REPUBLIC OF THE PHILIPPINES
Court of Tax Appeals
QUEZON CITY

En Banc

SOLID VIDEO CORPORATION, *Petitioner,* -*versus*- **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.*	**CTA *EB* NO. 2195** (CTA CASE NO. 9051)
COMMISSIONER OF INTERNAL REVENUE, *Petitioner,* -*versus*- **SOLID VIDEO CORPORATION,** *Respondent*	**CTA *EB* NO. 2207** (CTA CASE NO. 9051) Present: **DEL ROSARIO, P.J., RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*

Promulgated:
MAY 24 2024 1:20pm

x --- x

RESOLUTION

MODESTO-SAN PEDRO, J.:

For resolution is a Motion for Reconsideration with Manifestation (Re: Decision dated March 1, 2022) ("Motion"),[1] filed by Solid Video Corporation ("SVC") on March 18, 2022.

---

[1] See Motion for Reconsideration with Manifestation (Re: Decision dated March 1, 2022), *Rollo*, pp. 201-219, with annexes.

In the Manifestation, SVC informed the Court *En Banc* about a compromise agreement with respect to the settlement of the disputed tax assessment subject of this case pursuant to the mediation proceedings before the Philippine Mediation Center-CTA. According to SVC, the offer has been approved by the Enforcement and Advocacy Service of the Legal Group of the Bureau of Internal Revenue ("BIR"), as of filing the Motion, but has yet to be signed by the Commissioner of Internal Revenue ("CIR").

However, as of date, the parties have not submitted the results of the compromise offer and have yet to file a Motion to Render Judgment Based on Compromise Agreement. We shall thus proceed to resolve the instant Motion.

The Motion seeks the reversal of the Court *En Banc*'s Decision, dated March 1, 2022 ("Assailed Decision"),[2] in the above-captioned case, the dispositive portion of which reads:

> **WHEREFORE**, premises considered, the instant Petitions for Review are hereby **DENIED** for lack of merit. Accordingly, the Court in Division's Amended Decision promulgated on 2 May 2019, and Resolution, dated 14 November 2019, are both **AFFIRMED**.
>
> **SO ORDERED.**

Specifically, SVC avers in its Motion that:

1) The Court *En Banc* erred in its conclusion that petitioner had "undeclared services income" in the amount of Php1, 324,742.53 in taxable year 2010 (CY 2010); and

2) Even assuming that SVC is liable for deficiency income tax and value added tax (VAT) for CY 2010, the Court *En Banc* erred in upholding the Court in Division's computation of the applicable deficiency interest and delinquency interests, and in requiring SVC to pay 25% surcharge on the foregoing deficiency taxes.

On the other hand, the CIR failed to file his comment on the instant Motion, as per the Records Verification Report, dated May 5, 2022.

Upon judicious review of SVC's contentions and of the records, the Court *En Banc* finds that the Motion fails to impress.

---

[2] See Decision, dated March 1, 2022, *id.*, pp. 166-200.

The Court in Division has properly concluded that SVC had "undeclared service income" in the amount of Php1,324,742.53 in CY 2010.

In the Assailed Decision, the *Court En Banc* upheld the Court in Division's calculations and ordered SVC to pay deficiency income tax in the amount of Php590,891.50 computed as follows:

Taxable Income per ITR		₱18,265,923.00
Add:		
Sale of goods erroneously considered as sales of services	1,642,308.54	
Service income without details included in the BIR's computation	61,719.41	
Other service income without BIR Form No. 2307	(379,285.79)	1,324,742.16[3]
Should-be taxable income per Court in Division		**19,590,665.16**
Tax Due (30%)		5,877,199.55
Less:		
Payment and Credits	5,479,777.00	
Disallowed Creditable Withholding Tax	(193,468.84)	5,286,308.16
Basic Deficiency Income Tax Still Due		**₱590,891.39[4]**

This Court ruled that out of the alleged "Undeclared Service Income" (per BIR investigation) of Php1,967,312.89, only the amount of Php325,004.35 was determined, per Court in Division's independent verification, to have been erroneously included in the Undeclared Service Income assessment, hence the remaining assessed amount of Php1,642,308.54.

In this regard, the Court *En Banc* adopted the Court in Division's findings in which the latter traced and matched the sales declared per BIR Form No. 2307 and the sales per SVC's general ledger.

For this purpose, only those matched transactions were considered by the Court in Division as a valid reduction against the alleged undeclared service income. Such method was upheld by the Court *En Banc* in the Assailed Decision, thus:

> The Court En Banc points out that the issued herein is not only limited to the nature or type of sales transaction the ₱1,651,156.49 corresponds to but also on whether the sales recorded in SVC's general ledger pertains to the exact same transactions declared by SVC's customers in the BIR Forms No. 2307.
>
> In order to prove this, SVC should have reconciled and provided all the invoices/receipts comprising the sales declared in the BIR Forms No. 2307 in order for the Court to ascertain that the transactions recorded in the general ledger are the actual sales declared per BIR Forms No.2307.

[3] Difference due to rounding-off.
[4] Difference due to rounding-off.

However, SVC contends that it was erroneous to only consider the matched transactions. In the instant Motion, it reminds the Court *En Banc* that the assessment item in issue arose from the BIR's comparison of SVC's service income per BIR Form No. 2307 vs. service income per income tax return (ITR). For this reason, SVC insists that it is constrained to show that the income amounting to Php1,967,312.89 actually pertains to sale of goods (not of services) and that such sales of goods have been reported in petitioner's ITR and subjected to 30% income tax in CY 2010.

It then brings to the Court *En Banc's* attention the report issued by the Independent Certified Public Accountant (ICPA) Ma. Milagros F. Padernal, who concluded that the amount of Php1,967,312.89 represents sales of goods reported in SVC's ITR and subjected to income tax.[5]

SVC also reiterates its contentions raised in the Petition for Review, filed with this Court on December 23, 2019, by emphasizing that the sales amount shown in the creditable withholding tax (CWT) certificates (BIR Form No. 2307) and the amount of sales recorded in the books of accounts do not always match due to timing difference caused by the differing accounting methods employed by SVC (*i.e.*, accrual method) and its customers (*i.e.*, cash method).

Finally, SVC reechoes that at any rate, the ICPA was able to verify that the entire amount of Php1,967,312.89 was already reported in its ITR and was already subject to income tax. Hence, SVC posits that upholding the assessment will unjustly require it to pay income tax on the same "sale of goods" twice.

The Court *En Banc* finds the foregoing contentions unmeritorious.

We agree that, in relation to the issue at hand, the main two points that must be proven by SVC are (1) that the subject transactions actually pertain to sale of goods; and (2) that they were already subjected to 30% income tax in the ITR.

For the *first* point, the supplier's invoices duly indicating the nature of transaction would suffice to prove the same. In Exhibit 34[6] of the report, the ICPA already matched the amounts per supplier's invoice (SI) vs. per general ledger (GL) and already identified the portions thereof which pertain to sale of goods and to sale of services.

However, as for the *second* point, the completeness of the income declared in the ITR can only be ascertained if the transactions from the BIR Form No. 2307 can ultimately be traced to the ITR. Note that the ITR already provides a reconciliation of the income per books vs. taxable income. Thus, the missing link is to trace the transaction per BIR Form No. 2307 to the books or GL. y

---

[5] ICPA Report, Division Docket Vol. 2, pp. 620-621.
[6] Division Docket Vol. 2, pp. 725-729.

For this purpose, the Court *En Banc* notes the absence of any reference (e.g., clear indication in the BIR Form No. 2307, or a reconciliation table stating the corresponding SIs of the income payments subjected to withholding) that would allow Us and the Court in Division to trace the transactions in the BIR Form No. 2307 to the GL. Thus, the only logical indication that can be relied upon by the Court is the actual matching of the amounts in these documents. Accordingly, as correctly held by the Court in Division, only the matched amounts may be considered as valid reduction from the BIR's alleged undeclared service income.

Furthermore, SVC is basically asking the Court *En Banc*, to rely on the ICPA's conclusion, without showing the proper supporting documents (i.e., invoices/receipts and/or a schedule of the same identifying the corresponding sales declared in the BIR Forms No. 2307).

We, however, emphasize that the Court is not bound by the findings of the ICPA, as per *Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals ("RRCTA")*,[7] which states:

> Sec. 3. Findings of independent CPA – The submission by the independent CPA of pre-marked documentary exhibits shall be subject to verification and comparison with the original documents, the availability of which shall be the primary responsibility of the party processing such documents and, secondarily, by the independent CPA. *The findings and conclusions of the independent CPA may be challenged by the parties and shall not be conclusive upon the Court, which may, in whole or in part, adopt such findings and conclusions subject to verification.*
> (Italics supplied)

Clearly, the ICPA's findings are not conclusive upon the Court as the same are subject to its verification to determine their accuracy, veracity, and merit.[8] The Court may either adopt or reject the ICPA Report, wholly or partially, depending on the outcome of its own independent verification.[9] Thus, SVC cannot insist that the ICPA's findings are sufficient to support its contentions. It is essential to present evidence to support its averments and arguments against the BIR's assessment.

In view of all the foregoing, the Court *En Banc* finds no sufficient reason to reverse the conclusion of the Court in Division that SVC has undeclared service income of Php1,324,742.53 in CY 2010, which was eventually upheld in the Assailed Decision.

Similarly, the resulting value-added tax (VAT) implication of the said undeclared service income is correctly imputed in the Court in Division's calculation of deficiency VAT amounting to Php88,033.60 calculated as follows:

---

[7] A.M. No. 05-11-07-CTA, 22 November 2005.
[8] Takenaka Corporation Philippine Branch v. Commissioner of Internal Revenue, G.R. No. 211589, 12 March 2018; Aecom Philippines Inc. v. Commissioner of Internal Revenue, C.T.A. EB Case No. 2454, 9 December 2022
[9] Procter & Gamble Asia Pte. Ltd., v. Commissioner of Internal Revenue, C.T.A CEB Case No. 2301, 24 November 2021.

VATable Sales/Receipts per VAT returns			₱116,874,744.09
Add: Undeclared Sales/Receipts			1,324,742.53
Total VATable Sales/Receipts, as Adjusted			118,199,486.62
Output Tax Due			14,183,938.39
Less: Creditable Input Tax			
Input Tax Carried Over from Previous Period		2,291,168.83	
Creditable VAT Withheld		73,148.14	
Current Input Tax		11,259,943.75	
Total		13,624,260.72	
Less: Overclaimed Input Tax Credit	79,207.50		
Input Tax on Sale to Government Closed to Expense	1,444.29		
Unsupported Creditable VAT withheld	3,382.61	84,034.40	13,540,226.32
Net VAT Payable			643,712.07
Less: VAT Payments			555,678.43
Basic Deficiency VAT			**₱88,033.64**

The deficiency and delinquency interests and surcharge on the deficiency income and VAT were properly computed.

In its Motion, SVC reiterates the contentions raised in its Petition for Review regarding the imposition of the deficiency and delinquency interests, as well as the 25% surcharge.

Note that these issues have already been extensively discussed in the Amended Decision, dated May 2, 2019, and in the Assailed Decision. Thus, as SVC did not raise any new arguments that would merit reconsideration of the Court *En Banc*'s conclusion, We reiterate that:

> RR No. 21-18 is clear and admits no exception: for deficiency tax liabilities falling due prior to the effectivity of TRAIN Law but remained unpaid after said date, the taxpayer is still liable to pay both deficiency and delinquency interests at the rate of 20% on its unpaid tax liabilities until 31 December 2017. The lower rate of 12% and the prohibition on the double imposition of interests shall only take effect starting 1 January 2018.
>
> . . . .
>
> As can be gleaned above and contrary to SVC's claim, the Tax Code did not require the inclusion of the 25% surcharge in the assessment before the imposition could be considered valid. In fact, in Commissioner of Internal Revenue v. South Premiere Power Corp., the Supreme Court ruled that the mere delay in the payment of any deficiency taxes justifies the immediate imposition of the 25% surcharge.
>
> . . . .

Here, there is no question that SVC had not paid the remaining deficiency income and VAT within 15 May 2015 or the due date indicated in the FDDA. Hence, the Court in Division's imposition of the 25% surcharge on SVC unpaid tax liabilities is only proper.

ACCORDINGLY, premises considered, SVC's Motion for Reconsideration filed on March 18, 2022 is hereby **DENIED** for lack of merit.

SO ORDERED.

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

Marian Ivy F. Reyes-Fajardo
MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice