (LOA) No. LOA-116-2012-00000029 (SN: eLA201100006952)[11] dated August 10, 2012 was issued authorizing Revenue Officers (ROs) Maria Gracielle Cecilia San Pedro and Riza Budano and Group Supervisor (GS) Marivic Bautista to examine Subic Water's books of accounts and other accounting records for all internal revenue taxes for the period from April 1, 2011 to December 31, 2011.

On August 20, 2014, Subic Water received the Preliminary Assessment Notice[12] (PAN) dated August 18, 2014 issued by the CIR.[13] Subic Water then

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[5] *Id.*, pp. 108-111.
[6] *Docket*, CTA Case No. 9074, Vol. VI, pp. 2760- 2765.
[7] *Id.*, Vol. III, p. 1295.
[8] Exhibit "P-1".
[9] Exhibit "P-4".
[10] As found by the Special Second Division and as culled from the records of the case.
[11] Exhibit "R-1".
[12] Exhibit "P-5"; Exhibit "R-9 ".
[13] *Id.* at Note 6, Vol. III, p. 1296.

submitted its Reply[14] to the PAN on September 3, 2014.[15]

On October 7, 2014, Subic Water received a Formal Letter of Demand[16] (FLD) with attached Final Assessment Notices[17] (FAN) issued by the CIR.[18]

Within thirty (30) days from receipt of the FLD, Subic Water filed its Protest with Request for Reinvestigation[19] on November 5, 2014. It thereafter submitted supporting documents in support of its protest on December 5, 2014[20] and on December 23, 2014[21].

On May 20, 2015, Subic Water received the Final Decision on Disputed Assessment[22] (FDDA) issued by the CIR on even date for deficiency income tax for taxable year (TY) ending December 31, 2011.[23]

The FDDA assessed Subic Water for deficiency income tax (IT), FWVAT, value-added tax (VAT), WTC, EWT and final withholding tax (FWT) in the total amount of ₱238,407,520.17, for the subject period.

On May 29, 2015, Subic Water paid ₱5,182,566.92, without prejudice to its position that the assessments were erroneous, broken down as follows: (1) IT[24]- ₱2,107,918.42; (2) IT[25] - ₱1,175,276.48; (3) WTC[26] - ₱1,570,788.25; (4) EWT[27] - ₱294,213.22; and (5) FWT[28] - ₱34,370.55.[29]

On June 19, 2015, Subic Water filed a Petition for Review with the Court of Tax Appeals (CTA) docketed as CTA Case No. 9074.[30]

In the CIR's Answer (to the Petition for Review dated 17 June 2015)[31],

[14] Exhibit "P-6".
[15] *Id.* at Note 13, p. 1296.
[16] Exhibit "P-7"; Exhibit "R-11".
[17] Exhibits "R-12" to "R-12-f".
[18] *Id.* at Note 15.
[19] Exhibit "P-8".
[20] Exhibits "P-8.1" and "P-8.2".
[21] Exhibit "P-8.3".
[22] Exhibit "P-9"; Exhibits "R-14".
[23] *Id.* at Note 15.
[24] Exhibit "P-10.1.4".
[25] Exhibit "P-10.1.5".
[26] Exhibit "P-10.1.6".
[27] Exhibit "P-10.1.7".
[28] Exhibit "P-10.1.8".
[29] *Id.* at Note 15.
[30] *Id.* at Note 6.
[31] *Id.*, Vol. II, pp. 583-604.

filed on September 29, 2015, he interposed Special and Affirmative Defenses, alleging, among others, that (1) Subic Water's income is subject to the 30% corporate income tax and the corresponding 12% VAT; (2) Subic Water is indirectly assailing the validity of a revenue regulation which the Court is bereft of any jurisdiction to pass upon; (3) the assessment has bases both in fact and in law; (4) Subic Water is liable for deficiency income tax due to (a) Undeclared Income in the amount of ₱7,662,613.62; (b) Unaccounted Expenses in the amount of ₱7,326,148.13; (c) Unaccounted Expenses/Purchases based on vouching of Check Vouchers in the amount of ₱332,659.38; (d) Construction Revenue not subjected to Income Tax in the amount of ₱41,474,427.00; (e) disallowed expenses in excess of the amounts allowable pursuant to Revenue Regulations (RR) No. 13-2005 in the amount of ₱12,021,426.86; (f) Overclaimed Expenses based on matching of Audited Financial Statements, Trial Balance (TB) and Check Voucher Register in the amount of ₱2,273,999.62; (g) Unsupported Expenses/ Purchases in the amount of ₱300,332.81; (h) Disallowed Purchases/Expenses in the amount of ₱3,991,363.02 for failure to withhold the corresponding taxes; (i) Disallowed Salaries Expenses in the amount of ₱5,815,653.33 for failure to withhold the corresponding taxes; and (j) Unsupported Creditable Withholding Tax Claimed in the amount of ₱25,626.72; (5) Subic Water is liable for deficiency FWVAT due from income payments to non-resident foreign corporation and non-resident alien for services rendered within the Philippines; (6) Subic Water is liable for deficiency VAT for Undeclared Income, Unaccounted Expenses/Purchases and Construction Revenue not subjected to Income Tax; (7) Subic Water is liable for deficiency WTC; (8) Subic Water is liable for deficiency EWT; (9) Subic Water is liable for deficiency final tax arising from payments to non-resident foreign corporation and non-resident alien; (10) the imposition of the 50% surcharge against Subic Water has bases both in fact and in law; and (11) the LOA, the PAN, the FLD, the Final Assessment Notice, and the FDDA were issued in accordance with law, rules and jurisprudence.

Subic Water then filed a Reply[32], through registered mail, on October 6, 2015.

Pre-Trial began thereafter with Subic Water filing its Pre-Trial Brief[33] through registered mail on November 23, 2015 while the CIR filed its Pre-Trial Brief[34] on January 14, 2016.

During the pre-trial conference on January 21, 2016, the Court in Division granted Subic Water's Motion for Commissioning of Independent Certified

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[32] *Id.*, pp. 616-641.
[33] *Id.* at Note 13, pp. 1198-1214.
[34] *Id.*, pp. 1219-1226.

Public Accountant[35], and commissioned Mr. George V. Villaruz, as ICPA for the present case.[36] After the parties submitted their Joint Stipulation of Facts and Issues[37], the Court issued a Pre- Trial Order[38] and the pre-trial was deemed terminated.

Trial ensued. Subic Water presented the following witnesses: (1) Ms. Edna G. Canlas[39], its Chief Operating Officer; (2) Mr. Graham J. Fairclough[40], a member of its Board of Directors; (3) Mr. Rolly DC. Mulato[41], Chief of the Technical Services Division of the Department of Environment and Natural Resources (DENR) - Provincial Environment and Natural Resources Office of Pilar, Bataan; and, (4) Mr. George Villaruz[42], the ICPA, who all testified on direct examination by way of judicial affidavits.

Subic Water filed its Formal Offer of Documentary Evidence[43] on May 3, 2016 and Amended Formal Offer of Documentary Evidence[44] on April 10, 2017. All of its documentary exhibits were eventually admitted by the Court in Division except for Exhibits "AAA-4.345" and "AAA-5.147".[45] Subic Water then rested its case.

On the other hand, the CIR presented a lone witness, RO Maria Gracielle Cecilia F. San Pedro[46], who likewise testified on direct examination by way of judicial affidavit.

The CIR filed his Formal Offer of Evidence[47] on February 5, 2018 and, subsequently, all of his documentary exhibits were admitted[48] and he rested his case. The Court in Division then ordered the parties to submit their respective memoranda within thirty (30) days.

The CIR filed his Memorandum[49] on July 31, 2018 while Subic Water filed its Memorandum[50] on July 31, 2018. The case was then submitted for decision

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[35] *Id.*, pp. 1251-1255.
[36] *Id.*, p. 1289.
[37] *Id.*, pp. 1295-1305.
[38] Ibid, pp. 1307-1314.
[39] *Id.*, p. 1319; Amended Judicial Affidavit of Ms. Edna G. Canlas, Vol. V, pp. 2368-2411.
[40] *Id.*, p. 1600; Judicial Affidavit of Mr. Graham J. Fairclough, pp. 1347-1357.
[41] *Id.*, p. 1600; Judicial Affidavit of Mr. Rally DC. Mulato, pp. 1329-1337.
[42] Docket, Vol. IV, p. 1619; Amended Judicial Affidavit of Mr. George V. Villaruz; Vol. V, pp. 2428-2437.
[43] *Id.*, pp. 1620-1650.
[44] Docket (vol. V), pp. 2447-2478.
[45] *Id.*, pp. 2283-2285; 2481-2483.
[46] *Id.*, p. 2499; Exhibit "R- 17", pp. 1235-1250.
[47] *Id.*, pp. 2507-2517.
[48] *Id.*, pp. 2532-2533.
[49] *Id.*, pp. 2552-2571.
[50] *Id.*, pp. 2623-2666.

in the Resolution[51] dated August 15, 2018.

On August 14, 2019, the Court in Division issued the assailed Decision[52], the dispositive portion of which reads as follows:

> "**WHEREFORE,** premises considered, the instant Petition for Review is **PARTIALLY GRANTED.** Consequently, the assessments issued by respondent against petitioner for the period April 1, 2011 to December 31, 2011 covering deficiency income tax subject to special rate of 5%, FWVAT, WTC, and EWT, including the imposition of compromise penalties are **CANCELLED and SET ASIDE.**
>
> On the other hand, the deficiency income tax subject to regular rate of 30%, VAT and FWT assessments are **AFFIRMED but with MODIFICATION.** Accordingly, petitioner is **ORDERED TO PAY** respondent the amount of **₱22,062,463.26, ₱9,876,075.45 and ₱9,347,043.20,** representing basic deficiency IT, VAT and FWT, respectively, inclusive of the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed thereon under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, as determined below:

	Deficiency Income Tax	**Less: Payment on May 29, 2015**[53]	**Remaining Balance**
Basic Deficiency Income Tax at Regular Rate (30%)	₱ 7,177,820.67	₱ 723,643.58	₱ 6,454,177.09
Surcharge (25%)	1,794,455.17		1,794,455.17
Deficiency Interest (20%) from April 16, 2012 to May 20, 2015 (₱7,177,820.67 x 20% x 1,130 days/365 days)	4,444,349.24	451,632.90	3,992,716.34
Total Amount Due, May 20, 2015	**₱ 13,416,625.08**		
Deficiency Interest (20%) from May 21, 2015 until payment on May 29, 2015 (₱7,177,820.67 x 20% x 9 days/365 days)	35,397.47		35,397.47
Total Amount Due, May 29, 2015	**₱ 13,452,022.55**	**₱ 1,175,276.48**	**₱ 12,276,746.07**
Deficiency Interest (20%) from May 30, 2015 to December 31, 2017 (₱6,454,177.09 x 20% x 947 days/365 days)			3,349,099.02
Delinquency Interest (20%)			

[51] *Id.*, p. 2669.
[52] *Id.* at Note 4.
[53] Exhibit "P-10.1.5".

from May 21, 2015 until payment on May 29, 2015 (₱13,416,625.08 x 20% x 9 days/365 days)			66,164.18
from May 30, 2015 until December 31, 2017 (₱12,276,746.07 x 20% x 947 days/365 days)			6,370,453.99
Total Deficiency Income Tax Due as of December 31, 2017			**₱ 22,062,463.26**

	Deficiency VAT
Basic Deficiency VAT	₱ 2,871,128.27
Surcharge (25%)	717,782.07
Deficiency Interest (20%) from January 26, 2012 to May 20, 2015 (₱2,871,128.27 x 20% x 1,211 days/ 365 days)	1,905,170.59
Total Amount Due, May 20, 2015	**₱ 5,494,080.93**
Deficiency Interest (20%) from May 21, 2015 to December 31, 2017 (₱2,871,128.27 x 20% x 956 days/365 days)	1,503,999.25
Delinquency Interest (20%)	
from May 21, 2015 until December 31, 2017 (₱5,494,080.94 x 20% x 956 days/365 days)	2,877,995.27
Total Deficiency VAT Due as of December 31, 2017	**₱ 9,876,075.45**

	Deficiency FWT	**Less: Payment on May 29, 2015[54]**	**Remaining Balance**
Basic Deficiency FWT	₱ 2,723,302.97	₱ 5,000.00	₱ 2,718,302.97
Surcharge (25%)	680,825.74	1,250.00	679,575.74
Deficiency Interest (20%) from January 14, 2012 to May 20, 2015 (₱2,723,302.97 x 20% x 1,223 days/365 days)	1,824,986.05	3,120.55	1,821,865.50
Total Amount Due, May 20, 2015	**₱ 5,229,114.76**		
Deficiency Interest (20%) from May 21, 2015 until payment on May 29, 2015 (₱2,723,302.97 x 20% x 9 days/365 days)	13,429.99		13,429.99
Compromise Penalty		25,000.00	(25,000.00)
Total Amount Due, May 29, 2015	**₱ 5,242,544.75**	**₱ 34,370.55**	**₱ 5,208,174.20**
Deficiency Interest (20%) from May 30, 2015 to December 31, 2017 (₱2,718,302.97 x 20% x 947 days/365 days)			1,410,538.58
Delinquency Interest (20%)			
from May 21, 2015 until payment on May 29, 2015 (₱5,229,114.76 x 20% x 9 days/365 days)			25,787.42

[54] Exhibit "P-10.1.8".

from May 30, 2015 until December 31, 2017 (₱5,208,174.20 x 20% x 947days/365 days)			2,702,543.00
Total Deficiency FWT Due as of December 31, 2017			**₱ 9,347,043.20**

In addition, petitioner is **ORDERED TO PAY** delinquency interest at the rate of 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:

Income Tax	₱12,276,746.07
VAT	₱5,494,080.93
FWT	₱5,208,174.20

SO ORDERED."

On August 30, 2019, the CIR filed its Motion for Partial Reconsideration (Re: Decision promulgated on 14 August 2019).[55] The CIR sought for the partial reversal of the Court in Division's Decision and the issuance of an order for the payment of the deficiency FWVAT and compromise penalty in the amount of ₱20,722,434.59 aside from the deficiency IT, VAT, and FWT.

Subic Water responded by filing its Comment/Opposition (On Respondent's Motion for Partial Reconsideration dated 30 August 2019)[56] through registered mail on September 30, 2019 which the Court received on October 7, 2019.

On November 5, 2019, the Court in Division issued the assailed Resolution[57] which denied the CIR's motion for partial reconsideration for lack of merit. The dispositive portion of the assailed Resolution reads as follows:

> **"WHEREFORE,** premises considered, respondent's Motion for Partial Reconsideration (Re: Decision promulgated on 14 August 2019) is hereby **DENIED** for lack of merit.

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[55] *Id.* at Note 6, pp. 2760- 2765.
[56] Id. at 2782-2787.
[57] *Id.* at Note 5.

SO ORDERED."

After being granted an extension by the Court *en banc*,[58] the CIR timely filed his Petition for Review[59] on December 16, 2019.

On January 6, 2020, Subic Water was ordered to file its Comment thereto.[60]

On January 20, 2020, Subic Water posted its Comment[61] which the Court *en banc* received on January 22, 2020.

In a Resolution dated February 5, 2020, Subic Water's Comment was noted and the case was referred to mediation.[62] However, the parties decided not to have their case mediated by the Philippine Mediation Center Unit-CTA on July 14, 2020.[63]

On July 27, 2020, the case was submitted for decision.[64]

The Assignments of Errors

Petitioner CIR claims that the Special Second Division erred in ruling that Subic Water is not liable to pay FWVAT and in ruling that it is not liable to pay the compromise penalty in the amount of ₱75,000.00.

The Arguments of the Parties

The CIR argues that the imposition of FWVAT on Subic Water's income payments for services rendered to Sembcorp Utilities Services, Ltd. (Sembcorp-S), Cascal Services, Ltd. (Cascal), Sembcorp Utilities (Netherlands) NV (Sembcorp-N), and to Graham J. Fairclough is proper considering those listed are non-resident foreign corporations and a non-resident alien, pursuant to Section 4.114-2(b)(3) of RR No. 16-2005 and Section 7 of RR No. 14-2002.

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[58] *Id.* at Note 3.
[59] *Id.* at Note 1.
[60] *Id.*, pp. 113-114.
[61] *Id.*, pp. 115-131, with Annexes "A" to "L", pp. 132-283.
[62] In accordance with A.M. No. 11-1-5-SC-PHILJA dated January 18, 2011 issued by the Supreme Court, "Interim Guidelines for Implementing Mediation in the Court of Tax Appeals".
[63] *Id.* at Note 1, p. 288.
[64] *Id.*, pp. 291-292.

As regards payments made to Sembcorp-S, the CIR argues that Subic Water did not sufficiently prove that the services of Sembcorp-S were confined only to those performed within the Subic Special Economic Freeport Zone (SSEFZ) and, thus, not subject to FWVAT.

As regards payments made to Cascal and Sembcorp-N, the CIR argues that the Secretary's Certificates presented by Subic Water merely show intent to declare and distribute cash dividends but are not proof enough to show that the cash dividends were indeed distributed. Therefore, he posits that the cancellation of the imposition of FWVAT is improper.

As regards per diem payments made to Mr. Fairclough for attending meetings with Subic Water, the CIR argues that no evidence has been presented that the services performed were exclusively done within the SSEFZ. Hence, the cancellation of the imposition of FWVAT thereon is improper as well.

On the other hand, Subic Water asserts that the Petition should be dismissed outright for non-compliance with the mandatory technical requirements of Sec. 7, Rule 43 of the Rules of Court and for seeking a relief irrelevant to the proceedings before the Court in Division.

Furthermore, findings of fact of the Court in Division are binding and conclusive on the Court *en banc* in the absence of contrary evidence or proof. There is sufficient evidence on record to support the findings of the Court in Division that Subic Water is not liable to pay FWVAT on the specific transactions questioned in the Petition.

The Ruling of the Court

The procedural issues raised by Subic Water shall be discussed first.

Section 3, Rule 1 of Revised Rules of the CTA[65] (RRCTA) provides that the Rules of Court shall apply suppletorily to the RRCTA.

Section 4(b), Rule 8 of the RRCTA on "Procedure in Civil Cases" states that "[a]n appeal from a decision or resolution of the Court in Division on a motion for reconsideration or new trial shall be taken to the Court by petition for review as provided in Rule 43 of the Rules of Court."

[65] A.M. No. 05-11-07-CTA. RULE 1, SEC. 3. *Applicability of the Rules of Court.* - The Rules of Court in the Philippines shall apply suppletorily to these Rules.

The relevant sections of Rule 43 of the Rules of Court are as follows:

> "**Section 5.** *How appeal taken.* — Appeal shall be taken by filing a verified petition for review in seven (7) legible copies with the Court of Appeals, **with proof of service of a copy thereof on the adverse party and on the court or agency a quo**. The original copy of the petition intended for the Court of Appeals shall be indicated as such by the petitioner. x x x
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> x x x   x x x   x x x
>
> "**Section 6.** *Contents of the petition.* — The petition for review shall (a) state the full names of the parties to the case, without impleading the court or agencies either as petitioners or respondents; (b) contain a concise statement of the facts and issues involved and the grounds relied upon for the review; (c) **be accompanied by a clearly legible duplicate original or a certified true copy of the award, judgment, final order or resolution appealed from, together with certified true copies of such material portions of the record referred to therein and other supporting papers**; and (d) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. The petition shall state the specific material dates showing that it was filed within the period fixed herein. (2a)
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> **Section 7.** *Effect of failure to comply with requirements.* — The **failure of the petitioner to comply with any of the foregoing requirements** regarding the payment of the docket and other lawful fees, the deposit for costs, **proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.**" *(Emphasis supplied)*

Subic Water alleges in its Comment that the Petition is not accompanied by "the certified copies of the 5 November 2019 Resolution, material portions of the record, and other supporting papers" as required by the rules. However, a perusal of the Petition will show that the CIR attached as Annex "B" of its Petition a certified true copy of the November 5, 2019 Resolution of the Special Second Division in CTA Case No. 9074.

As for the lapse of the CIR in elevating other material portions of the record, indeed, only certified true copies of the assailed Decision and Resolution were attached to the Petition and the Court recognizes that it was Subic Water that provided the Court with material portions of the record as attached in its Comment.

Subic Water also alleges that a copy of the Petition was not served on the Court in Division as required by Sec. 5, Rule 43 of the Rules of Court.

A perusal of the Petition confirms the veracity of Subic Water's allegation. The "copy furnished" portion on page 13 of the Petition, as well as the Affidavit of Service attached thereto, indicate that only the counsels of Subic Water were furnished a copy thereof. The mandatory nature of this requirement is apparent as Sec. 7, Rule 43 of the Rules of Court warns that failure to comply with "proof of service of the petition" is sufficient ground for the dismissal thereof.

Aside from the foregoing, what is perhaps the most glaring and curious aspect of the Petition that Subic Water brought to the Court's attention is that the relief prayed for by the CIR is totally irrelevant to the subject of its appeal.

The Prayer of the CIR in the Petition states:

> "**WHEREFORE**, it is most respectfully prayed of this Honorable Court that the Decision dated 14 June 2019 and the Resolution dated 18 October 2019 of the Honorable Court Special First Division be **REVERSED** and **SET ASIDE** and a new one be rendered that respondent MONTALBAN METHANE POWER CORPORATION be ORDERED to pay the total amount of P3,598,193.07 for deficiency Value-Added Tax (VAT), Expanded Withholding Tax (EWT), Withholding Tax on Compensation (WTC) and Documentary Stamp Tax (DST), for taxable year 2009, as well as 25% Surcharge, 20% Deficiency and Delinquency interest pursuant to Sections 248 and 249 of the NIRC of 1997 for the period until 31 December 2017, and 12% interest starting from 1 January 2018 until full payment pursuant to Section 249 of the Tax Reform for Acceleration and Inclusion (TRAIN) law effective January 01, 2018."[66]

While the body of the Petition refers to the proceedings conducted in CTA Case No. 9074 and the CIR's grounds for appealing the assailed Decision and Resolution of the Special Second Division, it is quite obvious that the relief being sought in the Prayer is the setting aside and cancellation of a Decision dated 14 June 2019 and a Resolution dated 18 October 2019 rendered by the Special First Division of this Court. Moreover, the respondent referred to in the

[66] *Rollo*, pp. 16-17.

Prayer is Montalban Methane Power Corporation and not Subic Water. The particular assessment referred to in the Prayer is different from the subject assessment in this case as well.

Clearly, the inclusion of the "wrong" Prayer can be attributed to a lapse in editing of a template document by the CIR's counsel. However, are all the technical lapses above sufficient to merit the Court's indulgence when such laxity has not been invoked?

At the latest, the CIR was apprised on the technical lapses of its Petition which Subic Water brought up in its Comment when it received the Notice of Resolution of this Court on February 10, 2020 indicating that Subic Water's Comment was noted and referring the case for mediation on February 26, 2020.

From February 10, 2020 until July 14, 2020 when the parties decided not to have their case mediated by the Philippine Mediation Center Unit-CTA, no effort has been exerted by the CIR to correct the erroneous Prayer in its Petition.

Section 7 of Rule 43 of the Rules of Court provides that failure to comply with the requirements in taking an appeal (Sections 5 and 6 thereof) shall be sufficient ground for dismissal thereof.

It is well-settled that the right to appeal is neither a natural right nor is it a component of due process. It is a mere statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law.[67] An appealing party must strictly comply with the requisites laid down in the Rules of Court. Deviations from the Rules cannot be tolerated. The rationale for this strict attitude is not difficult to appreciate as the Rules are designed to facilitate the orderly disposition of appealed cases. In an age where courts are bedeviled by clogged dockets, the Rules need to be followed by appellants with greater fidelity. Their observance cannot be left to the whims and caprices of appellants.[68]

Rules of procedure must be faithfully complied with and should not be discarded with the mere expediency of claiming substantial merit.[69] This is especially true when the appellant shows a lack of zeal in being compliant with the Rules of Court.

WHEREFORE, premises considered, the Petition for Review is **DISMISSED.**

[67] *Fenequito v. Vergara Jr.*, G.R. No. 172829, July 18, 2012, 677 SCRA 113, 117.
[68] *Ibid.*
[69] *Yutingco vs Court of Appeals*, 435 Phil. 83 (2002).

SO ORDERED.

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA JR.
Associate Justice

ERLINDA P. UY
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA G. MODESTO- SAN PEDRO
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 this Court.

ROMAN G. DEL ROSARIO
Presiding Justice