REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

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COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB No. 2091** (CTA Case No. 9199)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **CASTAÑEDA, JR., UY, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA,** and **MODESTO-SAN PEDRO,** *JJ.*
FIRST PHILIPPINE ELECTRIC CORPORATION, Respondent.	***Promulgated:*** NOV 11 2020 1:50 p.m.

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DECISION

UY, *J.*:

The instant *Petition for Review*[1] filed on July 17, 2019 by the Commissioner of Internal Revenue against First Philippine Electric Corporation, prays for the partial reversal of the Decision dated February 8, 2019 and Resolution dated June 4, 2019, promulgated by the Special Second Division of this Court, in CTA Case No. 9199, entitled, *"First Philippine Electric Corporation, Petitioner vs. Commissioner of Internal Revenue, Respondent,"* the dispositive portions of which respectively read as follows:

Decision dated February 8, 2019:

> "**WHEREFORE,** the Petition for Review is **PARTIALLY GRANTED.** The assessments against

[1] EB Docket, pp. 7 to 30.

petitioner for taxable year ended December 31, 2009 covering deficiency income tax, VAT and EWT are **CANCELLED** and **SET ASIDE**. However, the assessments for taxable year ended December 31, 2009 covering deficiency withholding tax on compensation, DST and increments for late payment of FBT are **AFFIRMED** but with adjustments.

Accordingly, petitioner is **ORDERED TO PAY** the aggregate amount of **₱3,361,472.36**, inclusive of 25% surcharge imposed under Section 248 (A) (3) of the NIRC of 1997, as amended, deficiency and delinquency interest imposed under Section 249 (B) and (C) of the NIRC of 1997, as amended, respectively computed until December 31, 2017, and increments for late payment of FBT, computed as follows:

	WTC	DST	TOTAL
Basic	₱771,861.56	₱74,768.66	₱846,630.22
Surcharge (25%)	192,965.39	18,692.17	211,657.56
Deficiency Interest (1/15/2010 to 10/16/2015) [₱771,861.56 x 20% x 2,101 days/365]	888,592.40		975,078.23
Deficiency Interest (1/5/2010 to 10/16/2015) [₱74,768.66 x 20% x 2,111 days/365]		86,485.83	
Total amount due — October 16, 2015	**₱1,853,419.35**	**₱179,946.66**	**₱2,033,366.01**
Deficiency Interest (10/17/2015 to 12/31/2017) [₱771,861.56 x 20% x 807 days/365]	341,310.84		374,372.92
[₱74,768.66 x 20% x 807 days/365]		33,062.09	
Delinquency Interest (10/17/2015 to 12/31/2017) [₱1,853,419.35 x 20% x 807 days/365]	819,566.80		899,137.74
[P179,946.66 x 20% x 807 days/365]		79,570.93	
Total amount due	**₱3,014,297.00**	**₱292,579.67**	**₱3,306,876.67**
Increments for late remittance of FBT	*1st Qtr.*	*2nd Qtr.*	*Total*
Basic	₱94,041.66	₱94,041.66	₱188,083.32
Surcharge (25%)	₱23,510.42	₱23,510.42	₱47,020.83
Interest for late remittance	6,132.03	1,442.83	7,574.86
Subtotal	**₱29,642.45**	**₱24,953.25**	**₱54,595.69**
Total amount due— December 31, 2018			**₱3,361,472.36**

In addition, petitioner is liable to pay delinquency interest at the rate of 12% on the total unpaid basic deficiency tax, surcharge and deficiency interest as of October 16, 2015 amounting to ₱1,853,419.35 for WTC and ₱179,946.66 for DST, or in the aggregate amount of ₱2,033,366.01, 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 Tax Reform for Acceleration and Inclusion (TRAIN).

SO ORDERED."

<u>Resolution dated June 4, 2019</u>:

"**WHEREFORE,** respondent's *Motion for Partial Reconsideration [re: Decision dated February 08, 2019]* is **DENIED** for lack of merit.

SO ORDERED."

THE FACTS

Petitioner is the Commissioner of the Bureau of Internal Revenue (BIR), the government agency tasked to, among others, collect all national internal revenue taxes. In his official capacity, the Commissioner of Internal Revenue (CIR) has the power to decide disputed assessments, refunds of all internal revenue taxes, fees or other charges, penalties imposed in relation thereto or other matters arising under the Tax Code or other laws or portions thereof administered by the BIR. Petitioner may be served with summons and other court processes at the 5th Floor, Bureau of Internal Revenue Building, Agham Road, Diliman, Quezon City.

Respondent First Philippine Electric Corporation (FPEC) is a holding company managing corporations primarily devoted to electrics, electricals, and electronics, and registered with the Securities and Exchange Commission (SEC) with Company Registration No. A199811805.

On May 25, 2010, FPEC, through its duly authorized representative, Jose Chito Valdellon, received a Letter of Authority No. LOA-116-2010-00000052 (LOA), dated May 14, 2010, together with a Letter and Checklist of Requirements requesting the submission of certain documents.

On January 9, 2013, Trinidad C. Binua, FPEC's VP Controller, executed a Waiver (the First Waiver) to suspend the operation of the Statute of Limitations until June 30, 2013. The First Waiver was accepted by Officer-in-Charge Assistant Commissioner for Large Taxpayers Services Alfredo V. Misajon (OIC-ACIR Misajon) on January 15, 2013.

On February 8, 2013, FPEC received a Notice of Informal Conference (NIC) dated February 7, 2013.

On May 22, 2013, Binua (FPEC's VP Controller) executed another Waiver (the Second Waiver) to extend the suspension of the operation of the Statute of Limitations until December 31, 2013. It was accepted by OIC-ACIR Misajon on May 29, 2013.

On July 25, 2013, FPEC filed its response to the NIC.

On November 11, 2013, Arthur A. De Guia, FPEC's President, executed a subsequent Waiver (the Third Waiver) to further suspend the original period until March 31, 2014. OIC-ACIR Misajon accepted the Third Waiver on November 13, 2013.

On January 10, 2014, FPEC received a copy of the Preliminary Assessment Notice (PAN) dated January 9, 2014 stating that after investigation, FPEC has been found liable for deficiency income tax, VAT, WC, EWT, DST, and FBT for taxable year 2009.

On January 24, 2014, FPEC filed a reply to the PAN with corresponding supporting documents, which opposed the assessments contained in the PAN.

On February 21, 2014, FPEC received a copy of the Formal Letter of Demand with Final Assessment Notice (FLD/FAN), finding FPEC liable for deficiency income tax, VAT, WC, EWT, DST and FBT for taxable year 2009 in the sum of ₱25,515,586.20, inclusive of interests and penalties.

On March 21, 2014, FPEC filed its protest to the assessments, with supporting documents attached, assailing the deficiency assessments in the FLD/FAN and requesting that the same be cancelled.

On May 19, 2014, FPEC filed a supplemental protest dated May 16, 2014 and submitted additional supporting documents to the BIR within sixty (60) days from the date it filed the initial protest and submitted the first set of documents in support of its position.

On October 16, 2015, FPEC received a copy of the Final Decision on Disputed Assessments (FDDA) dated October 2, 2015. The FDDA assessed FPEC for deficiency tax in the aggregate amount of ₱12,754,942.85.

On November 13, 2015, FPEC filed its *Petition for Review* before the Court in Division docketed as CTA Case No. 9199, praying that the assessments be declared null and void. In its Petition, FPEC argued that the CIR's right to assess deficiency taxes for taxable year 2009 has already prescribed; that it was not accorded due process; and, that the assessments have no merit.

For his part, the CIR filed his *Answer* on February 1, 2016, interposing the following special and affirmative defenses:

1. The waivers, duly executed by FPEC's VP-Comptroller, Trinidad C. Binua, and President, Arthur A. De Guia, extended the period to assess FPEC;
2. The assessment was issued in compliance with relevant BIR rules and regulations;
3. FPEC was not and was never deprived of its constitutionally protected right to speedy disposition of cases;
4. FPEC is liable for deficiency income tax, VAT, EWT, WTC, and DST; and
5. The compromise penalties were merely included as a suggestion for FPEC to avoid criminal prosecution.

After the pre-trial conference on March 17, 2016, the parties filed their *Joint Stipulation of Facts and Issues* (JSFI) on May 2, 2016. The JSFI was approved and adopted in the Court's *Pre-Trial Order* (PTO) dated May 6, 2016.

During trial, FPEC presented the following witnesses: (1) Trinidad C. Binua; (2) Atty. Esmeraldo C. Amistad; and (3) Atty. Adan T. Delamide. FPEC then filed its *Formal Offer of Evidence* (FOE) on November 22, 2016, with the CIR's *Comment (Re: Petitioner's Formal Offer of Evidence)* filed on November 24, 2016. The Court in Division resolved FPEC's FOE on January 24, 2017, with several exhibits being denied admission. FPEC filed its *Motion for Partial Reconsideration (Re: Resolution dated January 24, 2017),* which was partially granted in the Resolution dated March 22, 2017.

On May 29, 2017, the CIR presented his lone witness, Revenue Officer Olivia S. Sison. Thereafter, the CIR filed his *Formal Offer of Evidence* on June 1, 2017, with FPEC's *Comment and/or Objection (to Respondent's Formal Offer of Evidence)* filed on June 9, 2017. In the Resolution dated October 12, 2017, the CIR's FOE was resolved and all of the offered exhibits were admitted.

Thereafter, the CIR filed his *Memorandum* on December 18, 2017, while FPEC filed its *Memorandum* on January 10, 2018. Thus, the case was deemed submitted for decision on January 22, 2018.

In the Decision[2] dated February 8, 2019, the Court in Division partially granted FPEC's Petition for Review. Thus, the assessments for deficiency IT, VAT, and EWT were cancelled, while the assessments for deficiency WTC, DST, and increments for late payment of FBT were affirmed, but with adjustments.

The CIR filed his *Motion for Partial Reconsideration [re: Decision dated February 08, 2019]* on February 27, 2019, to which FPEC filed its *Comment (to the Motion for Partial Reconsideration dated February 27, 2019)* on April 8, 2019.

In the Resolution[3] dated June 4, 2019, the Court in Division denied the Motion for Reconsideration for lack of merit.

Undaunted, the CIR filed a *Motion for Extension of Time to File Petition for Review* on July 1, 2019.[4] In the Resolution[5] dated July 3, 2019, the subject Motion was granted and the CIR was given a final

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[2] EB Docket, pp. 31 to 73.
[3] EB Docket, pp. 76 to 93.
[4] EB Docket, pp. 1 to 5.
[5] EB Docket, pp. 6.

and non-extendible period of fifteen (15) days from July 2, 2019, or until July 17, 2019, within which to file his Petition for Review.

Thereafter, the CIR filed the instant *Petition for Review* on July 17, 2019.[6] In the Resolution[7] dated September 17, 2019, respondent was directed to file its Comment to the Petition for Review, within ten (10) days from notice. Respondent, however, failed to file its Comment, as per Records Verification[8] dated November 11, 2019. Thereafter, the Petition for Review was deemed submitted for Decision on December 4, 2019.[9]

Subsequently, however, respondent filed a *Motion to Reopen and Admit Attached Comment,*[10] with its *Comment (to the Petition for Review)*[11] on December 12, 2019. In the interest of substantial justice, respondent's Motion was granted, and its Comment was admitted for consideration in the resolution of the case.[12]

Finally, on March 13, 2020, respondent filed its *Supplemental Comment (to the Petition for Review),*[13] which was likewise admitted in the interest of substantial justice, and the same will be considered in the resolution of this case.[14] Hence, this Decision.

ISSUES

The CIR raises the following assignment of errors in his Petition for Review, to wit:

> "I. WHETHER OR NOT THE HONORABLE COURT A QUO ERRED IN RULING THAT THE ASSESSMENT FOR DEFICIENCY VALUE-ADDED TAX (VAT) FOR THE FIRST TO THIRD QUARTERS OF TAXABLE YEAR 2009, DEFICIENCY WITHHOLDING TAX ON COMPENSATION (WTC) FOR THE MONTHS OF JANUARY TO NOVEMBER OF TAXABLE YEAR 2009

[6] EB Docket, pp.7 to 30.
[7] EB Docket, pp. 120 to 121.
[8] EB Docket, p. 122.
[9] EB Docket, pp. 124 to 125.
[10] EB Docket, pp. 126 to 129.
[11] EB Docket, pp. 130 to 139.
[12] EB Docket, pp. 141 to 142.
[13] EB Docket, pp. 143 to 148.
[14] EB Docket, pp. 150 to 151.

AND DEFICIENCY EWT FOR TAXABLE YEAR 2009 HAVE ALREADY PRESCRIBED.

II. WHETHER OR NOT THE COURT A QUO ERRED IN CANCELLING THE COMPROMISE PENALTY.

III. WHETHER OR NOT THE HONORABLE COURT A QUO ERRED IN RULING ON MATTERS THAT WERE NEVER SUBSTANTIATED IN THE ADMINISTRATIVE LEVEL. PETITIONER RENDERED A FINAL DECISION ON DISPUTED ASSESSMENT, HENCE, THE HONORABLE COURT'S JURISDICTION BECOMES STRICTLY APPELLATE IN NATURE.

IV. WHETHER OR NOT THE HONORABLE COURT A QUO ERRED IN CANCELLING THE DEFICIENCY DOCUMENTARY STAMP TAX ASSESSMENT ARISING FROM NON-INTEREST BEARING DEBT INSTRUMENTS."[15]

Petitioner's arguments:

The CIR contends that the assessment for withholding taxes from the withholding agent are imprescriptible. What is being collected from the withholding agent is not the income tax. The withholding agent is made liable for breaching its duty to remit the tax withheld. Thus, what is being collected from the withholding agent is the penalty for failure to perform its duty. Hence, the assessed deficiency withholding tax as a penalty to respondent does not allegedly fall within the ambit of the period of limitation provided in Section 203 of the 1997 National Internal Revenue Code (NIRC), as amended.

Moreover, the CIR contends that FPEC is liable for the imposed compromise penalty. A perusal of respondent's protest to the PAN and FLD would show that it did not question or assail the validity of the imposed compromise penalties. Thus for failure to raise such issue with the BIR at the administrative level, FPEC should not be allowed to raise such new issue when it filed an appeal with this Court.

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[15] EB Docket, pp. 11 to 12.

In addition, the CIR avers that the Court in Division erred in ruling on matters that were never substantiated in the administrative level. Since the CIR rendered a Final Decision on Disputed Assessment, the jurisdiction of the Court in Division becomes strictly appellate in nature. Thus, a judicial review is not a trial *de novo* case. Rather, it is an inquiry into whether the findings of the administrative bodies are consistent with law.

Corollary thereto, the CIR argues that FPEC is liable for assessed deficiency taxes arising from the following: 1) unaccounted purchases and unaccounted sales, and expenses not subjected to EWT; 2) Net Operating Loss Carry Over (NOLCO) and disallowed tax credits and disallowed tax inputs; and 3) non-interest bearing advances.

Respondent's counter-arguments:

FPEC counters that the CIR's right to assess the deficiency withholding taxes has already prescribed. Allegedly, petitioner's assessments for withholding taxes are not mere penalties. Section 203 of the NIRC does not make a distinction as to what kind of internal revenue taxes are subject to the three-year prescriptive period to assess. Section 203 of the NIRC merely states that the prescriptive period shall start to run upon the last day prescribed by law for filing the return.

Moreover, FPEC maintains that there is no basis for the imposition of compromise penalties. Allegedly, it is a settled rule that compromise penalties are amounts collected by the BIR in lieu of criminal prosecution for violations committed by taxpayers, the payment of which is based on the compromise agreement validly entered into between the taxpayer and the CIR. Absent any showing that petitioner consented to the compromise penalty, its imposition should not be allowed.

FPEC likewise avers that the CTA is a court of record and not merely one acting on judicial review. Thus, litigants are required to prove every aspect of their cases because cases before this Court are litigated *de novo.*

In addition, FPEC contends that it is not liable for deficiency taxes arising from alleged unaccounted purchases and sales, and expenses not subjected to EWT; and that the Court in Division rightly held that it is not liable for the assessed taxes arising from the following: 1) NOLCO, disallowed tax credits, and disallowed tax inputs; and 2) non-interest bearing advances.

Finally, in its *Supplemental Comment,* FPEC alleges that the Second Division of this Court rendered a Decision in the case entitled "*First Philippine Industrial Corporation (FPIC) v. Commissioner of Internal Revenue*" docketed as CTA Case No. 9000. Respondent prays that this Court consider the ruling of the Court in Division in CTA Case No. 9000 wherein the four (4) Waivers executed by the petitioner therein were found invalid and therefore could not have validly extended the Commissioner of Internal Revenue's right to assess FPIC.

THE COURT *EN BANC*'S RULING

The instant *Petition for Review* lacks merit.

The three (3) year prescriptive period under Section 203 of the NIRC of 1997, as amended, applies to withholding tax assessments.

Section 203 of the NIRC of 1997, as amended provides as follows:

> "**SEC. 203.** ***Period of Limitation Upon Assessment and Collection.*** - Except as provided in Section 222, internal revenue taxes shall be assessed within three (3) years after the last day prescribed by law for the filing of the return, and no proceeding in court without assessment for the collection of such taxes shall be begun after the expiration of such period: Provided, That in a case where a return is filed beyond the period prescribed by law, the three (3)-year period shall be counted from the day the return was filed. For purposes of this Section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day."

Petitioner contends that the assessment for withholding taxes from the withholding agents is imprescriptible. According to the petitioner, what is being collected from the withholding agent is not the income tax but rather, it is being made liable for breaching its duty to remit the tax withheld. Thus, what is being collected from the withholding agent is the penalty for its failure to perform its duty. Consequently, the deficiency withholding tax assessed against FPEC as a penalty, is beyond the ambit of Section 203 of the NIRC of 1997, as amended.

We are not convinced.

The foregoing theory forwarded by the petitioner has already been struck down by the Supreme Court in the case of *Commissioner of Internal Revenue vs. La Flor Dela Isabela, Inc.,*[16] to wit:

> "The CIR, however, forwards a novel theory that Section 203 is inapplicable in the present assessment of EWT and WTC deficiency against La Flor. It argues that withholding taxes are not contemplated under the said provision considering that they are not internal revenue taxes but are penalties imposed on the withholding agent should it fail to remit the proper amount of tax withheld.
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> xxx xxx xxx
>
> Under the existing withholding tax system, the withholding agent retains a portion of the amount received by the income earner. In turn, the said amount is credited to the total income tax payable in transactions covered by the EWT. On the other hand, in cases of income payments subject to WTC and Final Withholding Tax, the amount withheld is already the entire tax to be paid for the particular source of income. Thus, it can readily be seen that the payee is the taxpayer, the person on whom the tax is imposed, while the payor, a separate entity, acts as the government's agent for the collection of the tax in order to ensure its payment.
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> xxx xxx xxx
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> It is true that withholding tax is a method of collecting tax in advance and that a withholding tax on income necessarily implies that the amount of tax withheld comes from the income earned by the taxpayer/payee. **Nonetheless, the Court does not**

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[16] G.R. No. 211289, January 14, 2019.

> **agree with the CIR that withholding tax assessments are merely an imposition of a penalty on the withholding agent, and thus, outside the coverage of Section 203 of the NIRC.**
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> xxx xxx xxx
>
> **Thus, withholding tax assessments such as EWT and WTC clearly contemplate deficiency internal revenue taxes. Their aim is to collect unpaid income taxes and not merely to impose a penalty on the withholding agent for its failure to comply with its statutory duty.** Further, a holistic reading of the Tax Code reveals that the CIR's interpretation of Section 203 is erroneous. Provisions of the NIRC itself recognize that the tax assessment for withholding tax deficiency is different and independent from possible penalties that may be imposed for the failure of withholding agents to withhold and remit taxes. For one, Title X, Chapter I of the NIRC provides for additions to the tax or deficiency tax and is applicable to all taxes, fees and charges under the Tax Code." *(Emphasis supplied.)*

The Supreme Court, in the aforecited case, stated in no uncertain terms, that a withholding tax assessment is ***not*** merely an imposition of penalty on the withholding agent. On the contrary, it was categorically held that the collection of withholding taxes falls squarely within the purview of Section 203 of the NIRC of 1997, as amended. Thus, the three (3) year prescriptive period under Section 203 of the NIRC of 1997, as amended, applies to withholding tax assessments.

FPEC cannot be held liable for compromise penalty.

Petitioner avers that FPEC should be held liable for the imposed compromise penalties, because it failed to raise the same as an issue in its protest with the BIR. Thus, it should not be allowed to raise it as an issue when it filed an appeal with the Court in Division.

We are not swayed.

It is a well-settled rule that compromise penalty cannot be imposed or collected without the agreement or conformity of the taxpayer.[17] A compromise, by its nature, is mutual in essence.[18] It cannot be imposed without a predicate agreement. Thus, the fact that the taxpayer protested the assessment could only signify that there was no agreement to speak of.[19]

As applied to this case, the fact that FPEC filed its protest against the subject assessments means that there was no agreement to speak of. Without the express consent or conformity of FPEC, there would be no basis for the imposition of compromise penalties in this case.

In fact, this Court notes that in petitioner's *Answer*[20] filed on February 1, 2016, petitioner actually agreed with FPEC that compromise penalties *cannot* be imposed without the agreement or conformity of the taxpayer, to wit:

> "***The compromise penalties were merely included as a suggestion for petitioner to avoid criminal prosecution.***
>
> 104. Lastly, petitioner submitted that compromise penalties cannot be imposed without the consent of the taxpayer.
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> 105. Respondent agrees with petitioner that the essence of compromise penalties are mutuality and it cannot be imposed without the agreement of (sic) conformity of the taxpayer.
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> xxx xxx xxx
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> 107. In fact, respondent only included such portion as a suggestion to petitioner to pay it in lieu of criminal

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[17] *Wonder Mechanical Engineering Corporation, etc., vs. Court of Tax Appeals, et al.,* G.R. No. L-22805 & L-27858, June 30, 1975; and *The Philippine International Fair, Inc. vs. Collector of Internal Revenue,* G.R. Nos. L-12928 & L-12932, March 31, 1962.
[18] *Dr. Felisa L. Vda. De San Agustin, etc. vs. Commissioner of Internal Revenue,* G.R. No. 138485, September 10, 2001.
[19] *Manila Bankers' Life Insurance Corporation vs. Commissioner of Internal Revenue,* G.R. Nos. 199729-30 and 199732-33, February 27, 2019.
[20] Division Docket (CTA Case No. 9199), Vol. 1, pp. 248 to 273.

> prosecution pursuant to Revenue Memorandum Circular No. 17-1990 x x x.
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> xxx xxx xxx
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> 108. Thus, it is well within the prerogative of petitioner to decide whether to heed respondent's suggestion to pay the compromise penalty to avoid criminal prosecution."[21]

Considering the foregoing judicial admissions that the compromise penalty was a mere suggestion, and that FPEC cannot be held liable therefor, without its express consent or conformity, petitioner should no longer be allowed to take a different stance.

It bears stressing that petitioner's statements in his Answer constitute judicial admissions,[22] which are legally binding on him.[23] Case law instructs that even if such judicial admissions place a party at a disadvantageous position, he may not be allowed to rescind them unilaterally and he must assume the consequences of such disadvantage, as in this case.[24]

***Cases filed before the Court of Tax Appeals are litigated* de novo.**

Petitioner likewise argues that the Court in Division erred in ruling on matters that were never substantiated in the administrative level. According to the petitioner, since he rendered a FDDA, the jurisdiction of the Court in Division becomes strictly appellate in nature.

We disagree.

Section 8 of R.A. No. 1125, as amended, specifically states that the Court of Tax Appeals is a court of record, to wit:

> "**SECTION 8. *Court of record; seal; proceedings.*** – The Court of Tax Appeals shall be a **court of record**

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[21] Division Docket (CTA Case No. 9199), Vol. I, pp. 269 to 271.
[22] Section 4, Rule 129 of the Rules on Evidence
[23] *Mactan Rock Industries, Inc., et al., vs. Benfrei S. Germo,* G.R. No. 228799, January 10, 2018, citing *Constantino vs. Heirs of Constantino, Jr.,* 718 Phil. 575, 591 (2013).
[24] *Id.,* citing *Bayas vs. Sandiganbayan,* 440 Phil. 54, 69 (2002).

and shall have a seal which shall be judicially noticed. It shall prescribe the form of its writs and other processes. It shall have the power to promulgate rules and regulations for the conduct of the business of the Court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, but such proceedings shall not be governed strictly by technical rules of evidence." (*Emphasis supplied.)*

The foregoing provision categorically states that the Court of Tax Appeals shall be a court of record. As such, this Court is required to conduct a formal trial (trial *de novo*), and party litigants are required to prove every minute aspect of their case.[25]

Thus, in the case of *Philippine Airlines, Inc. vs. Commissioner of Internal Revenue,*[26] it was emphasized that the review of the Court of Tax Appeals is **not** limited to whether there was grave abuse of discretion, fraud, or error of law. Rather, the scope of the Court of Tax Appeals' review includes **factual findings**, to wit:

> "As such, parties are expected to litigate and prove every aspect of their case anew and formally offer all their evidence. No value is given to documentary evidence submitted in the Bureau of Internal Revenue unless it is formally offered in the Court of Tax Appeals. Thus, the review of the Court of Tax Appeals is not limited to whether or not the Commissioner committed gross abuse of discretion, fraud, or error of law, as contended by the Commissioner. As evidence is considered and evaluated again, the scope of the Court of Tax Appeals' review covers factual findings."

Considering that the Court of Tax Appeals is a court or record, requiring the parties to litigate and prove every minute aspect of their case, as well as formally offer all their evidence, the scope of the review by the Court in Division naturally extends to factual findings. Thus, there is no basis for petitioner's argument that the Court in

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[25] *Edison (Bataan) Cogeneration Corporation vs. Commissioner of Internal Revenue*, G.R. Nos. 201665 and 201668, August 30, 2017; *Dizon vs. Court of Tax Appeals, et al.*, G.R. No. 140944, April 30, 2008; *Atlas Consolidated Mining and Development Corporation vs. Commissioner of Internal Revenue*, G.R. No. 145526, March 16, 2007; and *Commissioner of Internal Revenue vs. Manila Mining Corporation*, G.R. No. 153204, August 31, 2005.
[26] G.R. Nos. 206079-80 and 206309, January 17, 2018.

Division is limited to ruling only on matters that were substantiated in the administrative level.

The factual findings of the Court in Division which are thoroughly supported by law and the evidence on record shall prevail over the general and perfunctory statements made by the petitioner.

Finally, petitioner likewise argues that FPEC is liable for assessed deficiency taxes arising from the following: 1) unaccounted purchases and unaccounted sales, and expenses not subjected to EWT; 2) NOLCO and disallowed tax credits and input tax credits; and 3) non-interest bearing advances.

We are not convinced.

This Court notes that the foregoing contentions are mere reiterations of the arguments interposed by the petitioner before the Court in Division, which were sufficiently passed upon and exhaustively discussed in the assailed Decision and Resolution.

Moreover, petitioner fails to make any specific discussion to support his arguments, or point out the supposed error in the findings of fact by the Court in Division.

As between the factual findings of the Court in Division, which are thoroughly supported by law and the evidence on record, and petitioner's general and perfunctory statements against the said rulings, the former must perforce prevail. In other words, absent any showing that the factual findings of the Court in Division were irregular or erroneous, there is no reason to reverse the same.

WHEREFORE, in light of the foregoing considerations, the instant *Petition for Review* is hereby **DENIED** for lack of merit. The Decision dated February 8, 2019 and the Resolution dated June 4, 2019 rendered by the Special Second Division of this Court in CTA Case No. 9199 are hereby **AFFIRMED**.

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

JUANITO C. CASTAÑEDA, JR.
Associate Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

(I maintain my Concurring and Dissenting Opinion in CTA Case No. 9199)

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA 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 the Court.

ROMAN G. DEL ROSARIO
Presiding Justice