

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

SPECIAL FIRST DIVISION

**BASF COATINGS + INKS
PHILIPPINES, INC.,**

Petitioner,

C.T.A. CASE NO. 7125

Members:

- versus -

**ACOSTA, Chairperson,
BAUTISTA, and
CASANOVA, J.**

**COMMISSIONER OF INTERNAL
REVENUE,**

Respondent.

Promulgated:

FEB 17 2010, 10:20am

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DECISION

CASANOVA, J.:

Before this Court is a Petition for Review¹, praying that judgment be rendered: (1) declaring the assessments for deficiency income tax in the amount of P14,227,425.39, deficiency value-added tax of P3,981,245.66, withholding tax on compensation of P49,977.21, deficiency expanded withholding tax of P156,261.97 and documentary stamp tax of P256,432.91, including increments, in the aggregate amount of P18,671,343.14 for taxable year 1999, as void and/or devoid of factual or legal basis; and (b) cancelling said deficiency tax assessments. 

¹ Docket, pp. 1-12

As stipulated by the parties² and as borne by the records of the case, the following are the facts of the case:

Petitioner is a corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines and is in the process of dissolution.³

Respondent is the duly appointed Commissioner of Internal Revenue who holds office at the Bureau of Internal Revenue, National Office, Diliman, Quezon City.⁴

In a joint special meeting of the Board of Directors and stockholders held on March 19, 2001, the stockholders representing more than two-thirds of the entire subscribed and outstanding capital stock, and a majority of the Board of Directors, resolved to dissolve the corporation by shortening its corporate term to March 31, 2001.⁵

On June 26, 2001, petitioner filed before the BIR Revenue Region No. 8, RDO No. 53, Alabang, Muntinlupa two (2) letters. The letter dated April 26, 2001 was a notice of petitioner's dissolution, in compliance with Section 52(C) of the Tax Code. The letter dated June 22, 2001 was to submit BIR Form No. 1905 (Registration Information Update) in connection with the corporation's dissolution, and other supporting documents.⁶

² Joint Stipulation of Facts and Issues (JSFI), Docket, pp. 99-103

³ JSFI, par. 1, Docket p. 99

⁴ JSFI, par. 2, Docket, p. 99

⁵ JSFI, par. 12, Docket, p. 101; Exhibit "H"

⁶ JSFI, par. 14, Docket, p. 102; Exhibits "J" to "J-5"

Petitioner also filed with the Securities and Exchange Commission a Notice of Dissolution on August 16, 2001, and published the same in Malaya on August 22, 29 and September 5, 2001.⁷

In a Formal Assessment Notice dated January 17, 2003, with Details of Discrepancies and Assessment Notices, petitioner was found liable for the following taxes:⁸

I. Deficiency Income Tax⁹	<u>P (61,848,868.00)</u>
Net loss per return	
Add: Discrepancies per investigation:	
Unsupported importation	P 22,782,456.50
Disallowed purchases of goods & Services not subjected to W/tax	<u>5,052,221.24</u>
	<u>P 27,834,677.74</u>
Net loss for investigation	P (34,014,190.26)
Add: Net Operating Loss Carry-Over	<u>61,848,868.00</u>
Taxable income per investigation	<u>P 27,834,677.74</u>
Income Tax due thereon (33%)	9,185,443.65
Less: Payments	<u>86,872.00</u>
Deficiency Income Tax	P 9,098,571.65
Add: Interest (4/15/00 to 2/10/03)	<u>5,128,853.74</u>
Total Amount Due	<u><u>P 14,227,425.39</u></u>
II. Deficiency Value Added Tax¹⁰	
Gross receipts per audit	P 320,780,174.00
Less: Non-Vatable sales:	
Export Sales	P18,961,088.70
Zero-rated sales	<u>19,660,145.99</u>
	<u>38,621,234.69</u>
Taxable basis per audit on sales	P 282,158,939.31
Add: Taxable basis per audit on royalties	<u>5,596,920.20</u>
Gross taxable basis per investigation	<u>P 287,755,859.51</u>
Output tax due thereon (10%)	28,775,585.95
Less: Allowable input tax	18,442,676.56
Payments	<u>7,857,347.89</u>
	<u>26,300,024.45</u>

⁷ JSFI, par. 12-13, Docket, p. 101; Exhibits "H" and "I"

⁸ JSFI, par. 3, Docket, pp. 99-100; Exhibits "A" and "A-I" to "A-5"

⁹ Assessment Notice No. IT-0034253-99-03-165

¹⁰ Assessment Notice No. VT-0034253-99-03-165

Deficiency VAT	2,475,561.50
Add: 20% Interest (1/25/00 to 2/10/03)	<u>1,505,684.16</u>

Total Amount Due	<u>P 3,981,245.66</u>
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III. Deficiency Withholding Tax due on Compensation¹¹

Taxable salaries & wages paid during the year	51,675,136.00
Withholding tax due thereon	3,682,679.36
Less: Withholding taxes paid per return	<u>3,651,603.24</u>
Deficiency Withholding tax on compensation	31,076.12
Add: 20% interest (from 1/25/00 to 2/10/03)	<u>18,901.09</u>

Total Amount Due	<u>P 49,977.21</u>
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IV. Deficiency Expanded Withholding Tax¹²

Particulars	Amount of Income Payment	Tax Rate	EWT Due
Vita Color	P1,153,366.70 x	5%	P 57,668.34
Pacific Resin payment thru offsetting	<u>3,898,854.54 x</u>	1%	<u>38,988.55</u>
Total EWT due per investigation			P 96,656.89
Less: Payments			-
Deficiency expanded withholding tax			P 96,656.89
Add: 20% interest (1/10/00 to 2/10/03)			<u>59,605.08</u>
Total			<u>P 156,261.97</u>

V. Deficiency Documentary Stamp Tax¹³

DST on Bank Loans:	
P192,090,500.00/P5,000.00 x P10.00	P 384,181.20
Less: Tax Paid	<u>246,806.23</u>
Deficiency documentary stamp tax	P 137,374.77
Add: 25% surcharge	<u>34,343.70</u>
Total	P 171,718.47
Add: 20% interest (1/10/00 to 2/10/03)	<u>84,714.44</u>

Total Amount Due	<u>P 256,432.91</u>
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¹¹ Assessment Notice No. WC-0034253-99-03-165.

¹² Assessment Notice No. WE-0034253-99-03-165.

¹³ Assessment Notice No. DS-0034253-99-03-165.

On March 5, 2004, the Chief of the Collection Section of the BIR Revenue Region No. 7, RDO No. 39, Quezon City, issued *First Notice Before Issuance of Warrant of Distraint and Levy*.¹⁴

On March 19, 2004, petitioner filed a protest letter dated March 17, 2004, on the grounds of lack of due process and prescription.¹⁵ On April 16, 2004, petitioner filed with respondent a Supplemental Protest.¹⁶ On June 14, 2004, petitioner submitted relevant documents necessary to prove the defenses raised in its protest letters dated March 17, 2004 and April 16, 2004.¹⁷

As respondent has no action on petitioner's protest and the 180-day period had lapsed, petitioner filed the instant Petition on January 10, 2005.¹⁸

On April 25, 2005, respondent filed his Answer¹⁹ and raised several Special and Affirmative Defenses.

On May 10, 2005, petitioner filed its Reply²⁰ to respondent's Answer.

On June 17, 2005, a pre-trial was held.

On August 1, 2005, this Court issued a Resolution²¹ approving the parties' Joint Stipulation of Facts and Issues, and terminating the pre-trial.

On August 12, 2005, this Court issued another Resolution²² noting and approving the parties' Supplemental Joint Stipulation of Facts. 

¹⁴ Exhibit "C"

¹⁵ JSFI, par. 8, Docket, p. 101; Exhibit "D"

¹⁶ JSFI, par. 9, Docket, p. 101

¹⁷ JSFI, par. 11, Docket, p. 101

¹⁸ Petition for Review, par. 10, Docket, pp. 1-4

¹⁹ Docket, pp. 55-61

²⁰ Docket, pp. 64-68

²¹ Docket, p. 110

²² Docket, p. 121

Thereafter, trial proceeded. Both parties presented testimonial and documentary evidence in support of their respective claims and defenses.

Upon receipt of petitioner's Memorandum on January 30, 2009, and respondent's Memorandum on March 3, 2009, this case was submitted for decision on March 19, 2009.²³

The issues²⁴, as stipulated by the parties, and submitted for this Court's resolution, are as follows:

"1. Whether or not in issuing the Preliminary Assessment Notice dated 12 December 2002, and the Formal Demand Letter and Final Assessment Notice both dated 13 January 2003 ("Assessments") Respondent violated the right of Petitioner to due process thereby rendering the Assessments null and void.

2. Whether or not Petitioner has changed its BIR registered address, located at No. 101 Marcos Alvarez, Bo. Talon, Las Piñas City, Metro Manila.

3. Whether or not the deficiency assessments for income tax, value-added tax, withholding tax on compensation and expanded withholding tax are void for failing to state the law and the facts on which they are based in violation of Section 228 of the National Internal Revenue Code (NIRC) and its implementing rules and regulations.

4. Whether or not the Assessments, copies of which were obtained by Petitioner from the BIR Records after receipt of the First Notice Before Issuance of Warrant and Distrainment and Levy, are considered issued within the contemplation of Sections 203 and 228 of the Tax Code.

5. Whether or not the period of prescription for the deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, and documentary stamp tax assessments, issued by the BIR to Petitioner, for taxable year 1999 was suspended or has the assessments already prescribed.

²³ This Court's Resolution dated March 19, 2009

²⁴ Docket, pp. 103-106

6. Whether or not the deficiency income tax, value-added tax, withholding tax on compensation, expanded withholding tax, and documentary stamp tax assessments, issued by the BIR to Petitioner, for taxable year 1999 has already become final and executory for failure of Petitioner to file an administrative protest within the 30-day reglementary period under Section 228 of the NIRC.

On Income Tax

7. Assuming that the deficiency income tax assessment is valid, whether or not Petitioner is liable for the said deficiency income tax.

a. Whether or not Petitioner failed to support with proper documents the amount of P22,782,456.50, representing the cost of importation of materials in violation of the Bookkeeping Regulations No. V.

b. Whether or not Petitioner failed to withhold and remit the income payments made to its regular suppliers of goods and services for which input taxes were claimed, amounting to P5,052,221.24, in violation of Section 57(B) of the NIRC, as implemented by Section 2.57.2(M)2 of Revenue Regulations No. 2-98, as amended.

c. Whether or not the claimed Net Operating Loss Carry-Over (NOLCO) of Petitioner for taxable year 1999 should be disallowed as deduction from its gross income.

On Value-Added Tax

8. Assuming that the deficiency VAT assessment is valid, whether or not Petitioner is liable for the said deficiency VAT.

a. Whether or not Petitioner failed to pay the VAT due on its gross receipts for taxable year 1999, amounting to P3,981,245.66 inclusive of increments, in violation of Section 106 of the NIRC.

b. Whether or not Petitioner's claimed input tax on unpaid rental, and on local purchases should be disallowed 

since the same violates the provision under Section 110(A)(1)(B) of the NIRC.

c. Whether or not Petitioner has an unpaid value-added tax on royalty payments for taxable year 1999.

On Withholding Tax on Compensation

9. Assuming that the deficiency withholding tax on compensation is valid, whether or not Petitioner failed to withhold taxes on certain employees.

a. Whether or not Petitioner failed to withhold taxes on the salaries of its employees, in violation of Section 79(A) of the NIRC, as implemented by Section 2.79(A) of Revenue Regulations No. 2-98, as amended.

On Expanded Withholding Tax

10. Assuming that the deficiency expanded withholding tax is valid, whether or not Petitioner is liable for the said deficiency tax.

a. Whether or not Petitioner failed to withhold and remit the corresponding withholding tax from Vita Color.

b. Whether or not Petitioner's remittance of withholding tax was deficit in the amount of P57,668.34.

c. Whether or not Petitioner failed to withhold the amount of P38,988.55, for income payments made to its regular supplier, Pacific Resin.

Documentary Stamp Tax

11. Assuming that the deficiency documentary stamp tax is valid, whether or not Petitioner, not the bank, should be assessed for deficiency documentary stamp tax on bank loans.

12. Assuming that the deficiency documentary stamp tax is valid, whether or not Section 195 of the National Internal Revenue Code is applicable. 

13. Whether or not Petitioner failed to record its payments of documentary stamp tax on bank loan, in violation of Section 195 of the NIRC.”

As regards to the issue on validity of assessments, respondent argues that under Section 223 of the National Internal Revenue Code (NIRC) of 1997, the running of the Statute of Limitations under Sections 203 and 222 of the NIRC shall be suspended when the taxpayer cannot be located in the address given by him in the return upon which a tax is being assessed or collected. In relation thereto, Section 11 of Revenue Regulations No. 12-85 requires that the taxpayer must give written notice of change of address to the Revenue District Officer and/or place of business; and, in case of failure to do so, any communication previously sent to the taxpayer’s former legal residence or business address as appearing in the tax return for the period involved shall be considered valid and binding.

This Court agrees with the respondent only on the above arguments.

Section 223 of the NIRC reads:

“SEC. 223. *Suspension of Running of Statute of Limitations.*— The running of the Statute of Limitations provided in Sections 203 and 222 on the making of assessment and the beginning of distraint or levy or a proceeding in court for collection, in respect of any deficiency, shall be suspended for the period during which the Commissioner is prohibited from making the assessment or beginning distraint or levy or a proceeding in court and for sixty (60) days thereafter; when the taxpayer requests for a reinvestigation which is granted by the Commissioner; **when the taxpayer cannot be located in the address given by him in the return filed upon which a tax is being assessed or collected:** *Provided, That, if the taxpayer informs the Commissioner of any change in address, the running of the Statute of Limitations will not be suspended; when the warrant of distraint or levy is duly served upon the taxpayer, his authorized representative, or a member of* 

his household with sufficient discretion, and no property could be located; and when the taxpayer is out of the Philippines.” (Emphasis supplied.)

From the above-quoted section, the running of the period to assess and to collect shall be suspended if the taxpayer’s whereabouts is not known. This is not to prejudice the government from collecting taxes due from unscrupulous taxpayers who intend to evade payment by simply changing addresses from those registered with the BIR, and causing delay in the service of assessment notices.

However, this Court notes that respondent was aware where petitioner may be located.

First, petitioner caused publication of the Notice of Dissolution in the August 22, 29 and September 5, 2001 issues of the daily newspaper Malaya. The notice included the address “BASF Corporate Complex, Road 5 Phase I GIZ, Carmelray Industrial Park I, Canlubang, Calamba, Laguna” where people with claims against petitioner may go to.²⁵

Second, respondent conducted investigation of petitioner’s internal revenue taxes for 1999 at the Carmelray Industrial Park, Canlubang, Calamba, Laguna, as evidenced by the following:

- 1.) Letter dated September 27, 2001 signed by Revenue Officer I Eugene R. Garcia;²⁶
- 2.) Final Request for Presentation of Records Before Sub-Poena Duces Tecum dated March 20, 2002 requesting for the submission of additional requirements pursuant to the 

²⁵ Exhibit “I”, Docket, p. 244

²⁶ BIR Records, p. 2

- investigation of petitioner's 1999 internal revenue taxes signed by Revenue Officer I Eugene R. Garcia;²⁷
- 3.) Letter dated May 30, 2002 of Revenue District Officer Marcelino Quito;²⁸
 - 4.) BIR Form No. 0500 (Revenue Officer's Audit Report on Documentary Stamp Tax, Expanded Withholding Tax, Value-Added Tax, and Income Tax) for the Period January 1 to December 31, 1999;²⁹
 - 5.) Memorandum dated June 27, 2002 of Revenue Officer Eugene R. Garcia and noted by Marilyn Dumapias, Group Supervisor;³⁰
 - 6.) Activity Report dated October 17, 2002;³¹
 - 7.) Report on Taxpayer's Delinquent Account dated June 27, 2002;³²
 - 8.) BIR Form No. 23.02 dated October 17, 2000;³³ and
 - 9.) Checklist of Income Tax/Withholding Tax/Documentary Stamp Tax/Value-Added Tax and Other Percentage Taxes.³⁴

Thus, respondent cannot use Section 223 of the NIRC and Revenue Regulations No. 12-85 against petitioner. The failure of BIR Revenue Region No. 8, RDO No. 53, Alabang, Muntinlupa to note where to send the Preliminary Assessment Notice and the Final Assessment Notice should not be taken against petitioner. When the deficiency assessments were sent to the old address despite proper notification of petitioner's new address, the running of the three-year period to assess was not suspended.³⁵ As ruled by the Supreme Court in *Bank of the Philippine Islands vs. Commissioner of Internal Revenue*:³⁶

²⁷ BIR Records, p. 1

²⁸ BIR Records, p. 645; Exhibit "Y"

²⁹ BIR Records, pp. 852-858; Exhibits "T", "U", "V" & "W"

³⁰ BIR Records, pp. 859-860; Exhibit "4" & "4-A"

³¹ BIR Records, p. 861; Exhibit "R"

³² BIR Records, p. 862; Exhibit "Q"

³³ BIR Records, p. 864; Exhibit "P"

³⁴ BIR Records, p. 865-866; Exhibit "O"

³⁵ *Sucat Land Corporation vs. Commissioner of Internal Revenue*, C.T.A. Case No. 6138, June 21, 2005

³⁶ G.R. No. 174942, March 07, 2008 (548 SCRA 1-5), citing *Republic of the Philippines vs. Ablaza*, 108 Phil. 1105 (July 26, 1960)

"The law prescribing a limitation of actions for the collection of the income tax is beneficial both to the Government and to its citizens; to the Government because tax officers would be obliged to act promptly in the making of assessment, and to citizens because after the lapse of the period of prescription, citizens would have a feeling of security against unscrupulous tax agents who will always find an excuse to inspect the books of taxpayers, not to determine the latter's real liability, but to take advantage of every opportunity to molest peaceful, law abiding citizens. Without such a legal defense, taxpayer would furthermore be under obligation to always keep their books and keep them open for inspection subject to harassment by unscrupulous tax agents. **The law on prescription being a remedial measure should be interpreted in a way conducive to bringing about the beneficent purpose of affording protection to the taxpayer** within the contemplation of the Commission which recommend the approval of the law." (Emphasis supplied)."

Due process requires that petitioner must actually receive the Pre-Assessment Notice and Final Assessment Notice. As held in *Estate of The Late Julinana Diez Vda. De Gabriel vs. Commissioner of Internal Revenue*:³⁷

"xxx [D]ue process requires at the very least that such notice actually be received. In *Commissioner of Internal Revenue v. Pascor Realty and Development Corporation*, we had occasion to say:

"An assessment contains not only a computation of tax liabilities, but also a demand for payment within a prescribed period. It also signals the time when penalties and interests begin to accrue against the taxpayer. To enable the taxpayer to determine his remedies thereon, due process requires that it must be served on and received by the taxpayer.

"In *Republic v. De le Rama*, we clarified that, when an estate is under administration, notice must be sent to the administrator of the estate, since it is the said administrator, as representative of the estate, who has the legal obligation to pay and discharge all debts of the estate and to perform all orders of the court. In that case, legal notice of the assessment was sent to two heirs, neither one of whom had any authority to represent the estate. We said: 

³⁷ G.R. No. 155541, January 27, 2004 (419 SCRA 266)

“The notice was not sent to the taxpayer for the purpose of giving effect to the assessment, and said notice could not produce any effect. In the case of *Bautista and Corrales Tan v. Collector of Internal Revenue* ... this Court had occasion to state that ‘the assessment is deemed made when the notice to this effect is released, mailed or sent to the taxpayer for the purpose of giving effect to said assessment.’ It appearing that the person liable for the payment of the tax did not receive the assessment, the assessment could not become final and executory. xxx”

This is consistent with Section 228 of the NIRC, which reads:

“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 pre-assessment notice shall not be required in the following cases:

(a) When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or

(b) When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or

(c) When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or

(d) When the excise tax due on excisable articles has not been paid; or

(e) When an article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

The taxpayer 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.

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." (Emphasis supplied.)

In *Commissioner of Internal Revenue vs. Pascor Realty And Development Corporation*,³⁸ the Supreme Court explained:

"To start with, an assessment must be sent to and received by a taxpayer, and must demand payment of the taxes described therein within a specific period. Thus, the NIRC imposes a 25 percent penalty, in addition to the tax due, in case the taxpayer fails to pay deficiency tax within the time prescribed for its payment in the notice of assessment. Likewise, an interest of 20 percent *per annum*, or such higher rates as may be prescribed by rules and regulations, is to be collected from the date prescribed for its payment until the full payment.

The issuance of an assessment is vital in determining, the period of limitation regarding its proper issuance and the period within which to protest it. Section 203 of the NIRC provides that internal revenue taxes must be assessed within three years from the last day within which to file the return. Section 222, on the other hand, specifies a period of ten years in case a fraudulent return with intent to evade was submitted or in case of failure to file a

³⁸ G.R. No. 128315, June 29, 1999 (309 SCRA 402).

return. Also, Section 228 of the same law states that said assessment may be protested only within thirty days from receipt thereof. Necessarily, the taxpayer must be certain that a specific document constitutes an assessment. Otherwise, confusion would arise regarding the period within which to make an assessment or to protest the same, or whether interest and penalty may accrue thereon.

It should also be stressed that the said document is a notice duly sent to the taxpayer. Indeed, an assessment is deemed made only when the collector of internal revenue releases, mails or sends such notice to the taxpayer."

Section 228 of the NIRC operates for the benefit of both the taxpayer and the government. Said section guarantees a taxpayer due process before it may be held liable to pay tax found due. On the other hand, the government is given an opportunity to assess and collect internal revenue taxes, interests and penalties from delinquent taxpayers or tax-evaders within the prescriptive period.

As there are no notices sent to petitioner, the subject assessments are void. In *Commissioner of Internal Revenue v. Azucena T. Reyes*,³⁹ the Supreme Court categorically ruled that if there is no valid notice sent, the assessment is void. The reason is that "[t]he law imposes a substantive, not merely a formal requirement. To proceed heedlessly with tax collection without first establishing a valid assessment is evidently violative of the cardinal principle in administrative investigations: that taxpayers should be able to present their case and adduce supporting evidence. xxx"

A void assessment cannot give rise to an obligation to pay deficiency taxes, and it divests the taxing authority of the right to collect them.⁴⁰ 

³⁹ G.R. No. 159694, January 27, 2006 (480 SCRA 382).

⁴⁰ *FMF Development Corporation v. Commissioner of Internal Revenue*, C.A.-G.R. SP No. 73973, February 23, 2004.

Thus, the resolution of other issues becomes moot in view of the above findings. Likewise, the resolution of petitioner's Motion for Early Resolution filed on October 19, 2009 is now rendered moot.

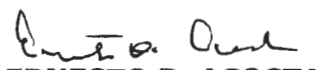
WHEREFORE, the Petition for Review is hereby **GRANTED**. The assessments for deficiency income tax in the amount of P14,227,425.39, deficiency value-added tax of P3,981,245.66, withholding tax on compensation of P49,977.21, deficiency expanded withholding tax of P156,261.97 and documentary stamp tax of P256,432.91, including increments, in the aggregate amount of P18,671,343.14 for taxable year 1999 are hereby **CANCELLED** and **SET ASIDE**.

SO ORDERED.

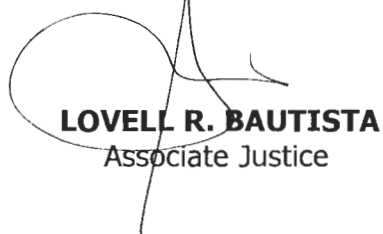


CAESAR A. CASANOVA
Associate Justice

WE CONCUR:



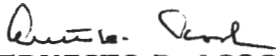
ERNESTO D. ACOSTA
Presiding Justice



LOVELL R. BAUTISTA
Associate Justice

CERTIFICATION

I hereby certify that the above decision was reached after due consultation with the members of the Division of the Court of Tax Appeals in accordance with Section 13, Article VIII of the Constitution.


ERNESTO D. ACOSTA
Presiding Justice
Chairman, First Division