REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

PHILIPPINE SECURITIES SETTLEMENT CORP., Petitioner,	**CTA CASE NO. 9058**
	Members:
- versus -	**DEL ROSARIO,** *P.J., Chairperson,* **UY,** *and* **MINDARO-GRULLA,** *JJ.*
COMMISSIONER OF INTERNAL REVENUE, Respondent.	Promulgated: MAR 12 2020 ; 8:10 a.m.

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RESOLUTION

UY, J.:

For resolution are the following:

1. Respondent's ***Motion for Partial Reconsideration (of the Amended Decision dated August 22, 2019)***, filed on September 20, 2019, with petitioner's ***Opposition (To Respondent's Motion for Partial Reconsideration dated 20 September 2019)***, filed on November 15, 2019, and respondent's ***Reply (to the Opposition dated November 15, 2019)*** filed on December 9, 2019; and

2. Petitioner's ***Motion for Partial Reconsideration (Re: Amended Decision dated 22 August 2019)***, filed on September 23, 2019, with respondent's ***Comment/Opposition (To Petitioner's Motion for Partial Reconsideration of the Amended Decision dated August 22, 2019)***, filed on November 15, 2019.

In their respective motions, both parties move for reconsideration of the Court's Amended Decision dated August 22, 2019 (assailed Decision), the dispositive portion of which reads:

"**WHEREFORE**, in light of the foregoing considerations, petitioner's *Motion for Leave to Re-Open Case for Presentation of Additional Evidence* is **DENIED** for lack of merit.

On the other hand, petitioner's *Motion for Partial Reconsideration* is **PARTIALLY GRANTED**. Accordingly, the Court's Decision dated August 15, 2018, is hereby amended to read as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED.**
>
> The assessments issued by respondent against petitioner for taxable year 2010 covering deficiency income tax in the amount of ₱4,989,902.97 and compromise penalties in the amount of ₱32,000.00 for the petitioner's alleged deficiency FWT and FWVAT are **CANCELLED and SET ASIDE**.
>
> However, the assessments for deficiency EWT, WTC, FWT and FWVAT are hereby **UPHELD WITH MODIFICATIONS.** Accordingly, petitioner is hereby **ORDERED TO PAY** respondent the amount of ₱11,346,155.00, inclusive of the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017 as follows:

	IT	EWT	WTC	FWT	WVAT	Total
Basic Tax	₱2,058,015.79	₱110,030.09	₱225,346.24	₱468,376.01	₱187,350.41	₱3,049,118.54
Add:25% Surcharge	514,503.95	27,507.52	56,336.56	117,094.00	46,837.60	762,279.63
20% Deficiency Interest from April 15, 2011 to April 28, 2015 (₱2,058,015.79 x 20% x 1,474/365 days)	1,662,200.15					1,662,200.15
20% Deficiency Interest from January 15, 2011 to April 28, 2015 [₱110,030.09 x 20% x 1,564/365 days]		94,294.27				94,294.27
[₱225,346.24 x 20% x 1,564/365 days]			193,118.64			193,118.64

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(₱468,376.01 x 20% x 1,564 / 365 days)				401,391.82		401,391.82
20% Deficiency Interest from January 10, 2011 to April 28, 2015 [₱187,350.41 x 20% x 1,569/365 days]					161,070.02	161,070.02
Total Amount Due as of April 28, 2015	**₱4,234,719.89**	**₱231,831.88**	**₱474,801.44**	**₱986,861.83**	**₱395,258.03**	**₱6,323,473.07**
20% Deficiency Interest from April 29, 2015 to December 31, 2017 (₱2,058,015.79 x 20% x 978/365 days)	1,102,870.93					1,102,870.93
[₱110,030.09 x 20% x 978/365 days]		58,964.07				58,964.07
[₱225,346.24 x 20% x 978/365 days]			120,760.88			120,760.88
[₱438,376.01 x 20% x 978/365 days]				250,998.21		250,998.21
[₱187,350.41 x 20% x 978/365 days]					100,399.28	100,399.28
20% Delinquency Interest from April 29, 2015 to December 31, 2017 (₱4,234,719.89 x 20% x 978/365 days)	2,269,345.78					2,269,345.78
[₱231,831.88 x 20% x 978/365 days]		124,236.48				124,236.48
[₱474,801.44 x 20% x 978/365 days]			254,441.53			254,441.53
[₱986,861.83 x 20% x 978/365 days]				528,849.79		528,849.79
[₱395,258.03 x 20% x 978/365 days]					211,814.98	211,814.98
Total Amount Due as of December 31, 2017	**₱7,606,936.60**	**₱415,032.43**	**₱850,003.85**	**₱1,766,709.83**	**₱707,472.29**	**₱11,346,155.00**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve (12%) on the total amount due of **₱6,323,473.07** as of April 28, 2015, as determined above, computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC 1997, as amended by the Train Law, as implemented by RR No. 21-2018.

SO ORDERED."

SO ORDERED."

Petitioner's Motion for Partial Reconsideration

In its motion, petitioner avers that it should be allowed to present additional evidence for the just resolution of the case. According to petitioner, the cases of *Republic of the Philippines v. Sandiganbayan*[1] and *Cabarles v. Maceda*[2] cited in the assailed Amended Decision should not be made applicable to the present case because in both cases the proceedings were conducted under the Rules of Civil and Criminal Procedure. Allegedly, proceedings before the CTA are governed by Republic Act (RA) No. 1125 which expressly provides that this Court shall not be bound by the strict rules of procedure.

Petitioner also cites "*Filinvest Development Corporation v. Commissioner of Internal Revenue and Court of Tax Appeals*"[3] and "*Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue*"[4] saying that the paramount consideration of the Court should be the ascertainment of truth and the just determination of every action. Hence, petitioner contends that without the submission of the relevant documents of other members of the Philippines Dealings System Group (PDS Group), the Court will be unable to determine the truth and to arrive at a just determination of the case.

Furthermore, petitioner insists that it has sufficiently proven that it is not liable for the alleged deficiency expanded withholding tax (EWT), withholding tax on compensation (WTC), final withholding tax (FWT), final withholding value-added tax (FWVAT), and income tax (IT) on the basis of the following:

A. Deficiency Expanded Withholding Tax

I. Rentals

(a) Rent – Parking Space (Accrual) - ₱12,164.84

Petitioner asserts that contrary to the findings of the Court, petitioner subjected the foregoing payments to the proper EWT as evidenced by its BIR Form No. 1604E. Hence, the deficiency EWT on

[1] G.R. No. 152375, December 13, 2011.
[2] G.R. No. 161330, February 20, 2007.
[3] G.R. No. 146941, August 9, 2007, citing BPI-Family Savings Bank vs. Court of Appeals, G.R. No. 122480, April 12, 2000.
[4] G.R. No. 141973, June 28, 2005.

the payments representing Rent – Parking Space (Accrual) should be cancelled.

(b) *Rent – Parking Space (Amortization of Prepaid Expense) - ₱12,293.10*

Petitioner argues that the amount was properly subjected to EWT. According to petitioner, an examination of Annex F of the Report of the ICPA indicates that petitioner withheld 5% on its income payments to SPI Parking Services, Inc in the amount of ₱12,293.10 resulting in an EWT payment of ₱614.66. Hence, the deficiency EWT on the payments representing Rent – parking space (Amortization of Prepaid Expense) should be cancelled.

(c) *Rent – Computer Equipment - ₱557,838.64*

Petitioner argues that it is not liable for EWT on Rent – Computer Equipment because it has sufficiently shown that the amount of ₱557,838.64 represents allocated expenses pursuant to the Cost Sharing Agreement (CSA), including all other reimbursements within the PDS Group. Allegedly, cost-sharing arrangements between interrelated companies, similar to petitioner's, are considered by respondent not to be subject to income tax, consequently, not subjected to EWT.

(d) *Rent – Car Lease and Transportation Equipment - ₱436,800.09 and ₱53,009.34*

Petitioner avers that it already withheld the amount of 2% and 5% on all its payments representing Rent – Car Lease and Rent – Transportation Equipment for being made to transportation contractors and financial leasing contractors. Allegedly, these payments were made to the following entities: 1 Orix Metro Leasing and Finance Corporation and Orix Auto Leasing Philippines Corporation, and that the payments made were in the nature of payments for car leasing.

Petitioner further argues that even assuming that the withholding tax rates used by petitioner are erroneous, this Court erred when it upheld respondent's assessment. To recall, the FDDA assessed petitioner for deficiency EWT on its Rentals using a flat rate of 5%. Considering that petitioner had already withheld on its income payments in the amount of 2% and 5%, the Court should have considered these amounts in determining the deficiency taxes still due.

In other words, the Court should have credited the EWT payments already made by petitioner in determining petitioner's final deficiency EWT liability, if any, against the 5% assessment on petitioner's *Rent- Car Lease* and *Rent – Transportation Equipment.* Hence, the deficiency on the same in the amount of ₱436,800.09 and ₱53,009.34 should be cancelled, or in the alternative, modified.

(e) *Professional Fees -₱80,948.61*

Petitioner avers that the deficiency EWT on payments representing Professional fees ₱80,948.61 may be reconciled as follows, all of which have been properly subjected to EWT:

Difference accounted for as follows		
A. Expenses classified as professional fees but were subjected to 2% withholding tax		
Hiring Fees		76,481
Management and Professional Fees -Others		26,982
		103,463
B. Amortization of prepaid hiring fees paid in 2009		3,601
C. Payments subject to 10% withholding tax but not classified as professional fees per FS presentation		
Capitalized leasehold improvement		(4,593)
D. Payments subject to 15% withholding tax but not classified as professional fees per FS presentation		(8,313)
E. Payments to General Professional Fees		
Legal Fees - Retainer		173,262
Legal Fees – Regular		1,329
Audit Fees - External		57,294
F. Payments not subject to withholding tax but classified as professional fees		231,886
Legal Fees – Notarial Fees		294
G. Nondeductible Expense		(36,400)
H. Payments subject to 15% withholding tax but classified in the ITR as part of Direct Charges – Others		
Management and Professional Fees – Others		(9,469)
Training and Development – Local - Officers		(199,519)

	(208,988)
TOTAL	80,949

(f) *Director's Fees - ₱23,000.00*

Petitioner avers that the payments in the amount of ₱23,000.00 were subjected to the proper application of withholding tax.

(g) *Payment to Contractors / Subcontractors – Outside Services - ₱112,677.07*

Petitioner contends that Annex BB of the ICPA clearly indicates that petitioner withheld the amount of ₱2,253.54.

According to petitioner, the Court erred in ruling that it failed to show proof of actual remittance of the same; and that remittance of withholding tax is a disputable presumption. As such, the fact of remittance stands unless such fact has been contested by respondent. In the present case, respondent never raised the issue of failure to remit the EWT due. Absent any allegation of respondent questioning or challenging actual remittance of the taxes as reflected in the BIR Returns during the course of trial, the findings of the ICPA must stand. Hence, the payments representing Payment to Contractors / Subcontractors – Outside should be cancelled.

(h) *Payment to Contractors / Subcontractors – Other Outside Services - ₱14,266.31*

Petitioner avers that it has sufficiently shown that the payments representing Payment to Contractors/Subcontractors – Other Outside Services are allocated expenses pursuant to the CSA which is reimbursable by petitioner to the PDS Group.

(i) *Payment to Contractors / Subcontractors – Advertising ₱42,683.00*

Petitioner claims that the deficiency EWT on payments representing Payment to Contractors / Subcontractors – Advertising should be cancelled.

With regard to the amount of ₱24,255.00, the billing statements and official receipts issued by Isla Lipana & Co were issued in the name of PDTC representing mere reimbursements/allocated expenses pursuant to the Cost Sharing Agreement, and as such, they are not subject to EWT.

Even assuming that the services rendered by Isla Lipana & Co. to petitioner are separate and distinct than that of PDTC, it is allegedly important to note that Isla Lipana & Co is a general professional partnership. As such, payments made to it are exempt from EWT in accordance with Section 2.57.5 of Revenue Regulations No. 2-98, as amended.

With regard to the amount of ₱15,000.00 representing "Reimbursements and Liquidations", these represent reimbursements made by Petitioner to the members of the PDS Group. Being in the nature of reimbursement, it is not subject to EWT.

Anent the amount of ₱3,428.00 made to Paramint Enterprises, petitioner argues that this amount was subjected to the proper application of withholding tax.

(j) *Payment to Contractors / Subcontractors – Communication, Light and Water - ₱11,525.74*

Petitioner argues that the amount represents mere reimbursements/allocated expenses and should not be subject to EWT; and that the official receipts are not under Petitioner's name due to the fact these alleged payments were initially shouldered by the other entities of the PDS group pursuant to the CSA.

(k) *Payment to Contractors / Subcontractors – Miscellaneous - ₱10,247.19*

The finding of deficiency EWT on payments representing payment to contractors/subcontractors – miscellaneous should allegedly be cancelled on the ground that this amount represents mere accruals and amortization of prepaid expenses which were subjected to the proper withholding tax.

(l) *Payment to Contractors / Subcontractors – Others - ₱77,869.19*

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Petitioner points out that it was able to present various accounting documents to substantiate the transactions recorded under "Others", as follows:

Unaccounted Difference	Php(42,281.89)
Amortization Not Subjected to EWT	248,528.87
Reimbursements from Affiliates	2,947,756.33
Accruals Not Subjected to EWT	496,872,.37
Income Payments Not Subjected to EWT	1,413.69
Reimbursements Not Subjected to EWT	70,621.06
Total	Php3,722,910.43

With regard to the amount of ₱248,528.87, petitioner argues that this refers to amortization of expenses where withholding was already made in full upon initial payment thereof, which ca be confirmed by an examination of petitioner's BIR Form No. 1604.

Anent the amount of ₱2,947,756.33, petitioner claims that its documentary evidence shows that this represents reimbursements made to its affiliates for its share in its allocated expenses under the CSA. Allegedly being in the nature of reimbursements/allocated expenses, it is not subject to EWT.

Pertaining to the amounts of ₱496,872.37, ₱1,413.69, petitioner contends that said amounts were subjected to the proper withholding tax.

With regard to the amount of ₱70,621.06, petitioner states that this amount represents reimbursements made to its affiliates for its share in allocated expenses under the CSA and are duly supported by official receipts and thus, should not be subjected to EWT.

B. Withholding Tax Compensation - ₱853,907.70

Petitioner reiterates that there is no factual and/or legal basis for comparing the amounts of "Allocation of salaries and benefits from affiliates" with that of "allocation of salaries and benefits to affiliates" as they are unrelated accounts, and as such, cannot and should not be compared against each other.

C. Final Withholding Tax and Final Withholding VAT - ₱468,376.01 and ₱187,350.41

Petitioner submits that it is not liable for both FWT and FWVAT as the statutory taxpayer is not petitioner but PDTC. Allegedly, it was able to present payment instructions and check vouchers authorizing payment to PDTC for its share in the Tata payments allegedly showing sufficient proof of the existence of the obligation to reimburse / allocate expenses.

D. Deficiency Income Tax

a.) <u>Disallowed Prior Period Expense and Disallowed Expenses due to Non-Withholding - ₱853,907.70</u>

Petitioner contends that it claimed the expenses as deductions in TY 2010 because the actual expense as shown by the billings received by petitioner TY 2010 was more than the estimated expenses accrued in TY 2009. In this case, petitioner claimed the difference between the two amounts in TY 2010- the year when it received such billings- which portion of the expense petitioner could not have ascertained in TY 2009.

E. Surcharge

Petitioner argues that the imposition of 25% surcharge on petitioner's alleged deficiency EWT, WTC and IT has no factual or legal basis and must cancelled. That such imposition was erroneous because respondent did not include the surcharge in the FDDA.

F. Deficiency and Delinquency Interests

Petitioner claims that the imposition of deficiency interest on petitioner's alleged deficiency EWT, WTC, FWT, and FWVAT is erroneous and must be cancelled and/or modified in accordance with Section 240 of the Tax Code. According to petitioner, the Court erred when it ruled that the delinquency interest on petitioner's alleged deficiency tax shall accrue beginning 24 October 2012. That the date indicated does not coincide with the date of payment indicated in the FAN. That the date 24 October 2012 is before the date of the issuance of the PAN, which was issued only in 6 November 2013.

<u>Respondent's Counter-Arguments</u>

In reply to petitioner's Motion, respondent counter-argues that petitioner should not be allowed to present additional evidence because petitioner's Motion for Partial Reconsideration is a *pro-forma* motion containing rehashed arguments which have been passed upon and resolved in the assailed Decision. Moreover, respondent stresses that petitioner's failure to present the additional evidence is a simple case of negligence and allowing petitioner to present them at this point in time will be putting a premium on its negligence.

Respondent also submits that petitioner is liable to pay the deficiency Income Tax for taxable year 2010 with the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended by the Train Law, as implemented by RR No. 21-2018.

Respondent's Motion for Partial Reconsideration

In his motion, respondent contends that petitioner is liable to pay the deficiency income tax for taxable year 2010, along with the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended by the Train Law, as implemented by RR No. 21-2018.

The testimony of petitioner's witness, Rosemarie V. Marchadesch, Associate Director for Finance and Head of Accounting of the PDS Group, to prove the contents of the tax returns of petitioner, is allegedly not admissible for being hearsay evidence because the latter did not prepare the tax returns.

Petitioner's Counter-Arguments

Petitioner counter-argues that respondent's motion does not contain a notice of hearing pursuant to Section 3 of Rule 15 of A.M. No. 05-11-07-CTA[5] and that the testimony of Marchadesch is not hearsay.

THE COURT'S RULING

Petitioner's *Motion for Partial Reconsideration* lacks merit. While, respondent's *Motion for Partial Reconsideration* is partially meritorious.

[5] Revised Rules of the Court of Tax Appeals.

Petitioner's Motion for Partial Reconsideration

Petitioner insists that it has sufficiently proven that it is not liable for the deficiency EWT, WTC, FWT, FWVAT and IT for taxable year 2010.

The Court does not agree for reasons discussed below.

A. DEFICIENCY EXPANDED WITHHOLDING TAX

a. **RENTALS**

Rent – Parking Space (Accrual)

In the assailed Amended Decision, the Court upheld the deficiency EWT assessment on Rent-Parking Space *(Accrual)* in the amount of ₱12,164.84 for petitioner's failure to identify documents to prove that it already withheld the proper taxes.

Petitioner asserts that contrary to the Court's findings, the amount of ₱12,164.84 was subjected to the proper EWT as evidenced by its BIR Form No. 1604E[6].

The assessment must remain.

The BIR Form No. 1604E referred to by petitioner pertains to taxable year 2009 and the attached "Alphalist of Payees Subject to EWT as of December 31, 2009" did not reflect an amount of ₱12,164.84 rental payment subjected to 5% EWT.

Moreover, the Court-commissioned Independent Certified Public Accountant (ICPA) found that petitioner's parking rental payments are made on a quarterly basis and are subjected to withholding taxes upon payment. Accruals of parking expenses (when no billing is received) and subsequent amortization of the pre-payments of rental are no longer subjected to withholding tax.[7]

The assessed Rent-Parking Space (Accrual) of ₱12,164.84 represents expenses incurred but not yet paid by petitioner in 2010. Since petitioner withholds 5% EWT on its parking rentals only upon

[6] Exhibit P-25.
[7] Exhibit P-45. pb

payment thereof, it follows that no withholding of tax was made yet by petitioner in the year 2010 as the parking rental of ₱12,164.84 remains unpaid as of the end of 2010.

Section 2.57.4 of Revenue Regulations (RR) No. 02-98, as amended by RR No. 12-01, provides when the obligation to withhold arises, to wit:

> "Sec. 2.57.4. *Time of withholding.* — The obligation of the payor to deduct and withhold the tax under Section 2.57 of these Regulations arises at the time an income payment is paid or payable, *or the income payment is accrued or recorded as an expense or asset, whichever is applicable, in the payor's books*, whichever comes first. The term "payable" refers to the date the obligation becomes due, demandable or legally enforceable.
>
> *Provided, however, that where income is not yet paid or payable but the same has been recorded as an expense or asset, whichever is applicable, in the payor's books, the obligation to withhold shall arise in the last month of the return period in which the same is claimed as an expense or amortized for tax purposes.*"

Considering that the Rent-Parking Space (Accrual) in the amount of ₱12,164.84 was recorded as an accrued expense and formed part of petitioner's claimed deductible expenses for income tax purposes for the year 2010, petitioner was already obligated to withhold the corresponding 5% EWT in the year 2010 although the same had not been paid in the said year. Thus, respondent's assessment on this item remains.

b. <u>Rent – Parking Space (Amortization of Prepaid Expense)</u>

Anent this item, the Court upheld in the assailed Amended Decision that the deficiency EWT assessment on the Rent-Parking Space (*Amortization of Prepaid Expense*) of ₱12,293.10 for failure of petitioner to submit corroborating documents to show that the assessed amount actually formed part of the rental payments of ₱18,765.20 and ₱37,670.39 subjected to 5% EWT as shown under

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sequence nos. 133 and 134 of petitioner's "Alphalist of Payees Subject to EWT as of December 31, 2009"[8] as follows:

BIR FORM 1604E – SCHEDULE 4
ALPHALIST OF PAYEES SUBJECT TO EXPANDED WITHHOLDING TAX
AS OF DECEMBER 31, 2009

TIN: 230447029-0000
WITHHOLDING AGENT'S NAME: PHILIPPINE SECURITIES SETTLEMENT CORP.

SEQ NO.	TIN	REGISTERED NAME	ATC CODE	AMOUNT OF INCOME PAYMENT	RATE OF TAX	AMOUNT OF TAX WITHHELD
133	214-617-904-0000	SPI Parking	WC100	18,765.20	5.00	938.26
134	214-617-904-0000	SPI Parking	WC100	37,670.39	5.00	1,883.52

In its Motion, petitioner provided the following breakdown of the aforesaid rental payments of ₱18,765.20 and ₱37,670.39 in order to show that these amounts included the assessed amount of ₱12,293.10:

Doc. No.	Posting Date		Tax Base Amount	Wtax Amount
CV 100259/ APV 100215	31/03/2009	TO RECORD PAYMENT FOR NON-RESERVED PARKING SLOTS FOR THE PERIOD APRIL 1-JUNE 30, 2009. AS PER SOA#0349 DTD 03/05/09. AS PER cv 100259	6,713.80	335.69
CV 100268/ APV 100224	31/03/2009	Payment for Non Reserved Parking for the period April 1 to June 30, 2009. As per SOA#0348 DTD 03/25/09. AS PER CV 100268	12,051.40	602.57
Seq. No. 133		Total	18,765.20	938.26
CV 100535/ APV 100480	15/06/2009	Payment for Quarterly Reserved Parking Slots for the period of July-Sept 2009. As per SOA #0821 DTD 06/06/09. As per CV #100535	7,543.65	377.18
CV 100536/ APV 100481	15/06/2009	Payment for Quarterly Non-Reserved Parking Slots for the period of July-Sept 2009. As per SOA #0822 DTD 06/05/09. As per CV #100536,	4,749.64	237.48
CV 100842/ APV 100498	19/06/2009	PAYMENT FOR PREPAID COUPON PARKING AS PER SOA#0858 DTD 06/10/09. AS PER CV#100560	669.58	33.48

[8] Attached to Exhibit P-25.

CV 100842/ APV 100740	16/09/2009	Payment for quarterly parking (reserved & non-reserved(slots for the period of Oct. 1-Dec. 2009. As Per CV #100842.	12,293.09	614.65
CV 100937/ APV 100819	13/10/2009	Payment for hourly parking charges for the month of September 2009. As per CV # 100937	121.43	6.07
CV 101123/ APV 100993	18/12/2009	Payment for quarterly parking; reserved & non-reserved for January - March 2010. As per CV # 101123.	12,293.10	614.66
Seq. No. 134		Total	37,670.49	1883.52

Petitioner submits that the above may likewise be corroborated by an examination of petitioner's BIR Form No. 1601E for December 2009[9], Sequence No. 41 of which provides:

Seq. No.	TIN	Corporation	ATC Code	Nature of Income	Amount of Income Payment	Tax Rate	Amount of Tax Withheld
41	214-617-904	SPI Parking Services, Inc.	WC100	5% rentals of real property	12,293.20	5.00	614.66

The Court finds the above breakdown unsupported by documentary proof as inadequate to establish petitioner's claim that the amount of ₱12,293.10 represents amortization of prepayment for rental of parking space for which the related 5% EWT had already been withheld and remitted in prior year, i.e., 2009. Petitioner should have submitted documents to prove that the same does not represent expense incurred and claimed as deduction in 2009 but rather forms part of the ₱1,077,719.00 "Prepayments" reflected in petitioner's 2010 Audited Financial Statements (AFS)[10]. Thus, the deficiency 5% EWT assessment on this item must be sustained.

c. *Rent - Computer Equipment*

In the assailed Amended Decision, the Court upheld the deficiency EWT on the payments representing *Rent – Computer Equipment* in the amount of ₱557,838.64 for petitioner's failure to prove the actual reimbursement to Philippine Depository & Trust Corporation (PDTC) of its share in the expense for the rental of

[9] Exhibit P-97.
[10] Exhibit P-51, Notes to Financial Statements, Note 6 (Other Current Assets).

computer equipment covered by the Term Lease Agreement entered into between IBM Philippines, Inc. (IBM) and PDTC.

Petitioner contends that it has sufficiently shown that the assessed amount of ₱557,838.64 represents allocated expenses pursuant to CSA, including all other reimbursements within the PDS Group. Thus, petitioner posits that these allocated expenses/"Allocation from Affiliates", being in the nature reimbursements, should not be subjected to EWT.

The Court is not convinced.

This issue has been thoroughly discussed in Our Decision dated August 15, 2018 and We reiterate:

> With regard to the allocation from affiliates in the amount of ₱552,322.99, it is important to note that petitioner is a wholly owned subsidiary of Philippine Dealing System Holdings Corp. (PDSHC).[11] The other subsidiaries of PDSHC are: (i) Philippine Dealing and Exchange Corp. (PDEX); (ii) Philippine Depository & Trust Corp. (PDTC); (iii) PCD Nominee Corporation; and (iv) PDS Academy for Market Development Corp. PDSHC (parent company) and its subsidiaries (including petitioner) are collectively referred to as the "PDS Group".[12]
>
> By virtue of a Cost-Sharing Agreement (CSA) between and among the members of the PDS Group, certain expenses or costs are allocated and shared among the member companies.[13]
>
> To implement the CSA, there are certain instances when each company pays its share of the allocable expense or cost directly to the vendor. In other instances, a company will initially shoulder a certain expense or cost and the other companies will reimburse the former for their respective allocated share of the expense or cost based on the percentages set out in the internal Memorandum[14] dated October 24, 2008.[15]

[11] Exhibit "P-52", Note 1 of petitioner's Audited Financial Statements for TY 2010.
[12] Exhibit "P-42", Answer to Q5, Docket, Vol. I, p. 490.
[13] Exhibit "P-43", Answer to Q24 and Q25, Docket, Vol. I, p. 232.
[14] Exhibit "P-11", Docket, Vol. III, pp. 1402-1408.
[15] Exhibit "P-43", Answer to Q26, Docket, Vol. I, p. 232.

The BIR recognizes interrelated group of companies sharing costs/expenses in Revenue Audit Memorandum Order (RAMO) No. 1-98. However, petitioner must prove that such shared costs/expenses only involve reimbursement of costs/expenses, without any mark-up or additional charges.

In support of the allocated rent expense from affiliates in the amount of ₱552,322.99, petitioner presented PDTC's Accounts Payable Vouchers, Certificates of Creditable Tax Withheld at Source issued by PDTC to IBM Philippines, Inc., PDTC's BIR Form No. 1604E with attached Alphalist, Official Receipts and Invoices issued by IBM Philippines, Inc. to PDTC, and petitioner's Check Vouchers[16]. While these documents show that petitioner's affiliate, PDTC, made payments for computer rentals to IBM Philippines, Inc. and that it withheld and remitted the corresponding 5% EWT, however, petitioner's actual reimbursement to PDTC for its shared computer rental expense was not established. The Check Vouchers, which were presented by petitioner, merely create a paper trail for its payment of the check. The same do not prove the fact of payment to PDTC. As held in the case of *Towne & City Development Corporation vs. Court of Appeals*[17], the vouchers remain a piece of paper having no evidentiary weight, to wit:

> "x x x [A]s correctly pointed out by the trial court which the appellate court upheld, vouchers are *not* receipts.
>
> It should be noted that a voucher is *not necessarily* an evidence of payment. It is merely a way or method of recording or keeping track of payments made. A procedure adopted by companies for the orderly and proper accounting of funds disbursed. Unless it is supported by an actual payment x x x, a voucher remains a piece of paper having no evidentiary weight.
>
> A receipt is a written and signed acknowledgment that money has been or goods have been delivered, while a voucher is documentary record of a business transaction.

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[16] Exhibits P-1727 to P-1806.

[17] G.R. No. 135043, July 14, 2004.

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> The references to alleged check payments in the vouchers presented by the petitioner do not vest them with the character of receipts. x x x" *(Citations omitted)*

Thus, respondent's deficiency 5% EWT on the assessed rental of ₱552,322.99 shall remain. The same holds true with the alleged overstatement of computer rental from IBM Phils., Inc. in the amount of ₱5,515.65.

d. <u>*Car Lease and Rent-Transportation Equipment*</u>

In the assailed Amended Decision, the Court upheld the deficiency EWT on the payments representing Rent – Car Lease and Rent - Transportation Equipment in the amounts of ₱436,800.09 and ₱53,009.34, respectively, for petitioner's failure to present its financial lease agreements which would have enabled the Court to verify whether the subject income payments are indeed in the nature of financial leases. The Court also held that petitioner failed to submit proof that the payees to which the income payments were made, fall within the term "Transportation contractors" as contemplated under Section 2.57.2(E)(4)(e) of RR No. 2-98.

Petitioner argues that contrary to the Court's findings, it already withheld the proper amounts of two percent (2%) and five percent (5%) on all its payments representing Rent-Car Lease and Rent-Transportation Equipment for being made to transportation contractors and financial leasing contractors, respectively. Allegedly, these payments were made to Orix Metro Leasing and Finance Corporation (Orix Metro) and Orix Auto Leasing Philippines Corporation (Orix Auto).

According to petitioner, based on the List of Financing Companies as of 31 July 2019 of the Securities and Exchange Commission[18], Certificate of Authority No. 67 was issued in favor of Orix Metro pursuant to the Financing Company Act of 1998. Also, petitioner states that the Supreme Court, in the case of "*Orix Metro Leasing and Finance Corporation v. M/V "Pilar-1" and Spouses Ernesto Dy and Lourdes Dy*,[19] recognized the fact that Orix Metro is engaged in the leasing and financing business. On the other hand,

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[18] Available at http://www.sec.gov.ph/lending-companies-and-financing-companies/list-of-financing-companies

[19] G.R. No. 157901, dated September 11, 2009.

petitioner alleges that Orix Auto's primary purpose is to engage mainly in the vehicle rental and leasing business, either as a common carrier or private carrier, in the transportation of passengers, merchandise, freight, or cargo, citing as reference CTA Case No. 8001, dated November 28, 2001.

Petitioner argues that considering that it had already withheld on its income payments - the amounts of two (2%) percent and five (5%) percent EWT, the Court should have considered these amounts in determining the deficiency taxes still due. Thus, petitioner asserts that the Court should have credited the EWT payments already made by the petitioner in determining petitioner's final deficiency EWT liability, if any, against the five percent (5%) on petitioner's *Rent-Car Lease* and *Rent-Transportation Equipment.*

The Court is not persuaded.

As to the alleged List of Financing Companies as of 31 July 2019 made by the Securities and Exchange Commission and Certificate of Authority No. 67 issued in favor of Orix Metro pursuant to the Financing Company Act of 1998, the Court cannot take cognizance of the alleged document and list as these are not among the matters which the law mandatorily requires the Court to take judicial notice of, without any introduction of evidence. No evidentiary value can be given to a document as the rules on documentary evidence require that these documents must be formally offered during trial before this Court.[20]

With regard to the Supreme Court and CTA cases cited by petitioner recognizing Orix Metro as engaged in the leasing and financing business and Orix Auto as engaged mainly in the vehicle rental and leasing business, either as a common carrier or private carrier, in the transportation of passengers, merchandise, freight, or cargo, the Court cannot take cognizance of the same. It has been held that the doctrine of judicial notice is to be exercised by the courts with caution; care must taken that the requisite notoriety exists; and every reasonable doubt upon the subject should be promptly resolved in the negative.[21]

As to petitioner's assertion that the Court should have deducted the 2% EWT and 5% EWT that petitioner withheld on the subject income payments, the Court finds the same unmeritorious. It is to be

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[20] *Dizon vs. Court of Tax Appeals,* G.R. No. 140944, April 30, 2008.
[21] *Pilipinas Shell Petroleum Corporation vs. Commissioner of Customs,* G.R. No. 195876, December 5, 2016.

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recalled that respondent's assessment was derived after comparing the income payments per petitioner's AFS/ITR with those found in its Alphalist, as shown below:

Expense/Income Payments	Per FS/ITR	Per 1601E	Discrepancy	EWT Rate	EWT Due
Rental	₱ 3,815,634.00	₱ 3,079,161.95	₱ 736,472.05	5%	₱ 36,823.60
Professional Fees	308,262.00	227,313.39	80,948.61	15%	12,142.29
Director's fee	220,500.00	197,500.00	23,000.00	15%	3,450.00
Payment to contractors/subcontractors					
Other Outside Services	240,873.00				
Advertising	76,380.00				
Insurance	88,698.00				
Transportation and Travel	470,996.00				
Communication Light and Water	332,625.00				
Miscellaneous	48,880.00				
Outside Services	1,483,816.00				
Others	5,510,104.00				
	8,252,372.00	4,483,814.45	3,768,557.55	2%	75,371.15
	₱20,849,140.00	**₱7,987,789.79**	**₱4,608,978.21**		**₱127,787.05**

In other words, petitioner's total EWT remittances for the year 2010 were already deducted by respondent in arriving at the deficiency EWT assessment.

II. PROFESSIONAL FEES

With regard to professional fees, the Court in the assailed Decision upheld the deficiency EWT in the amount of ₱80,948.61 for petitioner's failure to explain the discrepancy of the amounts in petitioner's AFS/Income Tax Return (ITR) with those found in the Alphalist.

Petitioner alleges that the assessed amount of ₱80,948.61 pertains to the following items, all of which have been properly subjected to EWT:

A. Expenses classified as professional fees but were subjected to 2% withholding tax	
Hiring Fees	₱ 76,481.30
Management and Professional Fees - Others	26,982.31
	103,463.61
B. Amortization of prepaid hiring fees paid in 2009	3,601.00
C. Payments subject to 10% withholding tax but not classified as professional fees per FS presentation	
Capitalized Leasehold Improvement	(4,593.32)

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D. Payments subject to 15% withholding tax but not classified as professional fees per FS presentation	(8,313.00)
E. Payments to General Professional Fees	
Legal Fees-Retainer	173,262.00
Legal Fees-Regular	1,329.00
Audit Fees-External	57,294.00
	231,885.00
E. Payments not subject to withholding tax but classified as professional fees	
Legal Fees-Notarial Fees	294.00
F. Nondeductible expense	(36,400.00)
G. Payments subject to 15% withholding tax but classified in the ITR as part of Direct Charges-Others	
Management and Professional Fees - Others	(9,469.34)
Training and Development-Local-Officers	(199,519.35)
	(208,988.69)
Total	**₱80,948.60**

Without supporting documents, the Court finds the above reconciliation insufficient. Hence, deficiency EWT on the assessed amount of ₱80,948.60 remains.

As to the arguments raised by petitioner regarding **deficiency EWT on Director's Fees** and **Payment to Contractors/Subcontractors (Outside Services and Other Outside Services)**, **deficiency WTC**, **deficiency FWT, deficiency FWVAT** and **deficiency IT on disallowed prior period expense and disallowed expenses due to non-withholding**, imposition of **surcharge, deficiency** and **delinquency interests**, the Court finds that the arguments raised therein are mere rehash of the facts and issues which have already been duly considered and extensively discussed in the Court's August 15, 2018 Decision and August 22, 2019 Amended Decision. Thus, the Court finds no reason to modify its ruling on these assessments.

The re-opening of trial is not proper

In its motion, petitioner argues that the cases of *Republic of the Philippines v. Sandiganbayan*[22] and *Cabarles v. Mavceda*[23] cited in the assailed Amended Decision should not be made applicable to the present case because in both cases the proceedings were conducted under the Rules of Civil and Criminal Procedure. Allegedly,

[22] G.R. No. 152375, December 13, 2011.
[23] G.R. No. 161330, February 20, 2007.

proceedings before the CTA are governed by RA 1125 which expressly provides that this Court shall not be bound by the strict rules of procedure.

Petitioner further argues that the paramount consideration of the Court should be the ascertainment of truth and the just determination of every action citing *Filinvest Development Corporation v. Commissioner of Internal Revenue and Court of Tax Appeals*[24] and *Philippine Phosphate Fertilizer Corporation v. Commissioner of Internal Revenue*[25]. Hence, petitioner should be allowed the reopening of trial for the submission of additional supporting documents, such as but not limited to the official receipts/invoices, acknowledgment receipts, check/accounts payable vouchers, a supplemental/ consolidated independent certified public accountant ("ICPA") Report, and all other relevant accounting documents not previously submitted covering TY 2010 and TY 2009 of petitioner and other member of the PDS Group, in order to aid the Court in evaluating the merits of the case.

The Court finds petitioner's arguments without merit.

Petitioner invokes the liberal application of the rules of procedure in his plea to reopen the case. However, concomitant to a liberal application of the rules of procedure should be an effort on the part of the party invoking liberality to explain his failure to abide by the rules.[26]

In this case, the Court does not find any compelling reason to allow the reopening of the instant case. It must be emphasized that procedural rules are not to be belittled or dismissed simply because their non-observance may have resulted in prejudice to a party's substantive rights. Like all rules, they are required to be followed except only for the most persuasive reasons when they may be relaxed to relieve a litigant of an injustice not commensurate with the degree of his thoughtlessness in not complying with the procedure prescribed.[27]

Respondent's Motion for Partial Reconsideration

As mentioned earlier, We find respondent's Motion for Partial Reconsideration partially meritorious.

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[24] G.R. No. 146941, August 9, 2007, citing BPI-Family Savings Bank vs. Court of Appeals, G.R. No. 122480, April 12, 2000.
[25] G.R. No. 141973, June 28, 2005.
[26] Sebastian vs. Morales,
[27] Bergonia vs. Court of Appeals, G.R. No. 189151, January 25, 2012.

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Respondent's objection to the testimony of petitioner's witness is without merit.

Respondent contends that petitioner only offered the testimony of its Associate Director for Finance and Head of Accounting of the PDS Group, Rosemarie V. Marchadesch, to essentially prove the contents of the tax returns of petitioner. But since Machadesch did not prepare the said tax returns, her testimony on the same is not admissible for being hearsay under Section 36, Rule 130 of the Rules of Court.

Respondent's argument is untenable.

This Court notes that it was only in the instant motion that respondent raised the allegation that the testimony of petitioner's witness is hearsay. In respondent's Comment to petitioner's Formal Offer of Evidence, respondent manifested that he had no objection to the admission of petitioner's exhibits.[28] Thus, respondent did not question the probative value of petitioner's witness.

Moreover, contrary to respondent's argument, Rosemarie V. Marchadesch, petitioner's witness, Associate Director for Finance and Head of Accounting of the PDS Group, who testified about the tax returns in order to explain their relevance to the case and to corroborate their contents had personal knowledge of the transactions recorded in these documents given the nature of her duties and responsibilities as such. Specifically, in her Judicial Affidavit, Marchadesch stated that the one of the scopes of her duties and responsibilities include directly overseeing the accounting, billing and collections and financial planning units of the PDS Group.[29] In view thereof, she has acquired personal knowledge by virtue of the nature and scope of her duties and responsibilities.

Petitioner is liable for basic deficiency income tax for TY 2010 in the reduced amount of ₱2,058,015.79

Respondent contends that petitioner is liable to pay the deficiency Income Tax for taxable year 2010, implying that it should be

[28] Docket – Vol. III, pp. 1530 to 1531.
[29] Exhibit "P-42", Docket – Vol. I, p. 490.

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the amount cited in the original Decision dated August 15, 2018, along with the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended by the Train law, as implemented by RR No. 21-2018.

We partly agree with respondent that petitioner is liable for basic deficiency Income Tax, but in the reduced amount of ₱2,058,015.79 as discussed in the assailed Amended Decision dated August 22, 2019[30], to wit:

"E. DEFICIENCY INCOME TAX

I. Disallowed Prior period expenses

In the assailed decision, the Court upheld respondent's disallowance of petitioner's claimed prior period expenses in the amount of ₱116,411.53, broken down as follows:

Particulars	Amount
a. The Enterprise Center CC	₱ 58,682.76
b. The Enterprise Center CC	45,892.00
c. City Service Corp.	11,836.77
Total	**₱ 116,411.53**

Petitioner submits that the Court erred in disallowing the said expenses as it adopts the accrual method of accounting. Citing the case of *Commissioner of Internal Revenue vs. Isabela Cultural Corporation* ("*Isabela* case"),[31] petitioner explains that under such method, a taxpayer makes an estimate of the average monthly billings from its various suppliers and claims the same as an expense within the relevant TY. However, being mere estimates, the final billing may be greater or less than the initial assessment.

In the instant case, petitioner avers that the disallowed amount of ₱116,411.53 represents the difference between the initial estimate claimed as a deduction in TY 2009 and the actual cost of the services rendered, the billings of which were received by petitioner

[30] Docket – Vol. 4, pp. 2010 to 2013
[31] G.R. No. 172231, February 12, 2007.

in TY 2010. Based on the billings received by petitioner, the expense accrued in TY 2009 was less than the actual expense based on the billings. As such, petitioner claimed the difference between the two amounts in TY 2010 – the year when it received such billings.

Petitioner's contention is flawed.

Section 34(A)(1)(a) of the NIRC of 1997 states that, "(t)*here shall be allowed as deduction from gross income all the ordinary & necessary expenses paid or incurred during the taxable year in carrying on or which are directly attributable to the development, management, operation and/or conduct of the trade, business or exercise of a profession."*

As held by the Supreme Court in the *Isabela* case, the requisite that it must have been paid or incurred during the taxable year is further qualified by Section 45 of the NIRC of 1997 which states that: *"(t)he deductions provided for in this Title shall be taken for the taxable year in which 'paid or accrued' or 'paid or incurred', dependent upon the method of accounting upon the basis of which the net income is computed . . ."*

Thus, if the taxpayer is on cash basis, the expense is deductible in the year it was paid, regardless of the year it was incurred. If he is on the accrual method, he can deduct the expense upon accrual thereof. An item that is reasonably ascertained as to amount and acknowledged to be due has "accrued"; actual payment is not essential to constitute "expense".

Stated otherwise, an expense is accrued and deducted for tax purposes when (1) the obligation to pay is already fixed; (2) the amount can be determined with reasonable accuracy; and (3) it is already knowable or the taxpayer can reasonably be expected to have known at the closing of its books for the taxable year.[32]

Petitioner admits that it uses the accrual method in accounting for its income and expenses and that the assessed amount of ₱116,411.53 pertains to prior year's

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[32] *Ing Bank N. V., engaged in banking operations in the Philippines as Ing Bank N. V Manila Branch* vs. *Commissioner of Internal Revenue*, G.R. No. 167679. July 22, 2015.

expenses. Thus, pursuant to Section 34(A)(1)(a) of the NIRC of 1997, the amount of ₱116,411.53 is deductible as expense in the year when it was incurred, *i.e.*, 2009 and not when petitioner received the billings in the year 2010.

Moreover, Revenue Audit Memorandum Order No. 1-2000, provides that under the accrual method of accounting, expenses not being claimed as deductions by a taxpayer in the current year when they are incurred cannot be claimed as deduction from income for the succeeding year. Thus, a taxpayer who is authorized to deduct certain expenses and other allowable deductions for the current year but failed to do so cannot deduct the same for the next year.

While the amount of ₱116,411.53 represents the excess of the amounts billed in 2010 over the estimated amounts claimed by petitioner as expenses in 2009, such excess cannot be claimed as deduction in 2010. Petitioner should have not relied merely on estimates in claiming the subject expenses as deductions in 2009. Petitioner should have exercised due diligence and inquired from its suppliers the exact amount it owed the latter at the closing of its books for taxable year 2009.

II. Disallowed expenses due to non-withholding of EWT and FWT

Based on the discussion under the deficiency EWT and FWT assessments, the amount of petitioner's disallowed expenses due to non-withholding of EWT and FWT is reduced from ₱6,083,939.36 to ₱5,889,733.73, broken down as follows:

Disallowed Expenses due to non-withholding of EWT	₱ 4,328,480.35
Disallowed Expenses due to non-withholding of FWT	1,561,253.38
Total Disallowed expenses due to non-withholding of EWT and FWT	**₱5,889,733.73**

III. Disallowed Salaries and Wages due to non-withholding of WTC

The amount of petitioner's disallowed salaries and benefits not subjected to WTC still remains at ₱853,907.70, as this Court cannot find a valid justification to reverse such disallowance.

In fine, petitioner would be liable to basic deficiency income tax for TY 2010 in the reduced amount of ₱2,058,015.79, as computed below:

Taxable Income per return		₱ 3,949,033.00
Add: *Adjustments/Disallowances*		
Disallowed Expenses due to non-withholding-EWT and FWT	₱5,889,733.73	
Disallowed Salaries and Wages due to non-withholding	853,907.70	
Disallowed Prior Period Expenses	116,411.53	6,860,052.96
Adjusted Taxable Income		**₱ 10,809,085.96**
Basic Income Tax Due		**₱ 3,242,725.79**
Less: Tax Credits/Payments		
Unexpired excess of prior year's MCIT over NT	₱ 171,830.00	
Prior year's excess credits	4,063,029.00	
Creditable income tax withheld	671,404.00	
Total	₱ 4,906,263.00	
Less: Excess tax credits carried over to succeeding year	3,721,553.00	1,184,710.00
Basic Deficiency Income Tax		**₱ 2,058,015.79**

WHEREFORE, in light of the foregoing, petitioner's *Motion for Partial Reconsideration (Re: Amended Decision dated 22 August 2019)* is **DENIED** for lack of merit. While, respondent's *Motion for Partial Reconsideration (of the Amended Decision dated August 22, 2019)* is **PARTIALLY GRANTED.** The Amended Decision dated August 22, 2019 is **AFFIRMED** with modification, as follows:

> "**WHEREFORE**, in light of the foregoing considerations, the instant Petition for Review is **PARTIALLY GRANTED**.
>
> The compromise penalties in the amount of ₱32,000.00 for petitioner's alleged deficiency FWT and FWVAT are **CANCELLED** and **SET ASIDE**.
>
> The assessments for deficiency IT, EWT, WTC, FWT and FWVAT are hereby **UPHELD WITH MODIFICATIONS**. Accordingly, petitioner is hereby **ORDERED TO PAY** respondent the amount of

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₱11,346,155.00, inclusive of the 25% surcharge, 20% deficiency interest and 20% delinquency interest imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017 as follows:

	IT	EWT	WTC	FWT	WVAT	Total
Basic Tax	₱2,058,015.79	₱110,030.09	₱225,346.24	₱468,376.01	₱187,350.41	₱3,049,118.54
Add:25% Surcharge	514,503.95	27,507.52	56,336.56	117,094.00	46,837.60	762,279.63
20% Deficiency Interest from April 15, 2011 to April 28, 2015 (₱2,058,015.79 x 20% x 1,474/365 days)	1,662,200.15					1,662,200.15
20% Deficiency Interest from January 15, 2011 to April 28, 2015 [₱110,030.09 x 20% x 1,564/365 days]		94,294.27				94,294.27
[₱225,346.24 x 20% x 1,564/365 days]			193,118.64			193,118.64
(₱468,376.01 x 20% x 1,564 / 365 days)				401,391.82		401,391.82
20% Deficiency Interest from January 10, 2011 to April 28, 2015 [₱187,350.41 x 20% x 1,569/365 days]					161,070.02	161,070.02
Total Amount Due as of April 28, 2015	**₱4,234,719.89**	**₱231,831.88**	**₱474,801.44**	**₱986,861.83**	**₱395,258.03**	**₱6,323,473.07**
20% Deficiency Interest from April 29, 2015 to December 31, 2017 (₱2,058,015.79 x 20% x 978/365 days)	1,102,870.93					1,102,870.93
[₱110,030.09 x 20% x 978/365 days]		58,964.07				58,964.07
[₱225,346.24 x 20% x 978/365 days]			120,760.88			120,760.88
[₱438,376.01 x 20% x 978/365 days]				250,998.21		250,998.21
[₱187,350.41 x 20% x 978/365 days]					100,399.28	100,399.28
20% Delinquency Interest from April 29, 2015 to December 31, 2017 (₱4,234,719.89 x 20% x 978/365 days)	2,269,345.78					2,269,345.78
[₱231,831.88 x 20% x 978/365 days]		124,236.48				124,236.48

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[₱474,801.44 x 20% x 978/365 days]			254,441.53			254,441.53
[₱986,861.83 x 20% x 978/365 days]				528,849.79		528,849.79
[₱395,258.03 x 20% x 978/365 days]					211,814.98	211,814.98
Total Amount Due as of December 31, 2017	**₱7,606,936.60**	**₱415,032.43**	**₱850,003.85**	**₱1,766,709.83**	**₱707,472.29**	**₱11,346,155.00**

In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) on the total amount due of **₱6,323,473.07** as of April 28, 2015, as determined above, computed from January 1, 2018 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended by the Train Law, as implemented by RR No. 21-2018.

SO ORDERED."

SO ORDERED.

ERLINDA P. UY
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

CIELITO N. MINDARO-GRULLA
Associate Justice