REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
Quezon City

EN BANC

COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2655** (CTA Case No. 9781)
	Present:
- versus -	**DEL ROSARIO,** *P.J.*, **RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
ARMADILLO HOLDINGS, INCORPORATED (now ABRAHAM HOLDINGS, INC.), Respondent.	Promulgated: FEB 12 2024 4:27 p.m.

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DECISION

BACORRO-VILLENA, J.:

Assailing the Decision dated 02 November 2021[1] (**assailed Decision**) and Resolution dated 24 June 2022[2] (**assailed Resolution**) of the First Division[3] in CTA Case No. 9781, entitled *Armadillo Holdings, Inc. (now Abraham Holdings, Inc.) v. Commissioner of Internal Revenue*, petitioner Commissioner of Internal Revenue (**petitioner/CIR**) filed

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[1] *Rollo*, pp. 23-46.
[2] Id., pp. 48-52.
[3] Penned by Presiding Justice Roman G. Del Rosario, with Associate Justice Catherine T. Manahan and Associate Justice Marian Ivy F. Reyes-Fajardo, concurring.

the instant Petition for Review[4] before the Court *En Banc* on 21 July 2022[5], pursuant to Section 3(b)[6], Rule 8, in relation to Section 2(a)(1)[7], Rule 4 of the Revised Rules of the Court of Tax Appeals[8] (**RRCTA**). Herein, petitioner seeks the reversal of the assailed Decision and assailed Resolution and prays instead for a judgment ordering respondent Abraham Holdings, Inc. (**respondent**) to pay deficiency income tax (**IT**) for taxable year (**TY**) 2010 in the aggregate amount of ₱9,302,612.84, plus accrued interest and surcharges.

PARTIES OF THE CASE

Petitioner CIR is the head of the Bureau of Internal Revenue (**BIR**), the government agency officially responsible for the assessment and collection of all national internal revenue taxes, fees and charges and the enforcement of all forfeitures, penalties and fines connected with such taxes. He or she holds office at the BIR National Office Building, Agham Road, Diliman, Quezon City.[9]

Respondent is a domestic corporation duly organized and existing under and by virtue of the laws of the Republic of the Philippines, with principal office at 770 E. Rodriguez Extension, Malibay, Pasay City. It is primarily engaged in the investment of funds in commercial, industrial, financial, and real estate management enterprises, as well as in any

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4 *Rollo*, pp. 5-15.

5 The Petition for Review was filed subsequent to the grant of a fifteen (15)-day extension by the Court *En Banc* pursuant to a "Motion for Extension of Time to File Petition for Review" *per En Banc* Minute Resolution dated 13 July 2022, id., p. 4.

6 **SEC. 3.** *Who may appeal; period to file petition.*

...

(b) A party adversely affected by a decision or resolution of a Division of the Court on a motion for reconsideration or new trial may appeal to the Court by filing before it a petition for review within fifteen days from receipt of a copy of the questioned decision or resolution. Upon proper motion and the payment of the full amount of the docket and other lawful fees and deposit for costs before the expiration of the reglementary period herein fixed, the Court may grant an additional period not exceeding fifteen days from the expiration of the original period within which to file the petition for review.

...

7 **SEC. 2.** *Cases within the jurisdiction of the Court en banc.* – The Court *en banc* shall exercise exclusive appellate jurisdiction to review by appeal the following:

(a) Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over:

...

(1) Cases arising from administrative agencies — Bureau of Internal Revenue, Bureau of Customs, Department of Finance, Department of Trade and Industry, Department of Agriculture[.]

...

8 A.M. No. 05-11-07-CTA.

9 Paragraph 2, Stipulation of Facts, Joint Stipulation of Facts and Simplification of Issues (JSFI), Division Docket, pp. 138-139.

other corporation, foreign and domestic, within the limits provided by law. It is registered with the BIR under Revenue District Office (**RDO**) No. 51 of Pasay City under Revenue Region No. 8, Makati City, Philippines.[10]

FACTS OF THE CASE

On 18 July 2011, respondent received a copy of Letter of Authority (**LOA**) No. 051-2011-00000254 (eLA201000051832), dated 11 July 2011, authorizing Revenue Officer (**RO**) Rowena D. Hortillo (**Hortillo**) and Group Supervisor (**GS**) Enrico Gesmundo of RDO No. 51 – Pasay City to audit and examine respondent's internal revenue taxes for the period of 01 January to 31 December 2010.[11]

On 27 November 2013, respondent received a Notice for Informal Conference (**NIC**) disclosing various deficiency taxes and requesting respondent to appear in an informal conference.[12] According to respondent, it attended the said informal conference and a series of other informal discussions. Thereafter, negotiations ensued wherein it was compelled to continuously assert and defend its position that it is not liable for any deficiency IT nor value-added tax (**VAT**) in TY 2010.

Later, on 06 January 2014, respondent received an undated Preliminary Assessment Notice (**PAN**) with attached Details of Discrepancies, stating that it is liable for deficiency IT and VAT.[13]

On 20 January 2014, respondent filed a Protest Letter (to the PAN) dated 14 January 2014, reiterating its position that it is not liable for any deficiency IT and VAT nor the corresponding surcharges and interest for TY 2010.[14]

On 10 March 2014, respondent received a copy of the Formal Assessment Notice (**FAN**) with Assessment Notice (**AN**), both dated

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10 Par. 1, id., pp. 138-139.
11 Par. 3, id., p. 139.
12 Par. 4, id.
13 Exhibits "R-4", "R-4-A", "R-4-b" and "R-4-c", BIR Records, pp. 271-274.
14 Par. 5, JSFI, Division Docket, pp. 139-140.

06 March 2014, showing only a liability for deficiency IT in the basic amount due of ₱4,696,368.20, plus interest of ₱2,812,674.22.[15]

Following its receipt of the FAN with AN, respondent again filed its Protest Letter dated 07 April 2014.[16] The Protest Letter was in the nature of a request for reinvestigation (administrative protest), which the Revenue Region No. 8 – Makati City received on 08 April 2014.

On 08 May 2014, respondent also received a letter dated 30 April 2014 issued by the BIR, through the Office of the Regional Director. There, it was informed that the case docket will be forwarded to RDO No. 51 - Pasay City for reinvestigation. In the same letter, in line with the transfer, respondent was directed to submit the necessary supporting documentation in support of its request for reinvestigation (or administrative protest) within sixty (60) days from the date of its filing of its Protest Letter.[17]

On 09 February 2018, respondent received a copy of the Final Decision on Disputed Assessment (**FDDA**), dated 01 February 2018[18], issued by petitioner (through Regional Director Glen A. Geraldino, Revenue Region No. 8 – Makati City). The FDDA denied respondent's earlier Protest Letter. On even date, respondent also received an Amended AN, dated 01 February 2018[19], issued by petitioner for IT covering TY 2010.

The FDDA laid out respondent's alleged tax liabilities for TY 2010, as follows:

Taxable Income/(Loss) per Income Tax Return (ITR)	₱	61,857,729.24
Add: Adjustments/Disallowance		
Receipts not subject to Income Tax		3,674,930.86
Undeclared Income from Unaccounted Expense		9,163,247.40
Overclaimed Salaries and Wages		213,227.35
Adjusted Taxable Income		74,909,134.85

[15] Par. 6, id., p. 140; Exhibits "P-4" and "P-5", id., pp. 277-278.
[16] Exhibit "P-7", id., pp. 281-287.
[17] Par. 7, JSFI, id., p. 140.
[18] Exhibit "P-13", id., pp. 294-295.
[19] Exhibit "P-12", id., p. 293.

Multiply by: Income Tax Rate		x 30%
Basic Income Tax Due (30%)		22,472,740.46
Less: Tax Credit/Payments		
Prior Year's Excess Tax Credit		(49,292,301.80)
Unexpired Prior Years MCIT over NCIT		(1,516,612.98)
Creditable Tax Withheld		(4,881,185.99)
Add back: Excess Tax Credits carried over to succeeding period		37,132,782.00
Basic Deficiency Income Tax/(Overpayment)		3,915,421.69
Add: Interest at 20% (from 16 April 2011 to 28 February 2018)		5,387,191.15
Total Amount Due	**₱**	**9,302,612.84**

The Amended AN contained a demand for respondent to settle the deficiency assessment or appeal with petitioner or the Court of Tax Appeals (CTA) within thirty (30) days from receipt thereof.[20] Respondent opted to file a Petition for Review before this Court on 08 March 2018.[21] Its case was raffled to the Third Division.

On 23 April 2018, within the extended period granted by the Third Division[22], petitioner filed his or her Answer[23], interposing the following special and affirmative defenses:

(i) The right of the BIR to issue to respondent the subject FAN with AN (both dated 06 March 2014) and Details of Discrepancies, involving its deficiency IT assessment for TY 2010, had not yet prescribed;

(ii) The right of the BIR to assess respondent for deficiency IT for TY 2010 was suspended, pursuant to Section 223 of the National Internal Revenue Code (**NIRC**) of 1997, as amended. The suspension was upon the consideration that petitioner granted respondent's request for reinvestigation *per* its administrative protest (dated 07 April 2014) and that petitioner issued an Amended AN (dated 01 February 2018) after reinvestigation and evaluation of certain documents in support of respondent's protest;

20 Id.
21 Id., pp. 10-49.
22 See Resolution dated 20 April 2018, id., p. 56.
23 Id., pp. 57-67.

(iii) An assessment is deemed made when the notice of assessment or demand letter is released, mailed, or sent to the taxpayer and it is not necessary that the notice be received by the latter within the prescribed period, though the sending of the notice must be clearly proved;

(iv) The FDDA and Amended AN (both dated 01 February 2018), involving respondent's alleged deficiency IT for TY 2010 contradicted respondent's claim that the BIR's right to assess had already prescribed;

(v) As respondent's deficiency IT assessment remained disputed, it is erroneous for it to claim that the right of the BIR to assess had already prescribed. The prescriptive period for assessment or collection of the tax attributable to its disputed issues shall be suspended following Section 3.1.5, paragraph 4 of Revenue Regulations (**RR**) No. 12-99;

(vi) Respondent failed to properly substantiate or controvert by substantial evidence the BIR's factual findings, as shown under the Details of Discrepancies attached to the FAN with AN, and the FDDA with Amended AN, which clearly showed the factual and legal bases of petitioner's deficiency IT findings against respondent for TY 2010;

(vii) Petitioner fully complied with the due process requirement mandated under Section 228 of the NIRC of 1997, as amended, as implemented by RR No. 12-99, as amended, when the subject PAN (allegedly dated 06 January 2014), FAN with AN, and the FDDA with Amended AN were issued to respondent;

(viii) Respondent was afforded an opportunity to explain its side and challenge petitioner's findings when it filed its protest letters with the BIR (dated 14 January 2014 against the PAN, and 07 April 2014 against the FAN with AN);

(ix) The PAN, FAN with AN, and FDDA with Amended AN were prepared in accordance with existing laws and applicable BIR regulations;

(x) Respondent's protest to the subject FAN with AN categorically stated that it requested for reinvestigation, which substantially called for a verification and evaluation of additional documents that respondent submitted to the BIR (pursuant to its transmittal dated 05 June 2014 in support of its protest against the disputed deficiency IT assessment for TY 2010); and,

(xi) The subject FAN with AN and FDDA with Amended AN are *prima facie* presumed correct and made in good faith while respondent is burdened with the duty of proving otherwise.

Subsequently, petitioner filed his or her Pre-Trial Brief[24] on 16 July 2018, while respondent's Pre-Trial Brief[25] was filed on 19 July 2018.

On 08 August 2018, pursuant to the Court's Order during the 24 July 2018 Pre-Trial Conference[26], the parties filed their Joint Stipulation of Facts and Simplification of Issues[27] (**JSFI**). On 22 August 2018, the Court issued the Pre-Trial Order.[28]

Later, by virtue of CTA Administrative Circular No. 02-2018 dated 18 September 2018, the three (3) Divisions of the Court were reorganized. As a result, the present case was transferred to the First Division in the Order dated 19 September 2018.[29]

At the trial proper that ensued thereafter, respondent presented William M. Ligot, Jr. (**Ligot**)[30], its tax specialist; and, Michael L. Aguirre (**Aguirre**)[31], the Court-commissioned Independent Certified Public Accountant[32] (**ICPA**), who both testified *via* their respective Judicial Affidavits.

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24 Id., pp. 81-85.
25 Id., pp. 86-94.
26 See Minutes of the Hearing and Order, both dated 24 July 2018, id., pp. 135 and 136-137, respectively.
27 Id., pp. 138-142.
28 Id., pp. 144-150.
29 Id., p. 154.
30 See Minutes of the Hearing and Order, both dated 22 January 2019, id., pp. 191-A-191-D and 192-193, respectively.
31 See Minutes of the Hearing and Order, both dated 26 February 2019, id., pp. 221-223-A and 224-224-A, respectively.
32 See Minutes of the Hearing and Order, both dated 04 December 2018, id., pp. 184-184-D and 185-186, respectively.

On the witness stand, Ligot set forth his duties as respondent's tax specialist and recounted his involvement in the BIR's investigation of respondent's books of accounts for TY 2010. He also discussed the documents received and the latter's action relating to the BIR's examination.[33]

During his cross-examination, Ligot stated that the subject FAN was issued within the three (3)-year prescriptive period to make an assessment. He further testified that he is aware that the BIR had a 180-day period to act on the Protest Letter to the FAN and that after the lapse thereof, no appeal was filed with the Court. He also testified that respondent opted to wait for the final decision on the protest (on the FDDA) and that he learned of the BIR's issuance of the Amended AN.

On redirect examination, Ligot testified further that the BIR had vacated the original version of the assessment when it issued the Amended AN. According to him, the latter issuance carried a different amount.[34]

When ICPA Aguirre assumed the witness stand, he identified the report he prepared and made corrections to his Judicial Affidavit in accordance with amendments made to respondent's Annual Income Tax Return (**ITR**). On cross-examination, Aguirre testified that he was provided with the original documents necessary to support respondent's (then petitioner's) appeal. He distinguished documents that were presented to the BIR during the administrative proceedings (before it was brought to this Court) from those that were not. Pursuant to his findings, he also mentioned that he recommended a reduced deficiency IT liability amounting to ₱63,968.21, exclusive of penalties.[35]

As then petitioner, respondent later filed its Formal Offer of Evidence (**FOE**)[36] on 12 March 2019. Acting upon respondent's FOE, the Court resolved to admit all of its offered exhibits in its Resolution dated 10 July 2019.[37]

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33 Exhibit "P-15", id., pp. 258-267.
34 Supra at note 30.
35 Supra at note 31.
36 Division Docket, pp. 225-257.
37 Id., pp. 403-406.

Reckoning petitioner's turn to present witnesses, RO Hortillo and RO Mohaimin M. Abedin (**Abedin**) both testified on direct examination by way of Judicial Affidavits.[38]

RO Hortillo testified[39] that she participated in a series of audit and investigation of respondent's books, parallel to the enumeration of the facts of the case herein. She also testified that she prepared a Memorandum Report dated 06 February 2014 detailing her findings upon respondent's protest to the PAN. There, she recommended the cancellation of the VAT assessment and the retention of the IT assessment after respondent's supposed failure to refute the latter.

On the other hand, RO Abedin declared that he received a Memorandum of Assignment[40] authorizing him to investigate and verify supporting documentation and other pertinent records relative to respondent's protest to the FAN. He stated further that he prepared a Memorandum Report recollecting his factual findings in connection with his evaluation and recommending the issuance of the FDDA. He declared that the subject FDDA with Amended AN were issued, holding petitioner liable for the aggregate of ₱9,302,612.84.

In its Resolution dated 19 November 2020[41], the Court admitted all exhibits contained in petitioner's FOE[42] filed on 16 October 2020. In the same Resolution, the parties were given a non-extendible period of 30 days from receipt thereof within which to file their respective memoranda.[43]

On 04 January 2021, respondent filed its Memorandum.[44] On the other hand, on 07 January 2021, petitioner filed his or her Manifestation and Motion stating that he or she will be adopting as his or her memorandum all the factual and legal arguments found in the Special

38 See Minutes of the Hearing and Order. both dated 29 September 2020, id., pp. 498-500 and 501-502, respectively.
39 Exhibit "R-15", id., pp. 430-438.
40 Exhibit "R-16", id., pp. 451-460.
41 Id., pp. 518-519.
42 Id., pp. 504-512.
43 Supra at note 41.
44 Id., pp. 522-536.

and Affirmative Defenses of his or her Answer dated 18 April 2018.[45] In a Resolution dated 01 February 2021[46], the case was submitted for decision.

On 02 November 2021, the First Division promulgated the assailed Decision that granted respondent's Petition for Review.[47] The dispositive portion thereof reads:

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> **WHEREFORE**, premises considered, the present Petition for Review is **GRANTED**. Accordingly, the Assessment Notice/Formal Assessment Notice dated March 6, 2014 are **CANCELLED** and **WITHDRAWN**. The Final Decision on Disputed Assessment and Amended Assessment Notice No. IT-ELA51832-10-18-0260, both dated February 1, 2018, which demanded from petitioner the payment of deficiency income tax for taxable year 2010 in the total amount of ₱9,302,612.84, inclusive of interest, are **SET ASIDE**.
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> [Petitioner] Commissioner of Internal Revenue, his authorized representatives or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of aforesaid income tax covered by the Assessment Notice/Formal Assessment Notice dated March 6, 2014 and Final Decision on Disputed Assessment and Amended Assessment Notice No. IT-ELA51832-10-18-0260 both dated February 1, 2018. This order of suspension is immediately executory consistent with Section 4, Rule 39 of the Rules of Court.
>
> **SO ORDERED.**
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> ...

Although the First Division found that petitioner's right to assess had not prescribed and that the FDDA with amended AN had sufficiently set forth the factual and legal basis for the items of assessment therein; it, nevertheless, cancelled petitioner's assessment against respondent.

In the assailed Decision, the First Division discussed petitioner's computation of the basic deficiency IT in the FDDA which was hinged on the following items of assessment, namely: (1) receipts not subjected to IT; (2) undeclared income arising from unaccounted expenses; (3) overclaimed salaries and wages; and, (4) the disallowance of excess

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45 Id., pp. 537-539.
46 Id., pp. 542-543.
47 Supra at note 1; Emphasis in the original text.

tax credits carried over to the succeeding taxable period.[48] It addressed each item in the assessment *in seriatim*, cancelling the findings on 'undeclared income arising from unaccounted expenses' and 'overclaimed salaries and wages', as well as the disallowance of excess tax credits carried over (but upholding the finding on 'receipts not subjected to IT').[49] It concluded by recomputing respondent's IT to the assessment, which ultimately demonstrated that the latter was not liable for any deficiency.

Unsatisfied, on 07 December 2021, petitioner filed a Motion for Partial Reconsideration (**MPR**) which the Court received on 14 February 2022.[50]

In the MPR, petitioner questioned two (2) components of the deficiency assessment, namely: (1) undeclared income arising from unaccounted expenses; and, (2) the disallowance of excess tax credits carried over to the succeeding taxable period. Petitioner argued that it correctly employed the 'net worth method' in assessing undeclared income based on respondent's unaccounted expenses. The disallowance of the excess tax credits (that were carried over) was valid, as respondent had already enjoyed the tax benefits of the said credits in subsequent TYs.

Despite being afforded a chance to comment on petitioner's MPR, respondent failed to do so.[51] On 22 April 2022, the First Division noted respondent's failure and submitted petitioner's MPR for resolution.[52]

In the *interim*, respondent filed a Motion with Comment.[53] The Court denied respondent's motion and admission of the embodied Comment, noting that the said motion is an indirect attempt to file an overdue pleading.[54]

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48 Id.
49 Id.
50 Division Docket, pp. 571-576.
51 See Records Verification dated 07 April 2022, id., p. 582.
52 See Resolution dated 22 April 2022, id., p. 584.
53 See Respondent's Motion with Comment (to [Petitioner]'s Motion for Partial Reconsideration dated December 7, 2021, id., pp. 585-587.
54 See Resolution dated 11 May 2022, id., p. 589.

The First Division then proceeded to promulgate its now assailed Resolution[55] of 24 June 2022, denying petitioner's MPR for lack of merit. In denying the MPR, the First Division reiterated that petitioner lacked factual and legal basis to hold that underdeclared income may arise from respondent's purportedly unaccounted expenses. As to this first issue, the Court emphasized that an assessment may not be founded upon mere presumptions. As to the second issue, it held that petitioner did not have basis to disallow the tax credits carried forward. Complementing petitioner's findings that respondent experienced the tax benefits thereof in the subsequent TYs, *i.e.*, TY 2011 onwards, it held that such is outside the scope of the present assessment for TY 2010.

PROCEEDINGS BEFORE THE COURT *EN BANC*

Following petitioner's receipt of a copy of the assailed Resolution on 30 June 2022[56], a "Motion for Extension of Time to File Petition for Review"[57] was filed with the Court *En Banc* on 12 July 2022. On 21 July 2022 or within the fifteen (15)-day extended period granted, petitioner filed the instant Petition for Review[58] seeking the reversal of the First Division's assailed Decision and Resolution. On 05 September 2022, respondent filed its Comment/Opposition thereto.[59]

On 22 September 2022[60], the Court *En Banc* noted respondent's Comment/Opposition[61] and, pursuant to Parts I.1.B[62] and II[63] of A.M. No. 11-1-5-SC-PHILJA or the *Interim Guidelines for Implementing Mediation*

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55 Supra at note 2.
56 See Notice of Resolution dated 28 June 2022, Division Docket, p. 591.
57 *Rollo*, pp. 1-3.
58 Supra at note 4.
59 See Comment/Opposition (to the Petition for Review dated July 18, 2022), *rollo*, pp. 56-65.
60 See Resolution, id., pp. 68-69.
61 Supra at note 59.
62 I.1. The following cases may be referred to mediation:

...

B. *Cases within the jurisdiction of the Court En Banc*:
Decisions or resolutions on motions for reconsideration or new trial of the Court in Division in the exercise of its exclusive appellate jurisdiction over cases arising from administrative agencies — BIR, BOC, Department of Finance, Department of Trade and Industry, Department of Agriculture.

63 II. *Referral to Mediation*

The referral to mediation shall be made after the filing of the Comment in cases pending with the Court *En Banc* and, before or during the pre-trial for cases pending with the Court in Division.

A Resolution (FORM NO. 1) shall be issued by the Court *En Banc* or in Division, referring the covered civil case to mediation and requiring the parties to appear before the Philippine Mediation Center — Court of Tax Appeals (PMC-CTA) at a specified date and time. Said Resolution shall suspend the proceedings for the duration of the period of mediation stated in Section VIII below.

in the Court of Tax Appeals, referred the case to the Philippine Mediation Center – Court of Tax Appeals (**PMC-CTA**) for mediation. However, the parties decided not to have their case mediated by the PMC-CTA.[64]

On 09 February 2023, the Court *En Banc* submitted the case for decision.[65]

ISSUE

Petitioner puts forward this lone issue for the Court *En Banc*'s resolution —

> WHETHER THE FIRST DIVISION ERRED IN ORDERING THE CANCELLATION AND WITHDRAWAL OF THE ASSESSMENT NOTICE AND FORMAL ASSESSMENT NOTICE BOTH DATED 06 MARCH 2014 AND SETTING ASIDE THE FINAL DECISION ON DISPUTED ASSESSMENT AND AMENDED ASSESSMENT NOTICE BOTH DATED 01 FEBRUARY 2018, THE LATTER OF WHICH DEMANDED FROM RESPONDENT ABRAHAM HOLDINGS, INC. THE PAYMENT OF DEFICIENCY INCOME TAX (IT) FOR TAXABLE YEAR (TY) 2010 IN THE AMOUNT OF ₱9,302,612.84, INCLUSIVE OF INTEREST.

ARGUMENTS

In its bid for reversal, petitioner faults the First Division's reasoning in cancelling two (2) specific components of the deficiency IT assessment, namely: (1) respondent's alleged unreported income arising from unaccounted expenses gleaned from the excess of payments found in respondent's alphalist over the expenses it reported in its Audited Financial Statements (**AFS**) and Annual ITR; and, (2) the disallowance of respondent's tax credits supposedly carried forward to succeeding taxable periods. He or she did not raise, discuss, nor support the other items therein. Notwithstanding, petitioner seeks the reinstatement of the entire deficiency assessment.

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64 See No Agreement to Mediate dated 28 November 2022, *rollo*, p. 70.
65 See Resolution dated 09 February 2023, id., pp. 72-73.

Petitioner also submits that it validly utilized the 'net worth method' in uncovering respondent's alleged unreported taxable income. According to petitioner, the same is warranted as respondent failed to submit the necessary supporting documentation to prove its claimed expenses, such as official receipts (**ORs**), sales invoices, or books of accounts.

Additionally, petitioner insists that any increases in a taxpayer's net worth, after making reasonable adjustments, constitute taxable income. As respondent's expenses allegedly remained unaccounted, the same shall equivalently be treated as the latter's undeclared income.

Petitioner also maintains the propriety of the disallowance of respondent's excess tax credits that were supposedly carried over to succeeding TYs. He or she asserts the tax benefit thereon that respondent had realized from the succeeding TY 2011, justifying its exclusion from the present subject of the assessment, TY 2010. Invoking the principle that a public official enjoys the presumption of regularity in the discharge of his or her official duties and functions, petitioner believes that the assessment should not be disturbed absent any contrary proof.

Finally, petitioner argues vehemently that respondent did not overpay its IT.

In response, respondent finds justification in the First Division's actions. Particularly echoing the assailed Resolution, respondent denies that petitioner correctly used the 'net worth method'. Apart from raising petitioner's supposed hollow reliance on the said method, respondent further argues that it had indeed submitted all of the necessary documentary and testimonial evidence (to support its expense claims) over the course of the proceedings before the First Division.

Respondent also points out that petitioner's conclusions are purely presumptions and unreliable. It counters further that petitioner's basis for his or her treatment of excess tax credits subject of carry-over is incorrect. Likewise, respondent insists that petitioner's assessment is void for the latter's failure to state the legal and factual basis therefor. It similarly reiterates that the utilization of the said credits is properly the

scope of an assessment of the succeeding TYs (2011 and onwards) and not TY 2010.

RULING OF THE COURT *EN BANC*

After a thorough examination of the records of the case and the parties' arguments, We conclude that the present Petition for Review is bereft of merit.

Before proceeding further, the Court *En Banc* finds it propitious to preface its disquisitions by establishing its jurisdiction over the present petition, as a matter *sine qua non* to the cognizance of the merits therein.

Section 18 of Republic Act (**RA**) No. 1125[66], as amended by RA 9282[67], provides that a party adversely affected by a resolution of a Division of the CTA on motion for reconsideration or new trial, may file a Petition for Review with the CTA *En Banc*.

The RRCTA[68], under Section 3(b)[69], Rule 8, states that the party affected should file the Petition for Review within 15 days from receipt of a copy of the questioned decision or resolution. This is without prejudice to the authority of the Court to grant an additional 15-day period[70] from the expiration of the original period, within which to file the Petition for Review.

Applying the foregoing, petitioner received the assailed Resolution on 30 June 2022.[71] Counting 15 days therefrom, petitioner had until 15 July 2022 to file the present Petition for Review before the Court *En Banc*. On 12 July 2022, petitioner filed a "Motion for Extension of

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66 AN ACT CREATING THE COURT OF TAX APPEALS.

67 AN ACT EXPANDING THE JURISDICTION OF THE COURT OF TAX APPEALS (CTA), ELEVATING ITS RANK TO THE LEVEL OF A COLLEGIATE COURT WITH SPECIAL JURISDICTION AND ENLARGING ITS MEMBERSHIP, AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NO. 1125, AS AMENDED, OTHERWISE KNOWN AS THE LAW CREATING THE COURT OF TAX APPEALS, AND FOR OTHER PURPOSES.

68 Supra at note 8.

69 Supra at note 6.

70 Id.

71 Supra at note 56.

Time to File Petition for Review"[72] which the Court eventually granted[73], pushing the deadline to file the petition back to 30 July 2022.

The instant petition filed on 21 July 2022[74] has, therefore, been timely filed and the Court *En Banc* successfully acquired jurisdiction over it.

We, thus, proceed to discuss petitioner's arguments in support of this instant petition.

At the outset, We recognize that petitioner's arguments in support of the instant Petition for Review are merely reiterations of those in his or her MPR before the First Division. Notably, the matters raised had already been thoroughly addressed in both the assailed Decision and assailed Resolution. As in the MPR, petitioner sifted two (2) issues from the assailed Decision for the Court *En Banc*'s review. Nonetheless, to put these issues to rest, We shall discuss them below in *seriatim*.

PETITIONER HAS NO BASIS TO ASSESS DEFICIENCY INCOME TAX UPON ALLEGED UNDECLARED INCOME ARISING FROM UNDECLARED EXPENSES.

Petitioner pushed for the application of the 'net worth method' (or 'inventory method') as a basis for imputing possible unreported taxable income. Banking on the Supreme Court's pronouncements in *Eugenio Perez v. The Court of Tax Appeals, et al.*[75] (**Perez**) where the application of the said method was upheld, petitioner argues that his or her assessment (of the IT deficiency) is valid.

Unfortunately, as the First Division correctly pointed out, petitioner's reliance on the abovementioned case is misplaced.

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72 Supra at note 57.
73 See *En Banc* Minute Resolution dated 13 July 2022, *rollo*, p. 4.
74 Supra at note 4.
75 G.R. No. L-10507, 30 May 1958.

The requisites (at the time) for the use of the inventory or net worth method were listed and detailed in the case of *Perez.*[76] The Supreme Court explained:

> ...
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> However, assuming arguendo, that this issue was properly raised in the lower court, the decisions of the Supreme Court of the United States, in the recent cases of *Holland v. U.S.*, 348 U.S. 121; *David Friedberg v. U.S.*, 207 F. 2d 777; *Daniel Smith v. U.S.*, 210 F. 2d 496; and *U.S. v. Edward Calderon*, 207 F. 2d 377, all decided December 6, 1954, establish the following **requisites for the use of the Inventory (or Net Worth) Method**:
>
> **First, the establishment, with reasonable certainty, of an opening net worth to serve as a starting point, from which to calculate future increases in the taxpayer's assets** (see also, Byer, "The Net Worth Technique for Determining Income," *supra*). The Court of Tax Appeals fixed as the total assets of the petitioner as of 1947 the amount of P66,530.93, based on the Amended Stipulation of Facts of the parties. This opening net worth is not disputed by them in this appeal.
>
> **Second, the net worth increases must be attributable to taxable income.**
>
> ...
>
> In the decisions of the United States Supreme Court, among them the *Holland v. U.S.* case, *supra*, **direct proof of the source of the income was held not essential:**
>
> ...
>
> In civil cases, as the one at bar, it has been held that the application of the net worth method does not require identification of the sources of the alleged unreported income and that **the determination of the tax deficiency by the Government is prima facie correct.** ...
>
> ...
>
> Considering that, normally, acquisitions of property are made from accumulations of taxable income, and where not so made, it lies within the peculiar province of the **taxpayer to explain how such acquisitions were made with non-taxable resources**, and that no such explanations were made, we see no error in the conclusion that appellant's increase in net worth was due to undeclared taxable income.
>
> ...

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76 Supra; Emphasis supplied, italics and underscoring in the original text.

From the above, We are able to infer the procedure laid out therein for implementing the 'net worth method'. An opening net worth is flagged and future increases are correlated with taxable income. A proper execution thereof results in a *prima facie* finding of unreported income giving rise to deficiency IT, shifting the burden onto the taxpayer to refute that the increases in its net worth were attributable to non-taxable sources.

In the case at bar, it is observed that petitioner merely relied on presumptions founded on the same principles discussed in the *Perez* case in the attempt to prove unreported income. *Perez* laid down the premise as follows:

> ...
>
> The Court of Tax Appeals fully explained this method of proving unreported income in its decision: "The net worth technique for determining income may be expressed in the following formula: **Increase in Net Worth plus Non-Deductible Expenditures minus Non-Taxable Receipts equals Taxable Net Income** (Samuel Byer, 'Net Worth Technique for Determining Income,' Proc. NYU 13th Ann. Inst. on Federal Taxation 1058, 1955). **The net worth expenditures method is based on the accounting formula that an increase in net worth plus non-deductible disbursements, minus non-taxable receipts equals taxable net income** (Aviakan, 'The Net Worth Method of Establishing Fraud,' Proc. NYU 11th Ann. Inst. on Federal Taxation, 707)." (p. 5, B.T.A. 189)
>
> ...
>
> **This method of proving unreported income**, according to the Court of Tax Appeals, **is based upon the general theory that money and other assets in excess of liabilities of a taxpayer (after an accurate and proper adjustment of non-deductible items) not accounted for by his income tax returns, leads to the inference that part of his income has not been reported** (p. 6, B.T.A. 189).[77]
>
> ...

As can be gleaned from each iteration of the Details of Discrepancies accompanying the PAN, FAN, and FDDA, petitioner, at most, merely had outlined a direct matching and comparison of income payments *per* respondent's withholding tax returns and expenses

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[77] Id.; Emphasis supplied.

reported in respondent's financial statements and ITR.[78] Clearly, petitioner relied loosely on the precepts of the *Perez* case without concern for the circumstances (of said case) that led to the Supreme Court's affirmation of its application back then.

Notwithstanding, subsequent to *Perez*, the BIR had already set forth its own regulations regarding the use of the net worth or inventory method in Revenue Memorandum Circular (**RMC**) No. 43-74.[79] The RMC clearly essayed the conditions therein and proceeded to offer clarificatory discussions:

> ...
>
> 3. *The conditions for use of the method.* — The application of the net worth method is not without limitations. The conditions for the proper use of such method as found in the law itself and the case law developed on the matter, are:
>
> (a) That the taxpayer's books do not clearly reflect his income or the taxpayer has no books, or if he has books, he refuses to produce them;
>
> (b) That there is evidence of a possible source or sources of income to account for the increases in net worth or the expenditures;
>
> (c) That there is a fixed starting point or opening net worth, i.e., a date beginning with a taxable year or prior to it, at which time the taxpayer's financial condition can be affirmatively established with some definiteness; and
>
> (d) That the circumstances are such that the method does reflect the taxpayer's income with reasonable accuracy and certainty, and proper and just additions of personal expenses and other non-deductible expenditures were made, and correct, fair and equitable credit adjustments were given by way of eliminating non-taxable items.
>
> The above conditions are briefly discussed hereunder:
>
> (a) *Inadequate Records as a Pre-requisite.* — Whenever no method of accounting is employed by the taxpayer or where the method does not clearly reflect the true income, the

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78 Details of Discrepancies, Exhibits "P-3" (for PAN), "P-6" (for FAN), and "P-14" (for FDDA), Division Docket, pp. 275-276, 279-280, and 296-297, respectively.

79 Dated 01 August 1974. The Net Worth-expenditures (Inventory) Method of Investigation Authorized Under Sections 15 and 38 of the National Internal Revenue Code.

Commissioner is authorized to resort to any method which, in his opinion, does reflect the correct income. Obviously, this method of income determination may be used when the taxpayer has no books of accounts or when such books and records are not available for examination or where the books are incomplete and inadequate.

By the same token, the government may be forced to resort to the net worth method of proof where the few records of the taxpayers were destroyed, for to require more would be tantamount to holding that skillful concealment is an invincible barrier to proof.

(b) *The Need for Evidence of the Source of Income.* — In all the leading cases on this matter, courts are unanimous in holding that when the tax case is civil in nature, direct proof of sources of income is not essential — that the government is not required to negate all possible non-taxable sources of the alleged net worth increases. Thus, proofs of loans, gifts, bequests, inheritances and the like, need not be adduced in evidence by the government. The burden of proof is upon the taxpayer to show that his net worth increase was derived from non-taxable sources.

However, when a taxpayer is criminally prosecuted for tax evasion, the need for evidence of a likely source of income becomes a pre-requisite for a successful prosecution. The burden of proof in criminal cases is always with the government. It is, therefore, incumbent upon revenue agents to negate all possible sources of non-taxable receipts in addition to adducing evidence to satisfy all the other three conditions. Conviction in such cases, as in any criminal case, rests on proof beyond reasonable doubt.

(c) *A Definite Starting Point or Opening Net Worth.* — This is an essential condition, considered to be the cornerstone of a net worth case. If the starting point or opening net worth is proved to be wrong, the whole superstructure usually falls. The courts have uniformly stressed the importance of accuracy in the figures used therein because the validity of the result of any investigation under this method will depend entirely upon a correct opening net worth.

(d) *Proper Adjustments to Conform with the Income Tax Laws.* — Proper adjustments for non-deductible items must be made. Under this category are: personal living or family expenses, premiums paid on any life insurance policy, losses from sales or exchanges of property between members of the family; income taxes paid; estate, inheritance and gift taxes,

> and other non-allowable taxes; election expenses and other expenses against public policy, non-deductible contributions; gifts to others; net capital loss, and the like. These must be added to the increase or decrease in net worth as the case may be.
>
> On the other hand, non-taxable items should be deducted therefrom. These items are necessary adjustments to avoid the inclusion of what otherwise are non-taxable receipts. They are: inheritance, gifts and bequests received; non-taxable capital gains; compensation for injuries or sickness; proceeds of life insurance policies; sweepstakes winnings; interest on government securities and the like.[80]

...

We briefly probe each condition *vis-a-vis* respondent's circumstances assuming *ex gratia in argumenti* that the application of the 'net worth method' is valid and warranted.

As to the first and third conditions, it has been established that the figures for respondent's income and opening net worth were available to petitioner. It is evident in the records that respondent made these available pursuant to the BIR's investigation. Notably, the availability of respondent's income amounts should have already precluded the use of the 'net worth method'. Respondent's AFS, ITR, and books of accounts were readily accessible to petitioner during investigation.

As to the fourth condition, the procedure for employing the aforementioned method is structured definitively. As previously established, petitioner's investigation lacked a congruent execution of the process narrated therein. Similarly, as to the second condition, there had been no proof nor imputation of increases in net worth. At most, petitioner only pointed out variances in income payments subject to withholding tax and reported expenses.

Evidently, petitioner is remiss in complying with the requisites and procedure established in either the *Perez* case or RMC No. 43-74.[81] Furthermore, contrary to petitioner's assertions[82], notwithstanding the

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80 Id., italics in the original.
81 Supra at note 79.
82 Supra at note 4.

evidence already presented to the First Division, neither set of requirements (in connection with this finding) imposed a specific burden upon respondent to present supporting documentation for expenses claimed, *i.e.*, receipts and invoices and books of accounts. Thus, We share the sentiment of the First Division when it opined that petitioner's invocation of the 'net worth method' is a mere afterthought to justify its use of presumptions in sustaining the assessment against petitioner.

Tax assessments should not be based on mere presumptions no matter how reasonable and logical said presumptions may be, and in order to stand the test of judicial scrutiny, such assessments must be based on actual facts.[83]

For income to be taxable, the following requisites must exist: (1) there must be a gain; (2) the gain must be realized or received; and, (3) the gain must not be excluded by law or treaty from taxation.[84] In the present case, petitioner relied ultimately on presumptions and neglected to prove that there is any undeclared taxable income realized or received by respondent. He or she failed to prove that there was indeed a taxable income that petitioner received.

While this Court acknowledges the existence and relevance of the inventory or net worth method, it is grossly apparent that petitioner failed to assemble a structured assertion to justify a reliance thereon. By consequence of such default, it is imperative for petitioner to prove the existence of unreported income or gains.

In consideration of what has been discussed thus far, We find no sensible justification to deviate from what the First Division has held. The assessment for deficiency IT upon alleged undeclared income arising undeclared expenses was cancelled correctly.

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83 *Commissioner of Internal Revenue v. Island Garment Manufacturing Corporation, et al.*, G.R. No. L-46644, 11 September 1987.

84 *Chamber of Real Estate and Builders' Associations, Inc. v. The Hon. Executive Secretary Alberto Romulo, et al.*, G.R. No. 160756, 09 March 2010.

PETITIONER HAS NO BASIS TO DISALLOW EXCESS TAX CREDITS CARRIED OVER TO SUBSEQUENT TAXABLE PERIODS.

Petitioner stands by the adding back of respondent's total excess tax credits at yearend in TY 2010 amounting to ₱37,132,782.00, under the presumption that the tax benefit of this amount was already credited against the estimated quarterly IT liabilities for the taxable quarter of the succeeding TYs. Petitioner cites Section 76 of the NIRC of 1997, as amended, as basis:

> ...
>
> **SEC. 76.** - *Final Adjustment Return.* - Every corporation liable to tax under Section 27 shall file a final adjustment return covering the total taxable income for the preceding calendar or fiscal year. If the sum of the quarterly tax payments made during the said taxable year is not equal to the total tax due on the entire taxable income of that year, the corporation shall either:
>
> (A) Pay the balance of tax still due; or
> (B) Carry-over the excess credit; or
> (C) Be credited or refunded with the excess amount paid, as the case may be.
>
> In case the corporation is entitled to a tax credit or refund of the excess estimated quarterly income taxes paid, the excess amount shown on its final adjustment return may be carried over and credited against the estimated quarterly income tax liabilities for the taxable quarters of the succeeding taxable years. Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option shall be considered irrevocable for that taxable period and no application for cash refund or issuance of a tax credit certificate shall be allowed therefor[.][85]
>
> ...

Specifically, petitioner relied on the last sentence thereof which provides that "once the option to carry-over and apply the said excess quarterly income taxes paid against the IT due for the taxable quarters of the succeeding TYs has been made, such option shall be considered irrevocable for that taxable period". Petitioner reasoned out that "[t]his is to recapture the tax benefit realized by respondent in carrying the

[85] Italics in the original and underscoring supplied.

amount against its estimated quarterly IT liabilities for the taxable quarter of the succeeding TY 2011".[86]

Once again, petitioner's reliance thereon is flawed.

A careful reading of the above provision could only yield that there is nothing (in it) that relates to the disallowance of tax credits carried over by reason of the enjoyment of the tax benefit by a taxpayer in the subsequent taxable periods. As respondent correctly pointed out[87], the said section instead discusses the irrevocable nature of a taxpayer's election of the option to carry-over its excess tax credit to the following taxable period.

In *Commissioner of Internal Revenue v. Bank of the Philippine Islands*[88], the Supreme Court elucidated clearly the purpose and significance of the provision:

> ...
>
> The Court categorically declared in *Philam* that: "**Section 76 remains clear and unequivocal. Once the carry-over option is taken, actually or constructively, it becomes irrevocable.**" It mentioned no exception or qualification to the *irrevocability rule*.
>
> Hence, the controlling factor for the operation of the *irrevocability rule* is that the taxpayer chose an option; and once it had already done so, it could no longer make another one. Consequently, after the taxpayer opts to carry-over its excess tax credit to the following taxable period, the question of whether or not it actually gets to apply said tax credit is irrelevant. Section 76 of the NIRC of 1997 is explicit in stating that once the option to carry over has been made, "no application for tax refund or issuance of a tax credit certificate shall be allowed therefor."
>
> The last sentence of Section 76 of the NIRC of 1997 reads: "Once the option to carry-over and apply the excess quarterly income tax against income tax due for the taxable quarters of the succeeding taxable years has been made, such option **shall be considered irrevocable for that taxable period** and no application for tax refund or issuance of a tax credit certificate shall be allowed therefor." The phrase "for that taxable period" merely identifies the excess

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86 Petition for Review, *rollo*, p. 12.

87 Respondent's "Comment/Opposition (to the Petition for Review dated July 18, 2022)", *rollo*, p. 63.

88 G.R. No. 178490, 07 July 2009: Emphasis and italics in the original and underscoring supplied.

> income tax, subject of the option, by referring to the taxable period when it was acquired by the taxpayer. In the present case, the excess income tax credit, which BPI opted to carry over, was acquired by the said bank during the taxable year 1998. The option of BPI to carry over its 1998 excess income tax credit is irrevocable; it cannot later on opt to apply for a refund of the very same 1998 excess income tax credit.
>
> ...

In petitioner's assessment of respondent, the former did not provide any factual and legal basis for the disallowance of the tax credits. Conspicuously absent on the face of the PAN, the Details of Discrepancies[89] accompanying the FAN and FDDA contained a bare allegation in this wise:

> ...
>
> **Excess Tax Credits carried over to succeeding period, ₱37,132,782.00** - Excess tax credit carried over to succeeding period in the amount of ₱37,132,782.00 was deducted from the total allowable tax credit considering that the said amount has been credited against the estimated quarterly income tax liabilities for the taxable quarter of the succeeding taxable years pursuant to Section 76 of the NIRC.[90]
>
> ...

Incidentally, Section 76 of the NIRC of 1997, as amended, explicitly allows the carry-over of tax credits. As explained above, there is nothing in Section 76 of the NIRC of 1997, as amended, that disallows respondent's practice. Thus, as the First Division aptly found, this item of the assessment may be cancelled outright for petitioner's lapse. The requirement to state in writing the factual and legal bases of an assessment is part of respondent's right to due process.[91] Neither the PAN nor the FAN or FDDA has met this requirement.[92] Such failure over the course of the investigation perforce renders the assessment void.[93]

Petitioner also underscored that "the BIR has already found respondent to have carried over the tax credits sourced from TY 2010

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89 Supra at note 78.
90 Division Docket, p. 297.
91 See *Commissioner of Internal Revenue v. Liquigaz Philippines Corporation*, G.R. No. 215534, 18 April 2016.
92 Supra at note 78.
93 See Section 228, National Internal Revenue Code (NIRC) of 1997, as amended.

and prior years in the amount of ₱37,132,782.00 to the succeeding TY 2011".[94]

Assuming *arguendo* that petitioner's alleged finding and admission factually carried weight and had appropriate legal basis, *i.e.*, that respondent had already benefited from the tax credits in succeeding years, the merits of this item of assessment remain insufficient. Assuming further that respondent was properly accorded due process and was properly apprised, petitioner still cannot validly examine the same as they are matters outside the scope of the assessment for TY 2010, covered by its corresponding LOA.[95] We agree with the First Division that respondent may only be assessed in connection with the foregoing in examinations of the succeeding TYs.[96]

With the two (2) above-discussed issues disposed conclusively, We note that petitioner did not proffer arguments against the remaining components of the deficiency IT assessment (similar to his or her MPR).[97] This runs contrary to petitioner's prayer in the instant Petition for Review that seeks to have respondent pay the entire assessment originally pegged in the FDDA to be ₱9,302,612.84, inclusive of interest.[98] In consideration of the foregoing, this Court shall no longer belabor Itself to discuss the said items not covered by the present petition.

Finally, petitioner culminated his or her arguments in the instant petition by leaning into the presumption of regularity in the performance of official duties.[99] While such presumption is ordinarily available in favor of public officers, the same only prevails until it is overcome by no less than clear and convincing evidence to the contrary.[100]

An assiduous review of the records of this case shows that the First Division had exhaustively passed upon all the points raised relevant to the deficiency assessment, in both the assailed Decision and assailed

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94 Supra at note 86.
95 Exhibit "P-1", Division Docket, p. 269.
96 See Decision dated 02 November 2021, *rollo*, p. 45.
97 Division Docket, p. 571.
98 Exhibit "P-13", Division Docket, p. 131.
99 Supra at note 86.
100 See *Amuncio C. Bustillo, et al. v. People of the Philippines*, G.R. No. 160718, 12 May 2010.

Resolution.[101] The Court *En Banc* is not, by any measure, inclined to consider that the abovementioned presumption remains uncontroverted.

Revisiting the assessment for TY 2010 as recomputed by the First Division, We reproduce the aggregate of respondent's IT[102]:

Taxable Income/(Loss) per Income Tax Return (ITR)	₱	61,857,729.24
Add: Adjustments/Disallowance		
Receipts not subject to Income Tax		3,674,930.86
Undeclared Income from Unaccounted Expense		-
Overclaimed Salaries and Wages		-
Adjusted Taxable Income		65,532,660.10
Multiply by: Income Tax Rate		x 30%
Basic Income Tax Due (30%)		19,659,798.03
Less: Tax Credit/Payments		
Prior Year's Excess Tax Credit		(49,292,301.80)
Unexpired Prior Years MCIT over NCIT		(1,516,612.98)
Creditable Tax Withheld		(4,881,185.99)
Add back: Excess Tax Credits carried over to succeeding period		-
Basic Deficiency Income Tax/(Overpayment)	₱	**(36,030,302.74)**

We further note that there is no revision of the amount above as a result of the instant petition. Accordingly, in the absence of any reversible error, the Court *En Banc* has no other recourse but to dismiss this case and to leave undisturbed the First Division's assailed actions.

WHEREFORE, premises considered, the present Petition for Review filed by petitioner Commissioner of Internal Revenue is hereby **DENIED** for lack of merit. Accordingly, the assailed Decision and Resolution dated 02 November 2021 and 24 June 2022, respectively, in CTA Case No. 9781, entitled *Armadillo Holdings, Inc. (now Abraham Holdings, Inc.) v. Commissioner of Internal Revenue* are hereby **AFFIRMED**.

101 Supra at notes 1 and 2.
102 Supra at note 96.

Consequently, petitioner Commissioner of Internal Revenue or any person duly acting on his or her behalf is hereby **ENJOINED** from collecting or taking further action on the subject deficiency taxes assessed against respondent Abraham Holdings, Inc. as provided in the Formal Assessment Notice and Assessment Notice both dated 06 March 2014 and Final Decision on Disputed Assessment and Amended Assessment Notice No. IT-ELA51832-10-18-0260 both dated 01 February 2018, the latter representing deficiency income tax in the aggregate amount of ₱9,302,612.84, inclusive of interest, for the taxable year 2010.

SO ORDERED.

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
Associate Justice

CORAZON G. FERRER-FLORES
Associate Justice

HENRY S. ANGELES
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice