Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **January 18, 2021**, *which reads as follows:*

"G.R No. 226210 (LOURDES COLLEGE, *petitioner*, v. COMMISSIONER OF INTERNAL REVENUE, *respondent*.) — This Court resolves a Petition for Review[1] seeking to annul and set aside the Court of Tax Appeals En Banc's Decision[2] and Resolution.[3] The Court of Tax Appeals *En Banc* affirmed *in toto* the Decision[4] and Resolution[5] of the Court of Tax Appeals Second Division, which found Lourdes College liable for deficiency withholding tax on compensation, expanded withholding tax, fringe benefit tax, and donor's tax.

Lourdes College is a non-stock, non-profit educational corporation organized under the laws of the Philippines, with address at Hayes-Capistrano Streets, Cagayan de Oro City.[6] It offers basic education and higher education courses under the authority of the Department of Education and Commission on Higher Education, respectively.[7] The school is administered, operated and staffed by the Religious of the Virgin Mary.[8]

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1 *Rollo*, pp. 3–71. Filed under Rule 45 of the Rules of Court.

2 Id. at 395–407. The Decision dated February 2, 2016 in CTA EB No. 1164 was penned by Associate Justice Ma. Belen M. Ringpis-Liban and concurred in by Presiding Justice Roman G. Del Rosario (with concurring and dissenting opinion, pp. 408–411) and Associate Justices Juanito C. Castañeda, Jr., Lovell R. Bautista, Erlinda P. Uy (with concurring and dissenting opinion, pp. 412–415), Caesar A. Casanova, Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Amelia R. Cotangco-Manalastas of the Court of Tax Appeals *En Banc*, Quezon City.

3 Id. at 416–418. The Resolution dated July 28, 2016 CTA EB No. 1164 was penned by Associate Justice Ma. Belen M. Ringpis-Liban and concurred in by Associate Justices Juanito C. Castañeda, Jr. (with separate concurring opinion, pp. 424–429), Lovell R. Bautista, Caesar A. Casanova (joins J. Castañeda's separate concurring opinion), Esperanza R. Fabon-Victorino, Cielito N. Mindaro-Grulla and Amelia R. Cotangco-Manalastas; Presiding Justice Roman G. Del Rosario (with dissenting opinion, pp. 419–423) and Erlinda P. Uy (joins P.J. Del Rosario's dissenting opinion) of the Court of Tax Appeals *En Banc*, Quezon City.

4 Id. at 356–376. The Decision dated December 12, 2013 in CTA Case No. 8038 was penned by Associate Justice Caesar A. Casanova and concurred in by Associate Justices Juanito C. Castañeda, Jr. and Amelia R. Cotangco-Manalastas of the Second Division, Court of Tax Appeals, Quezon City.

5 Id. at 385–394. The Resolution dated April 11, 2014 in CTA Case No. 8038 was penned by Associate Justice Caesar A. Casanova and concurred in by Associate Justices Juanito C. Castañeda, Jr. and Amelia R. Cotangco-Manalastas of the Second Division, Court of Tax Appeals, Quezon City.

6 Id. at 396.

7 Id.

8 Id. at 90.

Pursuant to Letter of Authority No. 00056663 dated November 29, 2007, Revenue Officer Tindug C. Casan of Revenue District No. 98 (RDO No. 98), Revenue Region No. 16, Cagayan de Oro City examined Lourdes College's books of accounts and other accounting records for all internal revenue liabilities for the fiscal year May 1, 2006 to April 30, 2007.[9]

After the investigation, Regional Director Mustapha M. Gandarosa sent a Formal Letter of Demand[10] dated September 23, 2008 to Lourdes College, demanding payment of deficiency expanded withholding tax and deficiency fringe benefit tax in the total amount of ₱4,222,510.10, inclusive of surcharges, interest, and compromise penalty.[11]

Lourdes College protested the assessments through a letter dated November 20, 2008.[12] In response,[13] Revenue District Officer Noel B. Gonzales (Revenue District Officer Gonzales) of RDO No. 98 revised and reduced the previous assessments, but included a new assessment for donor's tax on the "Provision for Religious Community Services" in the amount of ₱1,031,814.58.[14]

Lourdes College protested the revised and new assessment for donor's tax through a letter[15] dated June 29, 2009. Subsequently, through letters dated July 17, 2009[16] and August 3, 2009,[17] it informed the Commissioner of Internal Revenue of its position on the assessments.[18]

In an August 25, 2009 letter,[19] Revenue District Officer Gonzales stated that Lourdes College is still liable to pay ₱1,382,362.47, inclusive of interests and penalties.[20]

Thereafter, a Final Decision on Disputed Assessment dated December 28, 2009,[21] signed by Regional Director Esmeralda M. Tabule (Regional Director Tabule), was received by Lourdes College stating that the latter's arguments were found to be unmeritorious.[22] This was followed by another

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9 Id. at 396.
10 Id. at 78–81.
11 Id. at 396.
12 Id. at 82–85.
13 Id. at 86–87.
14 Id. at 396.
15 Id. at 88–91.
16 Id. at 92.
17 Id. at 93–95.
18 Id. at 396.
19 Id. at 96–97.
20 Id. at 397.
21 Id. at 98.
22 Id. at 397.

Final Decision on Disputed Assessment[23] dated January 26, 2010, containing a reduced income tax assessment.[24]

Lourdes College appealed[25] the final assessment to the Commissioner of Internal Revenue, who replied in a letter[26] dated February 19, 2010, as follows:

> In reference to your letter dated February 17, 2010, please be informed that the letter issued by Regional Director Esmeralda M. Tabule dated January 26, 2010 is considered by this Office as Final Decision on Disputed Assessment. In which case, your remedy is the filing of an appeal before the CTA within 30 days from date of the said decision.[27]

On March 18, 2010, Lourdes College filed its Petition for Review before the Court of Tax Appeals.[28] It sought the cancellation of the deficiency assessments for withholding taxes amounting to ₱215,169.99, fringe benefit taxes of ₱166,363.86, and donor's taxes of ₱1,241,155.52, inclusive of surcharge, interest and compromise penalty, for the fiscal year May 1, 2006 to April 30, 2007.[29]

In his Answer,[30] the Commissioner of Internal Revenue interposed the following defenses, among others:

> 10) Respondent further submits that Section 203 of the 1997 Tax Code does not apply to petitioner's deficiency withholding tax assessment because it was not assessed for internal revenue taxes directly related in the operation of its business, but for its liability as withholding agent for failure to withhold, account for and remit the deficiency expanded and compensation withholding taxes as required by Revenue Regulation No. 2-98 and Revenue Regulation No. 6-2001 as amended.
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> 11) . . . .
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> 12) . . . .
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> 13) In order for expenses paid as financial assistance or scholarship to some of petitioner's faculty members pursuing graduate studies, furnished in cash or in kind by an employer to an individual employee (except rank and file employee) to be exempt from the coverage of Section 33(A) of the 1997 Tax Code, the same must be actually substantiated to fully establish that the amount was exclusively utilized for the benefit or convenience of the company under the "convenience

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23 Id. at 99–101.
24 Id. at 397.
25 Id. at 102–105.
26 Id. at 114.
27 Id.
28 Id. at 397.
29 Id. at 357.
30 Id. at 130 –137.

of the employer rule.[30] Petitioner miserably failed to actually substantiate its claim for exemption from the fringe benefit tax.[31]

On December 12, 2013, the Court of Tax Appeals Second Division rendered its Decision,[32] finding Lourdes College liable for deficiency withholding taxes, fringe benefits tax, and donor's tax:

> WHEREFORE, premises considered, petitioner's Petition for Review is hereby DENIED for lack of merit.
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> Accordingly, petitioner is liable to pay respondent the amount of P1,121,516.27, inclusive of the 25% surcharge imposed under Section 248(A)(3) of the NIRC of 1997, computed as follows:

Tax Type	Basic Tax	25% Surcharge	Total (₱)
Withholding Tax on Compensation	₱44,427.50	₱11,106.88	₱55,534.38
Expanded Withholding Tax	66,474.51	16,618.63	83,093.14
Fringe Benefit Tax	88,507.84	22,126.96	110,634.80
Donor's Tax	697,803.16	174,450.79	872,253.95
Total	₱897,213.01	₱224,303.26	**₱1,121,516.27**

> In addition, petitioner is liable to pay the following:
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> (a) Deficiency interest at the rate of 20% per annum pursuant to Section 249(B) of the NIRC of 1997:
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> (1) On the basic withholding tax on compensation, expanded withholding tax and donor's tax computed from May 10, 2007 until full payment thereof; and
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> (2) On the basic fringe benefit tax computed from July 10, 2007 until full payment thereof;
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> (b) Delinquency interest at the rate of 20% per annum on the total deficiency taxes of P1,121,516.27 and on the 20% deficiency interest which have accrued as aforestated in (a), computed from February 16, 2010 until full payment thereof, pursuant to Section 249(C)(3) of the NIRC of 1997.
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> SO ORDERED.[33]

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31 Id. at 133.
32 Id. at 357–376.
33 Id. at 375.

Lourdes College filed a Motion for Reconsideration, which the Second Division denied in a Resolution[34] dated April 11, 2014.

On appeal, the Court of Tax Appeals *En Banc* affirmed the Decision and Resolution of the Second Division.

Hence, this Petition[35] was filed. Respondent filed a Comment,[36] and petitioner filed its Reply.[37]

This Court resolves the following issues:

First, whether or not the Court of Tax Appeals erred in holding that respondent Commissioner of Internal Revenue's February 19, 2020 letter was a valid decision on petitioner Lourdes College's appeal from the December 28, 2009 Final Decision on Disputed Assessment, as amended on January 26, 2010;

Second, whether or not the Court of Tax Appeals erred in upholding respondent Commissioner of Internal Revenue's assessment for donor's tax, fringe benefit tax, and expanded withholding tax against petitioner Lourdes College.

Lastly, whether or not petitioner Lourdes College is liable for delinquency interest.

The Petition is denied.

I

Section 228 of the 1997 National Internal Revenue Code requires that the taxpayer shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void. The same provision also prescribes the basic procedure for protesting an assessment. It states, in part:

> SECTION 228. *Protesting of Assessment.* — When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings:

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34 Id. at 385–394.
35 Id. at 3–68.
36 Id. at 438–460.
37 Id. at 469–494.

> *Provided, however*, That a preassessment notice shall not be required in the following cases:
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> . . . .
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> The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.
>
> Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.
>
> *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.
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> *If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of the one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.*

Section 3.1.5 of Revenue Regulations No. 12-99[38] governing the procedure in protesting tax assessments, additionally provides:

> In general, if the protest is denied, in whole or in part, by the Commissioner or his duly authorized representative, the taxpayer may appeal to the Court of Tax Appeals within thirty (30) days from date of receipt of the said decision, otherwise, the assessment shall become final, executory and demandable: Provided, however, that *if the taxpayer elevates his protest to the Commissioner within thirty (30) days from date of receipt of the final decision of the Commissioner's duly authorized representative, the latter's decision shall not be considered final, executory, demandable, in which case, the protest shall be decided by the Commissioner.*

Petitioner's protest was denied in the January 26, 2010 Final Decision on Disputed Assessment issued by Regional Director Tabule. This was received by petitioner on February 16, 2010. Thereafter, petitioner opted to elevate the denial of its protest to respondent on February 17, 2010. In reply, respondent issued a letter dated February 19, 2010, which read:

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[38] Implementing the Provisions of the National Internal Revenue Code of 1997 Governing the Rules on Assessment of National Internal Revenue Taxes, Civil Penalties and Interest and the Extra-Judicial Settlement of a Taxpayer's Criminal Violation of the Code Through Payment of a Suggested Compromise Penalty (1999).

> In reference to your letter dated February 17, 2010, please be informed that the letter issued by Regional Director Esmeralda M. Tabule dated January 26, 2010 is considered by this Office as Final Decision on Disputed Assessment. In which case, your remedy is the filing of an appeal before the CTA within 30 days from date of the said decision.[39]

Petitioner contends that the February 19, 2010 letter was not a valid decision because it did not state the factual and legal bases for respondent's denial of the protest nor its reasons for upholding the Final Decision on Disputed Assessment.[40] As such, said letter violates its right to appeal and duty to exhaust administrative remedies, and does not comply with the constitutional requirement of due process.[41] Petitioner argues that the letter should have been declared void by the Court of Tax Appeals and its protest remanded back to respondent for decision[42] in line with the rulings in *Ang Tibay v. Court of Industrial Relations*[43] and *Yao v. Court of Appeals*.[44]

This Court partly agrees with petitioner.

The reason for allowing the taxpayer to elevate a protest to the Commissioner of Internal Revenue is because it is the Commissioner who has been vested by law with the power to make a final assessment and to decide on disputed assessments, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.[45] Thus, while the Commissioner

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39 *Rollo*, p. 114.
40 Id. at 30.
41 Id.
42 Id. at 20.
43 69 Phil. 635 (1940) [Per J. Laurel, En Banc].
44 398 Phil. 86 (2000) [Per C.J. Davide, Jr., First Division]. *See rollo*, p. 34.
45 TAX CODE, secs. 2, 4, and 6 state:
SECTION 2. *Powers and Duties of the Bureau of Internal Revenue.* — The Bureau of Internal Revenue shall be under the supervision and control of the Department of Finance and its powers and duties shall comprehend the assessment and collection of all national internal revenue taxes, fees, and charges, and the enforcement of all forfeitures, penalties, and fines connected therewith, including the execution of judgments in all cases decided in its favor by the Court of Tax Appeals and the ordinary courts. The Bureau shall give effect to and administer the supervisory and police powers conferred to it by this Code or other laws.
. . . .
SECTION 4. *Power of the Commissioner to Interpret Tax Laws and to Decide Tax Cases.* — The power to interpret the provisions of this Code and other tax laws shall be under the exclusive and original jurisdiction of the Commissioner, subject to review by the Secretary of Finance.
The power to decide disputed assessments, refunds of internal revenue taxes, fees or other charges, penalties imposed in relation thereto, or other matters arising under this Code or other laws or portions thereof administered by the Bureau of Internal Revenue is vested in the Commissioner, subject to the exclusive appellate jurisdiction of the Court of Tax Appeals.
. . . .
SECTION 6. *Power of the Commissioner to Make Assessments and Prescribe Additional Requirements for Tax Administration and Enforcement.*
(A) *Examination of Returns and Determination of Tax Due.* — After a return has been filed as required under the provisions of this Code, the Commissioner or his duly authorized representative may authorize the examination of any taxpayer and the assessment of the correct amount of tax: *Provided, however*, That failure to file a return shall not prevent the Commissioner from authorizing the examination of any taxpayer.
The tax or any deficiency tax so assessed shall be paid upon notice and demand from the Commissioner or from his duly authorized representative.

may delegate to the Regional Director the power to decide tax cases,[46] the Commissioner is nevertheless not bound by the decision of a subordinate officer and may review or revise the same.

In this case, respondent's February 19, 2010 letter simply stated that the January 26, 2010 letter of Regional Director Tabule is considered as the Final Decision on Disputed Assessment. However, the letter of Regional Director Tabule did not even discuss why the arguments raised by petitioner against the assessments "were found to be frail and unmeritorious."[47] This hardly complies with the basic requirement under Revenue Regulation No. 12-99 that in case of denial of the protest:

> . . . the decision of the Commissioner or his duly authorized representative shall (a) state the facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based, otherwise, the decision shall be void, in which case, the same shall not be considered a decision on a disputed assessment; and (b) that the same is his final decision.[48]

A party's fundamental right to due process includes the right to be informed of the various issues involved in a proceeding, and the reasons for the decision rendered by the quasi-judicial agency. In *Mendoza v. Commission on Elections*,[49] this Court explained:

> [T]he last requirement, relating to the form and substance of the decision of a quasi-judicial body, further complements the hearing and decision-making due process rights and is similar in substance to the constitutional requirement that a decision of a court must state distinctly the facts and the law upon which it is based. *As a component of the rule of fairness that underlies due process, this is the "duty to give reason" to enable the affected person to understand how the rule of fairness has been administered in his case, to expose the reason to public scrutiny and criticism, and to ensure that the decision will be thought through by the decision-maker.*[50] (Emphasis supplied, citation omitted)

Any return, statement or declaration filed in any office authorized to receive the same shall not be withdrawn: *Provided*, That within three (3) years from the date of such filing, the same may be modified, changed, or amended: *Provided, further*, That no notice for audit or investigation of such return, statement or declaration has, in the meantime, been actually served upon the taxpayer.

(B) *Failure to Submit Required Returns, Statements, Reports and other Documents.* – When a report required by law as a basis for the assessment of any national internal revenue tax shall not be forthcoming within the time fixed by laws or rules and regulations or when there is reason to believe that any such report is false, incomplete or erroneous, the Commissioner shall assess the proper tax on the best evidence obtainable.

In case a person fails to file a required return or other document at the time prescribed by law, or willfully or otherwise files a false or fraudulent return or other document, the Commissioner shall make or amend the return from his own knowledge and from such information as he can obtain through testimony or otherwise, which shall be *prima facie* correct and sufficient for all legal purposes.

. . . .

46 TAX CODE, sec. 7.

47 *Rollo*, p. 99.

48 Rev. Reg. 12-99 (1999), sec. 3.1.6.

49 618 Phil. 706 (2009) [Per J. Brion, En Banc].

50 Id. at 727.

In *Commissioner of Internal Revenue v. Avon Products Manufacturing, Inc.*,[51] we stressed that the taxpayer must not only be given an opportunity to present its defenses, explanations, and supporting documents, but the Commissioner and their subordinates must give due consideration to these in making their conclusions on the taxpayers' liabilities, and sufficiently inform the taxpayer of the reasons for their conclusions. Failure to do so constitutes a violation of the taxpayer's right to due process.

Section 3.1.6 of Revenue Regulation No. 12-99 is categorical that the decision of the Commissioner or the duly authorized representative on a disputed assessment shall state the facts and law, rules and regulations, or jurisprudence on which the decision is based. Failure to do so would invalidate the Final Decision on Disputed Assessment. Thus:

> 3.1.6 *Administrative Decision on a Disputed Assessment. — The decision of the Commissioner or his duly authorized representative shall (a) state the facts, the applicable law, rules and regulations, or jurisprudence on which such decision is based, otherwise, the decision shall be void . . . in which case, the same shall not be considered a decision on a disputed assessment; and (b) that the same is his final decision.* (Emphasis supplied)

Consequently, respondent's February 19, 2010 letter is void for noncompliance with the law, the Bureau of Internal Revenue's implementing rules, and the due process requirements of the Constitution.

In *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*,[52] the Final Decision on Disputed Assessment was held void because it did not contain the facts and law on which the decision was based. It was held that the result is, as if there was no decision rendered by the Commissioner of Internal Revenue. The nullity of the Final Decision on Disputed Assessment was held "tantamount to a denial by inaction by CIR, which may still be appealed before the CTA and the assessment evaluated on the basis of the available evidence and documents."[53]

Accordingly, the invalidity of the February 19, 2010 letter is equivalent to an inaction on the protest, which vests the Court of Tax Appeals the authority to give due course to and resolve the merits of petitioner's appeal.

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[51] G.R. Nos. 201398-99 & 201418-19, October 3, 2018, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64720 > [Per J. Leonen, Third Division].

[52] 784 Phil. 874 (2016) [Per J. Mendoza, Second Division].

[53] Id. at 897.

II

Petitioner contends that the Court of Tax Appeals erred in upholding the assessments for deficiency donor's tax and fringe benefit tax on the ground of insufficiency of evidence.

With regard to the donor's tax assessment, petitioner claims that the "Provision for Religious Community Services" amounting to ₱2,326,010.52 represents not a donation to the Religious of the Virgin Mary, but a fair and reasonable compensation for the services of the 10 sisters it had assigned to administer and manage the school. Under the sisters' vow of poverty, they are not allowed to receive any compensation for their services, and the compensation, if any, is paid to their Congregation, which, in turn, provides for their support and maintenance.[54] As the amount represents religious income to the religious congregation, it is exempt from income tax.[55]

Petitioner contends that the Court of Tax Appeals Second Division, as affirmed by the *En Banc*, erred in requiring documentary evidence to show that the amount of ₱2,326,010.52 paid to the Congregation was for the services rendered by the 10 sisters, and in holding that without such supporting documentary evidence, it "cannot determine the intent of petitioner as to the sum of money given to the Congregation."[56]

Petitioner claims that the matter of whether the remittance was made for the services of the sisters[57] was not the issue raised in the Joint Stipulation of Facts and Issues and embodied in the Pre-trial Order.[58] According to petitioner, the issue raised was whether the contributions to the Congregation were in the nature of "gifts,"[59] which simply calls for the evaluation of whether the remittance was commensurate with the services actually rendered by the sisters.[60] If the amount remitted is equivalent to the value of the services by the sisters, then the contribution is not a gift; if not, then it may be considered a gift to the extent that the contribution exceeded the value of services rendered.[61] Petitioner adds that the testimony of Sr. Maria Ana Priscilla Magallanes sufficiently proved its claim that the remittances were not gifts;[62] and the proof required by the Court of Tax Appeals in the form of "withholding certificate for compensation, SSS

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54 *Rollo*, p. 36.
55 Id. at 49.
56 Id. at 39.
57 Id.
58 Id. at 35 and 38–39.
59 Id. at 42.
60 Id. at 40.
61 Id.
62 Id. at 39 and 43.

remittance forms or any similar documents"[63] is tantamount to a violation of the sisters' freedom to exercise their religious beliefs.[64]

On the fringe benefit tax assessment, petitioner claims that the specific issue submitted before the Court of Tax Appeals was whether the fringe benefit tax applied even when the scholarship grants were given to managerial or supervisory faculty members, not to rank and file faculty members.[65] The amounts, recipients, and purpose or nature of the grant were not put in issue, but were impliedly conceded in the formulation of the issue. Hence, petitioner argues that the Court of Tax Appeals erred in upholding the assessment on the ground of insufficient evidence to prove that the amount for scholarship grants was, indeed, incurred and paid for the scholarship program of the school.[66]

Even assuming there are factual issues to be resolved, petitioner submits that it had sufficiently proven its claim through its evidence consisting of: (1) the judicial affidavit and in-court testimony of Dr. Judith Chavez, Vice President for Academic Affairs of the School for 34 years; (2) a listing of the beneficiaries of the faculty development fund in the school year 2006-2007; and (3) the contracts entered into between the school and the grantees of scholarship grants.[67] Moreover, petitioner claims that the grants given to Dr. Judith Chavez and Dr. Elizabeth Lagrito, the Dean of Nursing, two managerial faculty members, amounted to ₱167,307.35, not ₱188,079.17, as incorrectly determined by the revenue officers.[68]

Petitioner's contentions are untenable.

At the outset, petitioner's arguments delve on the sufficiency of evidence to prove: (1) that the contributions to the Religious of Virgin Mary are not donations or gifts, but religious income exempt under Section 30 of the 1997 National Internal Revenue Code; and (2) that the amounts granted to its employees were exempt from fringe benefit tax. These are factual issues that are beyond the province of a petition for review on certiorari. In a Rule 45 petition, only questions of law may be raised, as this Court is not a trier of facts.[69] "Although jurisprudence has provided several exceptions to this rule, exceptions must be alleged, substantiated, and proved by the parties" before this Court may review and evaluate the facts of the case.[70]

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63 Id. at 401.
64 Id. at 45.
65 Id. at 55.
66 Id. at 54–55.
67 Id. at 55 and 308–316.
68 Id. at 57.
69 *Commissioner of Internal Revenue v. St. Luke's Medical Center, Inc.*, 695 Phil. 867 (2012) [Per J. Carpio, Second Division].
70 *Pascual v. Burgos, et al.*, 776 Phil. 167, 169 (2016) [Per J. Leonen, Second Division].

The Court of Tax Appeals *En Banc* affirmed the assessments on the ground that petitioner failed to establish, through competent proof, that the payments were actually made to the religious corporations for the services of their respective members. Thus:

> This Court agrees with the findings of the Court in Division that petitioner cannot invoke exemption from payment of donor's tax since petitioner failed to prove that the amount of P2,326,010.52 paid by petitioner to the Congregation is considered as income of the latter.
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> As correctly ruled by the Court in Division in the Assailed Resolution:
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> > *Notwithstanding the admission of petitioner that the payment was made for the services rendered by the ten sisters, it should have presented documents such as withholding certificate for compensation, SSS remittance forms or any similar documents, that would prove that the amount of P2,316,010.52, represents petitioner's payment to the Congregation for the services rendered.* ***Without any supporting documents, this Court cannot determine the intent of petitioner as to the sum of money given to the Congregation.*** Considering so, petitioner cannot invoke its exemption from donor's tax pursuant to Section 101(A)(3) of the 1997 Tax Code; particularly, whether or not more than thirty percent (30%) of said gifts is used by such donee for administration purposes[.][71]

Furthermore, the Court of Tax Appeals *En Banc* sustained the deficiency fringe benefit tax assessment for lack of evidence to show that the amount of ₱188,079.17 was, indeed, incurred and paid in connection with the scholarship granted to the school's personnel. It agreed with the Court of Tax Appeals Second Division, which found the following:

> This Court deems it necessary to re-examine the agreement contracts signed by Lagrito, Velez, Betitia and Estroga. Based on the records of the case, this Court cannot fully appreciate the materiality and veracity of the said documents on the following grounds:
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> 1. the respective positions of the grantees were not specifically stated in the agreement contracts;
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> 2. the amount granted were not specifically stated in the agreement contracts;
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> 3. failure to furnish the contract of agreement between petitioner and Dr. Judith Chavez;

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[71] *Rollo*, p. 401.

> 4. the contract of agreement did not directly, indirectly or impliedly mention that such expenditure shall be treated as incurred for the convenience and furtherance of the employer's trade or business; and
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> 5. the contracts of agreement were not notarized.
>
> Even if petitioner admitted that the alleged fringe benefit was paid to two managerial employees, Elizabeth Lagrito and Judith Chavez, and the others were not managerial or supervisory but rank and file employees, petitioner's primary evidence (agreement contract) failed to prove otherwise and convince this Court that it is exempt from paying the fringe benefit tax. A mere allegation is neither proof nor evidence. . . .
>
> Accordingly, petitioner shall be held liable for the basic deficiency FBT in the amount of P88,507.84, the details of which are:

Faculty Development: For Officers/Non-Rank and File	₱188,079.17
Grossed-up monetary value (₱188,079.17/68%)	₱276,587.01
Multiply with fringe benefit tax rate	0.32
Fringe Benefit Tax Due	₱88,507.84
Less: FBT Payments	-
Basic Deficiency FBT	**₱88,507.84**[72]

The Court of Tax Appeals is a highly specialized court dedicated exclusively to the study and consideration of tax-related issues.[73] By the very nature of its functions—reviewing disputed tax assessments, tariff duties, and similar or related cases—it is presumed to have an expertise on the subject.[74] Thus, as a general rule, its factual findings are entitled to the highest respect and will not be disturbed on appeal,[75] except: (1) when it is shown that the findings are not supported by substantial evidence or there is a showing of gross error or abuse on the part of the tax court;[76] (2) when the judgment is premised on a misapprehension of facts;[77] or (3) when the tax

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72 Id. at 390–391, CTA Second Division Resolution.

73 *Benguet Corporation v. Commissioner of Internal Revenue*, 525 Phil. 226 (2006) [Per J. Corona, Second Division]; *Commissioner of Internal Revenue v. General Foods (Phils.) Inc.*, 449 Phil. 576 (2003) [Per J. Corona, Third Division].

74 *Filmico-Mauri Foods Corp. v. Commissioner of Internal Revenue*, 795 Phil. 53 (2016) [Per J. Reyes, Third Division]; *Cyanamid Philippines, Inc. v. Court of Appeals*, 379 Phil. 689 (2000) [Per J. Quisumbing, Second Division].

75 *Filinvest Development Corporation v. Commissioner of Internal Revenue*, 556 Phil. 439 (2007)[Per J. Nachura, Third Division]; *Compagnie Financiere Sucres et Denrees v. Commissioner of Internal Revenue*, 531 Phil. 264 (2006) [Per J. Sandoval-Gutierrez, Second Division].

76 *Benguet Corporation v. Commissioner of Internal Revenue*, 525 Phil. 226 (2006) [Per J. Corona, Second Division].

77 *Commissioner of Internal Revenue v. Mitsubishi Metal Corp.*, 260 Phil. 224 (1990) [Per J. Regalado, Second Division].

court failed to notice certain relevant facts that, if considered, would justify a different conclusion.[78] The exceptions do not apply here.

Petitioner's arguments disputing the deficiency tax assessments partake of the nature of tax exemptions. As a rule, tax exemptions are construed strictly against the taxpayer and liberally in favor of the taxing authority.[79] Hence, a claim of tax exemption must be *clearly shown* by substantial evidence,[80] and based on language in law too plain to be mistaken.[81]

Mere allegation that the remittance to the Religious of the Virgin Mary was in the nature of religious income, is not enough. Petitioner should have established that fact by competent evidence showing the actual amount and the nature and purpose of the remittance to the congregation. Contrary to petitioner's contention, the "withholding certificates of compensation" was mentioned by the Court of Tax Appeals by way of example, and petitioner is not precluded from presenting any other documentary evidence such as schedule of payments made to the congregation and copies of contracts, invoices, vouchers, and receipts.[82] The Court of Tax Appeals aptly held that: "***Without any supporting documents***, *this Court cannot determine the intent of petitioner as to the sum of money given to the Congregation.*"[83]

Similarly, with regard to the disputed fringe benefit tax assessment, not only must petitioner meet the *convenience or furtherance of business* test, it must also substantially prove by evidence or records the actual amount paid for scholarship grants. No specification has been made by petitioner as to how much of the Faculty Development account pertained to scholarship grants. Mere verbal assertions do not justify the cancellation of the assessment.

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78 *BPI-Family Savings Bank, Inc. v. Court of Appeals*, 386 Phil. 719 (2000) [Per J. Panganiban, Third Division].

79 *Commissioner of Internal Revenue v. Isabela Cultural Corp.*, 544 Phil. 488 (2007) [Per J. Ynares-Santiago, Third Division]; *Compagnie Financiere Sucres et Denrees v. Commissioner of Internal Revenue*, 531 Phil. 264 (2006) [Per J. Sandoval-Gutierrez, Second Division]; *Cyanamid Philippines, Inc. v. Court of Appeals*, 379 Phil. 689 (2000) [Per J. Quisumbing, Second Division]; *Commissioner of Internal Revenue v. Mitsubishi Metal Corp.*, 260 Phil. 224 (1990) [Per J. Regalado, Second Division].

80 *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al v. Commissioner, Bureau of Internal Revenue*, 835 Phil. 298 (2018) [Per J. Caguioa, En Banc]; *Philippine Geothermal, Inc. v. Commissioner of Internal Revenue*, 503 Phil. 278 (2005) [Per J. Quisumbing, First Division].

81 *Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), et al v. Commissioner, Bureau of Internal Revenue*, 835 Phil. 298 (2018) [Per J. Caguioa, En Banc]; *Afisco Insurance Corp. v. Court of Appeals*, 361 Phil. 671 (1999) [Per J. Panganiban, Third Division]; *Surigao Consolidated Mining Co., Inc. v. Collector of Internal Revenue*, 119 Phil. 33 (1963) [Per J. Regala, En Banc].

82 *See Paper Industries Corp. v. Court of Appeals*, 321 Phil. 1 (1995) [Per J. Feliciano, En Banc].

83 *Rollo*, p. 401, CTA En Banc Decision citing CTA Second Division Resolution.

Since tax assessments are presumed correct and valid, the burden of proof is upon the complaining taxpayer to show clearly that it is erroneous.[84]

> It is settled that all presumptions are in favor of the correctness of tax assessments. The good faith of the tax assessors and the validity of their actions are thus presumed. They will be presumed to have taken into consideration all the facts to which their attention was called. Hence, it is incumbent upon the taxpayer to credibly show that the assessment was erroneous in order to relieve himself from the liability it imposes.[85] (Citation omitted)

Petitioner failed in this regard. Hence, this Court upholds the Court of Tax Appeals' ruling in sustaining the assessments.

II. A

Petitioner further disputes the correctness of the expanded withholding tax assessment. It submits that there was double-counting with regard to the professional fees of Dr. Araceli Paterno (Dr. Paterno). It points out that the amount of ₱445,185.00 included Dr. Paterno's compensation of ₱315,504.00 for the period of May 1 to December, 2007, the corresponding expanded withholding taxes of which had already been remitted to the Bureau of Internal Revenue as noted by the Court of Tax Appeals Second Division. Hence, only the remaining ₱129,681.00 should have been the subject of the deficiency assessment, not the entire amount of ₱445,185.00.[86]

Again, this entails a review of the factual findings of the Court of Tax Appeals, which this Court will not undertake barring the presence of exceptional circumstances.

Indeed, the Court of Tax Appeals Second Division noted that the expenses listed in the Commissioner's deficiency expanded withholding tax assessment included those incurred during May to December 2007, for which the corresponding expanded withholding taxes have already been paid. It ruled as follows:

> In this case, respondent assessed petitioner of deficiency expanded withholding tax in the amount of P66,474.52, computed as follows:

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84 *Cyanamid Philippines, Inc. v. Court of Appeals*, 379 Phil. 689 (2000) [Per J. Quisumbing, Second Division]; *Interprovincial Autobus Co., Inc. v. Commissioner of Internal Revenue*, 98 Phil. 290 (1956) [Per J. Labrador, First Division].

85 *Commissioner of Internal Revenue v. Secretary of Justice*, 799 Phil. 13, 44 (2016) [Per J. Bersamin, First Division].

86 *Rollo*, p. 66.

Professional Fees				Tax Due
— 1601-E	₱398,755.00	10%	₱39,875.50	
— per FS	119,110.00	10%	11.911.00	
Cinches, Florcilla	51,400.00	10%	5,140.00	
— Emano, Milagrita	76,403.43	10%	7,640.34	
— Escudero Consuelo	75,695.27	10%	7,569.53	
— Paterno, Araceli	445,185.00	10%	44,518.50	P116,654.87
Security Agency	581,929.90	2%		11,638.60
Janitorial Fees	19,800.00	2%		396.00
JCL Construction	58,112.00	2%		1,162.24
Total withholding tax to be withheld				P129,851.71
Less: Withholding taxes remitted per				
1601-E				63,377.19
Expanded withholding tax deficiency				**₱66,474.52**

Of the foregoing expenses subject of the present assessment for deficiency expanded withholding tax, records show that the following pertain to expenses for the period covered May 2007 to December 2007 for which the corresponding expanded withholding taxes were properly remitted by petitioner to the BIR:

Nature of Income Payment	Amount of Income Payment		Amount of Tax Withheld
Professional Fees			
Dr. Araceli Paterno	₱315,504.00		
Dr. Mary Bernadette Varias	31,125.50		
Dr. Stephanie Jacutin	31,125.50		
Dr. Regina Mercado	21,000.00	₱398,755.00	₱39,875.50

Security Agency			
Lonestar Security Services	197,929.90		
Win Source Security Services	384,000.00	581,929.90	11,638.59
Janitorial Fees		19,800.00	396.00
JCL Construction		58,112.00	1,162.24
TOTAL		**₱1,058,596.90**	**₱53,072.33**

> Considering that the fiscal year subject of this assessment relates to the fiscal year May 1, 2006 to April 30, 2007, the assessment for the above-stated expenses in the total amount of P1,058,596.00 with corresponding withholding taxes of P53,072.33 should be cancelled.[87] (Citation omitted)

These findings of the Court of Tax Appeals show that Dr. Paterno's professional fees of ₱315,504.00 was included in the "Professional Fees – per 1601 E," which had already been excluded from the assessment of deficiency taxes for May 1, 2006 to April 30, 2007. This factual finding is binding on this Court. Other than its bare statement of double counting, petitioner failed to sufficiently show that the amount of ₱315,504.00 was indeed included in Dr. Paterno's professional fees of ₱445,185.00

III

Finally, petitioner assails the imposition of delinquency interest on the ground that a taxpayer cannot be deemed delinquent for not paying an incorrect assessment. Petitioner submits that delinquency interest applies only to final and executory assessments.

Section 249(C)(3) of the 1997 National Internal Revenue Code on delinquency interest provides:

> SECTION 249. *Interest.* – . . .
>
> . . . .
>
> (C) *Delinquency Interest.* In case of failure to pay:

[87] Id. at 370–372.

> (1) The amount of the tax due on any return to be filed, or
> (2) The amount of the tax due for which no return is required, or
> (3) A deficiency tax, or any surcharge or interest thereon on the due date appearing in the notice and demand of the Commissioner, there shall be assessed and collected on the unpaid amount, interest at the rate prescribed in Subsection (A) hereof until the amount is fully paid, which interest shall form part of the tax.

Section 249(C)(3) does not require the assessment to become final and executory before a delinquency interest can be imposed. What is only required is that the taxpayer failed to pay the deficiency tax within the time prescribed for its payment as provided in the notice of assessment.

In *Philippine Refining Co. v. Court of Appeals*,[88] the taxpayer assailed the imposition of the 25% surcharge and the 20% delinquency interest on the ground that "the assessment of the Commissioner was modified by the [Court of Tax Appeals] and the decision of said court has not yet become final and executory."[89] This Court disagreed with the taxpayer, and upheld the imposition of the 25% surcharge and 20% interest by reason of the taxpayer's default in the payment of deficiency tax within the period prescribed in the Commissioner's demand letter.[90] It further explained:

> *The fact that petitioner appealed the assessment to the CTA and that the same was modified does not relieve petitioner of the penalties incident to delinquency. The reduced amount of P237,381.25 is but a part of the original assessment of P1,892,584.00.*
>
> Our attention has also been called to two of our previous rulings and these we set out here for the benefit of petitioner and whosoever may be minded to take the same stance it has adopted in this case. *Tax laws imposing penalties for delinquencies, so we have long held, are intended to hasten tax payments by punishing evasions or neglect of duty in respect thereof. If penalties could be condoned for flimsy reasons, the law imposing penalties for delinquencies would be rendered nugatory, and the maintenance of the Government and its multifarious activities will be adversely affected.*
>
> We have likewise explained that *it is mandatory to collect penalty and interest at the stated rate in case of delinquency. The intention of the law is to discourage delay in the payment of taxes due the Government and, in this sense, the penalty and interest are not penal but compensatory for the concomitant use of the funds by the taxpayer beyond the date when he is supposed to have paid them to the Government.* Unquestionably, petitioner chose to turn a deaf ear to these injunctions.[91] (Emphasis supplied)

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88 326 Phil. 680 (1996) [Per J. Regalado, Second Division].
89 Id. at 690.
90 Id. at 691.
91 Id. at 691–692.

Hence, the imposition of delinquency interest was proper.

WHEREFORE, the Petition is **DENIED**. The February 2, 2016 Decision and July 28, 2016 Resolution of the Court of Tax Appeals *En Banc* are **AFFIRMED**.

SO ORDERED." (**Rosario, J.,** *on wellness leave*.)

By authority of the Court:

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