Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

FIRST DIVISION
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STEELASIA MANUFACTURING CORPORATION,
Petitioner,

C.T.A. CASE NO. 6678

Members:

\- versus -

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

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Promulgated:
OCT 09 2009 10:30 am

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DECISION

CASANOVA, J.:

For resolution of this Court is a Petition for Review filed by petitioner, **Steelasia Manufacturing Corporation (SAMC)**, praying that the Bureau of Internal Revenue (BIR)'s assessments for deficiency value-added tax (VAT) in the amount of P107,402,405.01 and withholding tax in the amount of P24,034,502.14 issued against SAMC be declared null and void.

THE FACTS

Petitioner, SAMC, is a corporation duly organized and existing under and by virtue of the laws of the Philippines. Allegedly, SAMC's primary purpose is to operate, conduct and maintain the business of manufacturing, importation, exporting, buying and selling of different steel products. Its current office address is at B:2, Bonifacio High Street, Bonifacio Global City, Taguig City.

Respondent is the duly appointed Commissioner of Internal Revenue. He is mandated by law to enforce and implement the provisions of the National Internal Revenue Code, as amended, including the power to issue deficiency tax assessments and evaluate and decide on the protest against such assessments. He holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.

On September 9, 1999, SAMC received from the BIR's Tax Fraud Division a Letter of Authority which requested for the production of records and documents covering the internal revenue liabilities for the taxable year ending 1997-1998.[1]

On October 12, 1999, SAMC submitted to the BIR copies of some of the documents requested.[2]

On October 14, 1999, SAMC received from respondent a 2nd "Request for the Presentation of Records" dated October 11, 1999.[3]

On October 10, 2000, SAMC received from respondent a "Notice to Taxpayer" calling for an "informal conference" to notify petitioner of the findings of its tax liabilities.[4]

On February 12, 2001, respondent issued to petitioner a Preliminary Assessment Notice (PAN). It found SAMC liable for deficiency VAT of P107,402,404.11 and deficiency withholding tax of P24,034,502.14.[5]

On February 27, 2001, SAMC received from the respondent an undated Final Assessment Notice (FAN)[6] with attached Formal Letter of Demand with Details of Discrepancies[7] dated February 26, 2001 demanding payment of deficiency VAT amounting to P107,402,404.11 and deficiency withholding tax of P24,034,502.14 or a total of P131,436,907.15 including interest.[8]

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[1] *3rd Par. of Joint Stipulation of Facts and Issues ("JSFI"), Docket, pp. 257-260, duly approved by this Court in a Resolution dated June 25, 2004, Rollo, p. 262.*
[2] *4th Par., JSFI, Rollo, p. 258.*
[3] *5th Par., Ibid.*
[4] *6th Par., Ibid.*
[5] *7th Par., Ibid.*
[6] *Exhibit "3".*
[7] *Exhibit "2".*
[8] *8th Par., Ibid.*

According to the Details of Discrepancies, SAMC were assessed because:

a) Miscellaneous Income amounting to P124,207.61 were not subjected to Value-Added Tax in violation of Section 105 of the National Internal Revenue Code, giving rise to a deficiency output taxes of P12,420.76;

b) An Input taxes of P1,515,265.00 were disallowed for failure to comply with the invoicing and accounting requirements for VAT-Registered Persons as provided for in Section 113 of the NIRC;

c) Investigation reveals that [SAMC] acquired Tax Credit Certificates (TCC), issued by the One-Stop Shop Tax Credit and Duty Drawback Center to Board of Investments (BOI)-registered firms, from different Textile companies at a discount. The disallowance stemmed from the utilization of these TCC. The Commissioners of Internal Revenue in BIR Rulings 181-94, 165-98 and 164-98, taking into consideration Rule IX of the Rules and Regulations issued by the BOI to implement P.D. 1789 and B.P. Blg. 391, ruled that TCCs issued by the BOI is limited to one transfer by the grantee to its domestic suppliers of raw materials and/or components who are likewise BOI-registered. The records show that although [SAMC is] BOI-registered, [it] is not a domestic supplier of the raw materials and/or component product of the textile companies, therefore the TCC cannot be used in payment of tax liability;

d) Verification disclosed that [SAMC] failed to withhold a 10% Withholding Tax on Interest Expense as required in Revenue Regulations (RR) No. 14-77, amending RR No. 10-76; and

e) It should be noted that the investigation were based on evidence best obtainable and other pertinent documents provided by the taxpayer as the taxpayer refuses/fails to present the complete books of accounts as required by the National Internal Revenue Code.[9]

On October 9, 2002, SAMC received from respondent a Preliminary Collection Letter, dated October 8, 2002, demanding that SAMC pay the aforesaid tax liability in the aggregate amount of P131,436,907.15 including

[9] *9th Par., Ibid., BIR Records, p. 689.*

interest.[10]

On March 9, 2003, respondent sent petitioner a Final Notice Before Seizure (FNBZ), dated October 15, 2002.[11]

Treating the FNBZ as final denial of its protest letter dated March 26, 2001, SAMC filed the instant Petition for Review.[12]

On August 26, 2003, respondent filed his *Answer*[13] reiterating its arguments stated in the Details of Discrepancies.

On June 22, 2004, SAMC and the respondent filed their Joint Stipulation of Facts and Issues. They stipulated the following issues to be resolved by this Court:

1. Whether or not petitioner's utilization as VAT payments of TCCs amounting to P64,892,914.00 acquired from various textile companies at a discount, is allowable;

2. Whether or not petitioner's miscellaneous income of P124,207.61 was subjected to VAT;

3. Whether or not petitioner's claimed input taxes of P1,515,265.00 are allowable;

4. Whether or not petitioner withheld the 10% withholding tax on interest expense; and

5. Whether or not petitioner failed to present its complete books of accounts as required under the Tax Code.

Thereafter, the standard judicial proceedings in the instant case ensued. Petitioner and respondent presented their respective testimonial and documentary exhibits and formal offer of evidence.

On February 18, 2008, petitioner-SAMC filed a "Motion for Partial Withdrawal of the Petition for Review"[14]. It prayed that the issues on VAT should be dispensed with because it availed of the Government's Tax

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[10] 10th Par., JSFI, Docket p. 259.
[11] *Ibid.*
[12] *Ibid.*
[13] *Rollo. pp. 208-211.*
[14] *Rollo. pp. 541-544.*

Amnesty Program under Republic Act No. 9480, as implemented by Department of Finance Department Order No. 29-07.

SAMC presented before this Court all necessary documents to avail of the said Amnesty Program, namely:

1. Notice of Availment of Tax Amnesty dated October 19, 2007 duly received by the BIR on November 5, 2007[15];

2. Development Bank of the Philippines BIR Tax Payment Deposit slip reflecting the amount of P500,000 as the tax amnesty payment[16];

3. BIR Form No. 2116 or Tax Amnesty Return of SAMC duly received by the BIR on November 5, 2007 with Tax Amnesty Return Guidelines and Instructions[17];

4. BIR Form No. 0617 or the Tax Amnesty Payment Form of SAMC duly received by the BIR on November 5, 2007 with Guidelines and Instructions[18];

5. SAMC's statement of Assets, Liabilities and Networth (SALN) as of December 31, 2005 with Guidelines and Instructions[19]; and

6. SAMC's Balance Sheets with Annexes[20]

Hence, in a *Resolution*[21] dated March 17, 2008, this Court granted SAMC's motion and ruled that the Petition For Review is partially withdrawn insofar as the FAN for deficiency VAT for the taxable year 1997 in the amount of P107,402,405.01, inclusive of interest, is concerned. This Court also stated that the only remaining issue in this case covers the FAN for deficiency withholding tax for the taxable year 1997 in the amount of P24,034,502.14, inclusive of interest.

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[15] *Exhibit "AA".*
[16] *Exhibit "BB".*
[17] *Exhibits "CC to CC-1"*
[18] *Exhibits "DD to DD-1"*
[19] *Exhibits "EE to EE-1"*
[20] *Exhibit "EE-2".*
[21] *Rollo, pp. 599 to 600.*

On September 23, 2008, respondent filed his *Memorandum*[22]. On the other hand, SAMC filed its *Memorandum*[23] on October 23, 2008. Hence, on October 27, 2008, the case was submitted for decision.[24]

THE ISSUE

On account of petitioner's availment of the BIR's Amnesty Program, the remaining issue in this case is whether or not petitioner-SAMC is liable for the 10% withholding tax on interest expense for the taxable year 1997 in the amount of P24,034,502.14, inclusive of interest.

THE COURT'S RULING

According to respondent's Formal Letter of Demand with Details of Discrepancies[25], the alleged withholding tax liability of SAMC was computed as follows:

Interest Expense per FS	P131,912,745.00
10% Final Withholding Tax	
(P131,912,745.00 x 10%)	P 13,191,274.50
Add: Interest from 1-11-98 to 02-26-00	P 10,843,227.64
Total Deficiency EWT	**P 24,034,502.14**

Respondent's Arguments

Respondent stipulates that the amount recorded by SAMC as "Interest Expense" in its 1997 Financial Statements[26] also reflected in the company's 1997 Income Tax Return as "Interest and Bank Charges"[27] of P131,912,745.00 is entirely subject to 10% Final Withholding Tax (FWT) based on Revenue Regulations No. 10-76[28], as amended by Revenue Regulations No. 14-77.

[22] *Rollo, pp. 661 to 672.*
[23] *Rollo, pp. 677 to 700.*
[24] *Rollo, p. 701.*
[25] *Exhibit "2".*
[26] *BIR Records, p. 654.*
[27] *BIR Records, p. 651.*
[28] *Regulations governing taxation of Offshore Banks and Foreign Currency Deposit Units of depository banks established under P.D. 1034 and 1035, respectively.*

Respondent further argues that SAMC is no longer allowed to submit supporting documents on the issue at bar because it failed to provide any supporting documents during the administrative proceedings. Respondent invokes Section 228 of the 1997 National Internal Revenue Code (1997 Tax Code), as amended. He argues that the said section provides that "[w]ithin sixty (60) days from the filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final". Respondent claims that the submission of documents is mandatory and failure on the part of the SAMC to comply renders the fact in dispute final and beyond the scope of judicial review.[29]

Petitioner's arguments

SAMC, on the other hand, argues that the 10% FWT on interest under RR No. 10-76 as amended by RR No. 14-77 applies only to foreign currency loans. SAMC further states that its loans were substantially peso-denominated and it paid the required 10% FWT on its foreign currency denominated loans.

SAMC adds that it submitted documents required by the BIR's Tax Fraud Division and allowed the assigned revenue officers to examine its various books of accounts and accounting records. SAMC furthers that the subject deficiency withholding tax assessment was issued in violation of its right to due process as the respondent did not observe the required procedures in the issuance of the PAN and FAN as mandated by RR No. 12-99. It cites Section 3.1.2 of the said regulation wherein it was stated that a taxpayer is given a period of fifteen (15) days from receipt of the PAN to respond thereto and contest such preliminary assessment. SAMC claims that it received the PAN on February 16, 2001 and before it could contest the PAN within the 15-day period, respondent immediately sent SAMC an undated and unnumbered FAN on February 27, 2001.

This Court partly rules in favor of petitioner-SAMC.

Section 228 of the 1997 Tax Code, as amended, provides the following

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[29] *Respondent's Memorandum filed September 23, 2008, Rollo. 661-672.*

rule, to wit:

> "***SEC. 228. Protesting of Assessment.-***
>
> x x x x x x
>
> 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. x x x" *(Underscoring provided)*

The CTA *En Banc* had the opportunity to interpret the above underlined provision in **Commissioner of Internal Revenue vs. Solidbank Corporation**, CTA E.B. Case No. 114, promulgated February 22, 2007. We quote below the relevant portions of the decision:

> *"The submission of relevant supporting documents lies in the sound discretion of the respondent, which it considers will be necessary to its protest. As aptly ruled by this Court in the case of* ***Standard Chartered Bank-Philippine Branches vs. Commissioner or Internal Revenue:***[30]
>
> *'...As stated earlier, the determination of the 'relevant supporting documents' initially rests upon the one who filed the protest, in this case, the Petitioner. However, in cases where the BIR finds that additional documents must be submitted, it should have informed the taxpayer-protester to submit whatever documents are lacking in order that a complete determination of the propriety of the assessment may be had. Thus, Respondent has been remiss in informing the Petitioner of any additional supporting documents to be submitted which fact should not unduly prejudice Petitioner's protest.'*
>
> *Lastly, We quote with approval the Court in Division's disquisition on this issue:*
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> *'. . . In other words, the finality of the assessment, as worded in the provision of law, simply means that where the taxpayer decides to forego with its opportunity to present the documents in support of its claim within sixty (60) days from the filing of its protest, it merely lost its chance to further contest the assessment.*

[30] *CTA Case No. 5696, August 16, 2001.*

> *Effectively, its non-compliance with the submission of the necessary documents would either mean that the petitioner no longer wishes to further submit any document for the reason that its protest letter filed was more than enough to support its claim, or that the petitioner failed to comply thus it can no longer give justification with regard to its objections as to the correctness of the assessment notices.*
>
> *Nonetheless, the necessity of the submission of the supporting documents lies on the petitioner. It cannot be left to the discretion of the respondent for in doing so would leave the petitioner's case at the mercy of the whims of the respondent. In other words, it is for the petitioner to decide whether or not supporting documents are necessary to support its protest, for it is in the best position, being the affected party to the assessment, to determine which documents are necessary and essential to garner a favorable decision from the respondent."*

We reiterate that the need for the submission of the supporting documents lies on the taxpayer-protester. The submission of supporting documents on the protest cannot be left to the discretion of the BIR for in doing so would leave the taxpayer's case at the mercy of the whims of the BIR. Otherwise stated, it is for the taxpayer to decide whether or not supporting documents are required to support its protest, because the taxpayer is in the best position, being the affected party to the assessment, to determine which documents are necessary and essential to garner a favorable decision from the BIR.

We also noted that there were irregularities in the manner the examiners handled SAMC's assessment.

The PAN was issued on February 12, 2001 and received by SAMC on February 16, 2001. Eleven days from receipt of the PAN or on February 27, 2001, SAMC received from the BIR a FAN[31] with attached Final Letter of Demand with Details of Discrepancies[32] dated February 26, 2001 demanding payment of deficiency VAT amounting to P107,402,405.01 and deficiency

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[31] *Exhibit "3"*
[32] *Exhibit "2"*

withholding tax of P24,034,502.14.[33] Clearly, SAMC's right to the fifteen (15) day period to protest the PAN under Section 3.1.2 of RR No. 12-99 was violated. The FAN was hastily issued and SAMC's due process was denied. Furthermore, the FAN was unnumbered and undated[34].

Considering the abovementioned premises, it is but proper for this Court, for equity and justice, to provide SAMC the opportunity to prove whether or not it is liable to the 10% final withholding tax on interest payments on its loans by considering the documents submitted before Us.

In its Memorandum[35], SAMC is claiming that the Total Interest Expense of P131,912,745 was substantially from peso denominated loans. It also alleges that SAMC paid the required final withholding tax of 10% on its foreign currency denominated loans. It further argues that this is apparent on the testimonies of its witnesses, Ms. Rhodora Pingad and Ms. Bernadette Narciso, in the November 4, 2004 and December 6, 2007 hearings, respectively. We quote hereunder SAMC's contentions:

> "Petitioner duly paid the required final tax of ten percent (10%) on its foreign denominated loan. This is evident on the following testimony of Ms. Narciso and on the documents she testified during the 06 December 2007 hearing:
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> 'xxx xxx xxx
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> Atty. Celiz : And Ms. Witness, since there were foreign denominated loans particularly in dollar, did petitioner pay the corresponding 10% final tax on this foreign currency loans?
>
> Ms. Narciso: Yes, the petitioner withheld the required 10% final tax on the foreign currency denominated loans.
>
> xxx xxx xxx'
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> 'The foregoing was likewise proven by the testimony of Ms. Rhodora Pingad together with the fact that Petitioner's loans were substantially peso-denominated: a

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[33] *Ibid.*
[34] *Annex G of Petition for Review, Rollo. pp. 27-28. Exhibit E has a handwritten FAN number.*
[35] *Rollo, pp. 677 to 700.*

xxx xxx xxx

Atty. Santos: Did you contest this assessment, Ms. Witness?

Ms. Pingad : Yes.

Atty. Santos: And what was your basis for contesting the alleged deficiency final withholding tax?

Ms. Pingad : We contested the assessment for two (2) reasons. No. 1, we withheld the ten percent (10%) required all the interest expense, all the foreign currency denominated loans at the same time the P131,912,745.00 interest expense incurred in 1997 was substantially all peso denominated loans.

Atty. Santos : Do you have any proof to show that the incurred interest expenses by the petitioner were indeed peso denominated loans?

Ms. Pingad : Yes, Ma'am.

Atty. Santos : Do you have these documents with you right now?

Ms. Pingad : I have the original copies of various Promisory Notes.

Atty. Santos : Ms. Witness, I am presenting to you an original copy of Summary of Documentary Evidence by Steelasia Manufacturing Corporation regarding the deficient withholding tax in the amount of P13,191,274.50. Do you recognize this documents?

Ms. Pingad : Yes, Ma'am.

Atty. Santos : There appears a signature on top of the name Rhodora D. Pingad, do you recognize this signature?

Ms. Pingad : Yes, Ma'am, this is my signature.

Atty. Santos :	Thank you, Ms. Witness. Your Honors, I will be presenting an original duplicated also to the respondent counsel for comparison. And with that, Your Honors, may we request that the Summary of Documentary Evidence of Steelasia Manufacturing Corporation regarding the deficient withholding tax be marked as our Exhibit "E-10" and the signature of Ms. Rhodora D. Pingad be sub-marked and bracketed as our Exhibit "E-10-a".
	(TSN taken on the proceedings on November 4, 2004, p. 12-16)
	xxx xxx xxx
Atty. Santos :	Ms. Witness, please refer again to your Summary of Documentary Evidence marked as Exhibit "E-10" you mentioned that the company's interest expense in the amount of P131,912,745.00 was substantiated peso denominated loans. Do you have some foreign currency denominated loans?
Ms. Pingad :	We have at least six (6) Promissory Notes which are foreign currency denominated in US Dollars.
Atty. Santos :	Ms. Witness, I'm presenting to you original copies of Promissory Notes which were foreign currency denominated marked as Exhibits "D-2" to "D-5" and Exhibits "D-26" to "D-27". Can you go over the documents, do you recognize those documents?
Ms. Pingad :	Yes, Ma'am, these are of foreign currency denominated loans.
Atty. Santos :	Ms. Witness, how much was the total interest expense incurred by the company which was foreign currency denominated?
Ms. Pingad :	It was P20,180,944.00 equivalent.

Atty. Santos : Out of that amount were you able to make the required 10% withholding on the interest expense?

Ms. Pingad : Yes, Ma'am, we withhold P2,018,094.00 which were remitted for the period January 1997 up to January 1998.

Atty. Santos : Do you have documentary proof to show that you made the monthly remittances?

Ms. Pingad : We have the original copies of the Monthly Remittance Tax of January 1997 to January 1998.

Atty. Santos : Ms. Witness, I am showing to you the original copy of the document denominated as Support to the Deficient Withholding Tax marked as Exhibit "E" do you recognize this summary?

Ms. Pingad : Yes, Ma'am.

Atty. Santos : And Several Monthly Remittances Returns of income taxes withheld previously marked as Exhibits "E-1" to "E-9", I'm showing to you the original copies do you recognize the monthly remittances?

Ms. Pingad : Yes, Ma'am.

Atty. Santos : And what is the relation of this to your payment to the BIR?

Ms. Pingad : This is the remittance we made for the ten percent (10%) withholding tax on the interest expense we paid on the foreign currency denominated.

Atty. Santos : Your Honors, that will be all for the witness.

(TSN taken on the proceedings on November 4, 2004, p. 26-29) xxx xxx xxx'

To bolster the fact that petitioner's loans were substantially peso-denominated, Petitioner presented Ms. Bernadette P. Narciso as rebuttal witness to refute the testimony of respondent's witness Mr. Felix Roy. During the 06 December 2007 hearing, Ms. Narciso testified and identified the several certifications issued by the banks as well as promissory notes executed by the Petitioner, *viz* (TSN, December 06, 2007, pp. 16-24):

1. Certification dated 11 October 2007 issued by Henry Santos of PCI Capital Corporation that the interest payments made by petitioner were all peso-denominated (Exhibit "W");

2. Certification issued by Belinda Abad of Banco de Oro with attached Promissory Notes Nos. 630-95, 631-95, 934-95, 933-95, and 1040-97, to the effect that such promissory notes were all peso denominated and that the interest payments therein were peso denominated (Exhibit "X");

3. Certification issued by Banco de Oro with attached Promissory Notes Nos. 95121, 95120, 95153, (down the line) and 95269, to the effect that such promissory notes were all peso denominated and that the interest payments therein were peso denominated (Exhibit "Y");

4. Certification issued by Mr. Noel Hugo of the Allied Banking Corporation that Petitioner Corporation executed Promissory Note No. 96-16052 in the amount of P17Million (peso-denominated), Promissory Note No. 96-10496 in the amount of $1Million (dollar denominated), Promissory Note No. 97-02498 in the amount of $1Million (dollar-denominated), and Promissory Note No, 97-02714 in the amount of $1Million (dollar-denominated) (Exhibit "Z").

Based on the supporting documents and pieces of evidences presented, it is respectfully submitted that the subject deficiency expanded withholding tax and their increments for taxable year 1997 in the amount of P24,034,502.14 has no factual and legal bases."

After a careful study of all the pieces of evidence[36] provided by SAMC, this Court rules that the company did not produce enough evidence to

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[36] *Including Exhibits "W, X, Y and Z".*

substantiate its claim that it withheld and remitted the 10% FWT on interest payments under RR No. 10-76 as amended by RR No. 14-77 which applies to foreign currency loans.

Based on the arguments and schedule *(Exhibits "E-10" to "E-10-a")* provided by SAMC, it claimed that the P131,912,745.00 total interest expense was composed of P20,180,944.00 interest from foreign currency loans and P111,731,801.00 from peso denominated loans.

With regard to the P20,180,944.00 interest expense, the Court notes that this amount came from foreign currency denominated loans *(Exhibits "D-1, D-2, D-3, D-4, D-26 and D-27[37]")* and SAMC properly withheld and remitted the 10% FWT in the amount of P2,018,094.00 *(Exhibits "E, E-1, E-2, E-3, E-4, E-5, E-6, E-7, E-8 and E-9")*.

On the other hand, SAMC failed to prove before this Court that the total amount of P111,731,801.00 interest expense was all from peso denominated loans. Specifically, it failed to prove by competent evidence that the amount of P28,363,038.00 was not from foreign currency loans. The amount represents the total interest expense pertaining to the documents *(Exhibits "D-13, D-16, D-17, D-18, D-19 and D-20")* presented by SAMC but denied admission by the Court for failure of petitioner to present the original thereof for comparison. This was resolved in Our Resolution[38] dated August 1, 2005. Furthermore, the denials of the admission of the exhibits were reiterated in the Court's June 6, 2006[39] and January 15, 2007[40] Resolutions. Considering that the admission as evidence of the documents was denied, We cannot consider the same in this decision. Hence, for failure to convince this Court that such interest payments pertain to peso denominated loans it is but proper to subject the amount of P28,363,038.00 to 10% FWT.

Therefore, the basic FWT liability of SAMC of P2,836,303.80 is

[37] *The admission as evidence of Exhibit D-27 was denied by this Court because of SAMC's failure to present the originals thereof for comparison in Resolution dated August 1, 2005. However, the Court considered to include this amount to tie up the tax base (P20,180,944.00) of the P2,018,094.00 FWT remitted.*
[38] *Rollo, pp. 312-313.*
[39] *Rollo, pp. 390-393.*
[40] *Rollo, pp. 421-426.*

computed as follows:

Denied Exhibits	Alleged Peso Loans	Interest
D-13	10,000,000.00	1,162,014.00
D-16	75,500,000.00	7,054,771.00
D-17	29,500,000.00	2,731,625.00
D-18	47,635,775.00	3,948,241.00
D-19	106,536,154.00	9,785,144.00
D-20	37,000,000.00	3,681,243.00
	306,171,929.00	**28,363,038.00**
	Multiply by rate	x 10% FWT
	Deficiency FWT	**2,836,303.80**

WHEREFORE, the petition for review is partially **GRANTED.** Respondent's deficiency tax assessment issued against petitioner-SAMC is hereby partially **CANCELLED** and reduced to the amount P2,836,303.80. Petitioner-SAMC is hereby ordered to pay the amount of P2,836,303.80 with interest from January 11, 1998.

SO ORDERED.

CAESAR A. CASANOVA
Associate Justice

WE CONCUR:

ERNESTO D. ACOSTA
Presiding Justice

LOVELL R. BAUTISTA
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's Division.

ERNESTO D. ACOSTA
Presiding Justice
Chairperson, First Division