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

**SPECIAL THIRD DIVISION**

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| **SOMNOMED PHILIPPINES INC.,** *Petitioner,* | **CTA Case No. 10845** |
| | Members: |
| - versus - | **REYES-FAJARDO,** *Chairperson, and* **ANGELES,** *JJ.* |
| **COMMISSIONER OF INTERNAL REVENUE,** *Respondent.* | Promulgated: JUL 1 4 2026 4:30 p.m |

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## RESOLUTION

**REYES-FAJARDO, *J.*:**

We resolve:

1. Petitioner Somnomed Philippines Inc.'s *Motion for Partial Reconsideration*[1] filed on April 10, 2026, with respondent Commissioner of Internal Revenue (CIR)'s *Comment and Opposition (To Petitioner's Motion for Partial Reconsideration dated April 10, 2026)*[2] filed on April 27, 2026; and,

2. Respondent CIR's *Motion for Reconsideration*[3] filed on April 10, 2026, with the petitioner's *Comment (To CIR's Motion for Reconsideration dated April 6, 2026)*[4] filed on April 28, 2026.

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1 *Rollo*, pp. 702 – 710.
2 *Id.*, pp. 724 – 738.
3 *Id.*, pp. 685 – 699.
4 *Id.*, pp. 740 – 763.

On March 19, 2026, the Court promulgated a Decision,[5] partially granting petitioner's Petition for Review. The *fallo* of which reads:[6]

> **WHEREFORE**, the Petition for Review dated April 27, 2022, filed by SomnoMed Philippines, Inc., is **PARTIALLY GRANTED.**
>
> Respondent's Fringe Benefit Tax assessment and the Compromise Penalties for FY ending June 30, 2018 are **CANCELLED** and **SET ASIDE**. On the other hand, respondent's assessments for deficiency Income Tax, Expanded Withholding Tax, and Withholding Tax on Compensation for FY ending June 30, 2018 are **UPHELD WITH MODIFICATION**. Thus, petitioner is **ORDERED TO PAY** respondent the following:

| | Basic | Surcharge | Deficiency Interest | Total |
|---|---|---|---|---|
| IT | ₱ 8,245.83 | ₱ 2,061.46 | ₱ 2,762.47 | ₱ 13,069.76 |
| EWT | 413,300.70 | 103,325.17 | 148,788.25 | 665,414.12 |
| WTC | 299,279.21 | 74,819.80 | 109,413.20 | 483,512.21 |
| **Total** | **₱ 720,825.74** | **₱180,206.43** | **₱ 260,963.92** | **₱1,161,996.09** |

> In addition, petitioner is **ORDERED TO PAY** respondent delinquency interest at the rate of twelve percent (12%) per annum on the total amount due of **₱1,161,996.09** as of July 30, 2021, as determined above, or equivalent to the amount of ₱382.03 per day, computed from July 31, 2021 until full payment thereof pursuant to Section 249(C) of the NIRC of 1997, as amended by Republic Act No. 10963, as implemented by Revenue Regulations No. 21-2018.
>
> **SO ORDERED.**

In its Decision, the Court cancelled respondent's Fringe Benefit Tax (FBT) assessment for lack of sufficient factual and legal basis, and sustained with modification petitioner's deficiency income tax, Expanded Withholding Tax (EWT), and Withholding Tax on Compensation (WTC) assessments for fiscal year ending June 30, 2018.

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[5] *Id.*, pp. 656 – 684.

[6] *Id.*, p. 683.

Undaunted, both parties moved for partial reconsideration. Petitioner seeks the cancellation of the remaining deficiency EWT assessment, while respondent assails the cancellation of the FBT assessment, income tax disallowances, as well as the reduction of the WTC assessment.

After due consideration of the parties' arguments, We find no cogent reason to disturb the assailed Decision.

***The remaining deficiency EWT assessment is upheld.***

In its Motion for Partial Reconsideration,[7] petitioner insists that the Court erred in sustaining the remaining deficiency EWT assessment on its utility payments to Allegro Resources Corporation (ARC). It maintains that the utility payments were subject only to two percent (2%) EWT, which it allegedly withheld and remitted, and that the absence of an alphalist of payees on the EWT returns should not defeat the corroborative evidence showing payment and remittance, as presented by the Independent Certified Public Accountant (ICPA).

Respondent, through its Comment and Opposition,[8] counters that petitioner failed to sufficiently substantiate the alleged withholding and remittance of EWT on the subject utility payments.

Petitioner's position is unavailing.

*First.* Petitioner's heavy reliance on ICPA's findings does not automatically warrant the cancellation of the remaining deficiency EWT assessment. Section 3, Rule 13 of the Revised Rules of the Court of Tax Appeals[9] provides that ICPA's findings and conclusions are subject to verification and "shall not be conclusive upon the Court." Thus, while the ICPA may have traced petitioner's utility payments and related documents, the Court is not precluded from finding that the alleged withholding and remittance of EWT on the subject payments remain unverified.

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7 *Supra* note 1.
8 *Supra* note 2.
9 *A.M. No. 05-11-07-CTA*, November 22, 2005.

*Second*. The alleged withholding and remittance of EWT on the subject utility payments cannot be verified from petitioner's evidence. In the absence of the corresponding alphalist of payees or competent breakdown identifying ARC as payee, the income payments made, and the tax withheld thereon, the Court cannot simply presume that the remittances covered the disputed utility payments.

*Last*. Petitioner's reliance on corroborative evidence cannot cure this evidentiary gap. While the documents relied upon by petitioner may show that utility payments were made to ARC and that certain tax payments were remitted to the BIR, they do not reasonably establish that the specific EWT due on the subject utility payments was actually withheld and remitted by petitioner for ARC.

For these reasons, petitioner's plea to cancel its remaining deficiency EWT assessment must fail.

***The cancellation of the FBT assessment, income tax disallowances, and reduction of the WTC assessment are proper.***

In its Motion for Reconsideration,[10] respondent insists that the Court erred in: (1) cancelling the FBT assessment as the productivity incentives were granted not only to rank-and-file employees but also to supervisory employees, (2) requiring respondent to segregate the exempt and taxable portions of the productivity incentives; (3) giving weight to Revenue Officer Genielee D. Pascasio (RO Pascasio)'s imprecise testimony in cancelling the FBT assessment; (4) cancelling the income tax disallowance despite petitioner's alleged failure to prove tax withholding and remittance on the productivity incentives; (5) limiting the disallowance on meals and cancelling the disallowance on government contributions despite alleged substantiation and classification defects; and (6) refusing to order a recomputation instead of outright cancellation of the questioned income-tax adjustments.

Petitioner through its Comment,[11] answers that the Court correctly cancelled the FBT assessment as respondent failed to

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10 *Supra* note 3.
11 *Supra* note 4.

establish its legal and factual bases, especially in light of RO Pascasio's admission and confusion as to the proper tax treatment of the productivity incentives. Petitioner counters that the related income-tax disallowances were properly cancelled as the questioned expenses and remittances were sufficiently substantiated and verified by the Independent Certified Public Accountant (ICPA), as adopted by the Court.

Respondent's arguments fail to persuade.

The arguments raised in its Motion for Reconsideration are mere reiterations of matters which have already been considered, weighed, and resolved in the assailed Decision. We are not required to restate, in *seriatim*, Our earlier conclusions.[12]

However, we stress that the FBT assessment in this case lacks sufficient factual and legal basis.

As a general rule, tax assessments by tax examiners are presumed correct and made in good faith. It is presumed that such assessment was based on sufficient evidence. A *fortiori*, in order to stand judicial scrutiny, the assessment must be based on actual facts.[13] Respondent fails on this score.

*Foremost*, RO Pascascio's testimony reveals uncertainty as to her examination and assessment of the productivity incentives. While she assessed the entire amount as fringe benefits, she likewise admitted that productivity incentives are not fringe benefits and should instead be treated as part of salary subject to withholding tax on compensation.

Here, the very person who conducted the examination leading to the FBT assessment appeared confused as to the proper tax treatment of the productivity incentive. It is settled that for evidence to be believed it "must not only proceed from the mouth of a credible witness, but must be credible itself..."[14] Consequently, given RO Pascascio's seeming confusion, We cannot reasonably give full credence to the FBT assessment.

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12 See *Ortigas and Company Limited Partnership v. Judge Tirso Velasco and Dolores V. Molina, and Dolores V. Molina v. Hon. Presiding Judge of RTC, Quezon City, Br. 105, and Manila Banking Corporation*, G.R. Nos. 109645 and 112564, Resolution, March 4, 1996.

13 See *Collector of Internal Revenue v. Alberto D. Benipayo*, G.R. No. L-13656, January 31, 1962.

14 *Garma v. People of the Philippines*, G.R. No. 248317, March 16, 2022.

*Moreover,* RO Pascasio mistakenly treated the entire productivity incentive account as subject to FBT, despite the statutory exclusion of benefits granted to rank-and-file employees from the coverage of FBT. As a result, respondent failed to identify in its assessment the specific taxable portion of the productivity incentives. It did not show in its assessment which amounts were granted to supervisory employees, which amounts exceeded the applicable *de minimis* threshold, and what exact amount, if any, should properly be subjected to FBT.

From the foregoing, the FBT assessment was not merely excessive; it was built on an erroneous premise. It is a "naked assessment," that is, one bereft of any factual or legal foundation, which makes the determination of the tax due without rational basis.[15]

*To be clear,* the defect here goes into the very foundation of the FBT assessment. Respondent did not merely commit an arithmetical error which can be corrected by recomputation. We cannot simply presume the existence of a valid taxable portion of petitioner's productivity incentive. To do so would be to supply the missing factual and legal bases of the FBT assessment, a task which belongs to the respondent, not to the Court.

**WHEREFORE**, petitioner Somnomed Philippines Inc.'s *Motion for Partial Reconsideration* filed on April 10, 2026, and Commissioner of Internal Revenue's *Motion for Reconsideration* filed on April 10, 2026, are **DENIED**. The Decision promulgated on March 19, 2026 is **AFFIRMED.**

**SO ORDERED.**

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

**I CONCUR:**

**HENRY S. ANGELES**
Associate Justice

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15 See *Commissioner of Internal Revenue v. Sps. Magaan*, G.R. No. 232663, May 3, 2021, citing *Commissioner of Internal Revenue v. Hantex Trading Co., Inc.*, G.R. No. 136975, March 31, 2005.