REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

EN BANC

UNITED INTERNATIONAL PICTURES AKTIEBOLAG, Petitioner,	**CTA EB NO. 2650** (CTA Case No. 9699)
- versus -	
COMMISSIONER OF INTERNAL REVENUE, Respondent.	
x----------x	
COMMISSIONER OF INTERNAL REVENUE, Petitioner,	**CTA EB NO. 2716** (CTA Case No. 9699)
	Present:
- versus -	**DEL ROSARIO, *P.J.*, RINGPIS-LIBAN, MANAHAN, BACORRO-VILLENA, MODESTO-SAN PEDRO, REYES-FAJARDO, CUI-DAVID, FERRER-FLORES,** *and* **ANGELES,** *JJ.*
UNITED INTERNATIONAL PICTURES AKTIEBOLAG, Respondent.	Promulgated: APR 14 2025 4:26 pm
x----------x	

DECISION

FERRER-FLORES, J.:

Before the Court *En Banc* are consolidated **Petitions for Review** filed by the following:

1. **United International Pictures Aktiebolag** (UIP) filed on July 7, 2022,[1] docketed as CTA EB No. 2650, with *Comment/Opposition (Re: Petition for Review dated July 7, 2022)* filed via registered mail by the **Commissioner of Internal Revenue** (CIR) on October 10, 2022;[2] and,

2. the **CIR** filed via registered mail on December 9, 2022,[3] docketed as CTA EB No. 2716, with *Comment on the Petition for Review dated December 7, 2022* filed by UIP on March 2, 2023.[4]

Before we proceed with the consolidated *Petitions for Review*, the Court shall first address UIP's **Manifestation and Urgent Motion to Defer Proceedings** filed on October 11, 2024 ("Motion to Defer Proceedings"). In its *Motion to Defer Proceedings,* UIP prays for the Court to suspend the Court proceedings for a period of 60 days from the date thereof, or until December 9, 2024. UIP alleges that there is a strong possibility that its *Compromise Offer* for CTA Case No. 9699 will be accepted by the Bureau of Internal Revenue (BIR) in light of the recent approval by the National Evaluation Board (NEB) of its *Compromise Offer* in its other pending case (i.e., CTA Case No. 10195). However, despite the lapse of the period UIP asked for, no approved *Compromise Offer* has been submitted to this Court. As such, the Court deems it proper to **DENY** UIP's *Manifestation and Urgent Motion to Defer Proceedings*.

Proceeding now to the present *Petitions*, UIP's *Petition* assails the Amended Decision dated June 16, 2022 (assailed Amended Decision)[5] rendered by the then First Division of the Court (Court in Division) while the CIR's *Petition* assails both the assailed Amended Decision and the Resolution dated November 3, 2022 (assailed Resolution) both rendered by the Court in Division.[6]

The dispositive portions of the assailed Amended Decision and assailed Resolution read as follows:

Assailed Amended Decision

> **WHEREFORE**, premises considered, [the CIR]'s "**Motion for Reconsideration (Re: Decision dated 14 October 2021)**" posted on November 15, 2021 is hereby **DENIED** for lack of merit. [UIP]'s "**Motion for Partial Reconsideration**" posted on November 29, 2021 is

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1 *Rollo* (EB No. 2650), pp. 1 to 23.
2 *Id.* at pp. 129 to 144.
3 *Rollo* (EB No. 2716), pp. 12 to 27.
4 *Rollo* (EB No. 2650), pp. 153 to 159.
5 Penned by Presiding Justice Roman G. Del Rosario with the concurrence of Associate Justice Catherine T. Manahan and Associate Justice Marian Ivy. F. Reyes-Fajardo; *Id.* at pp. 48 to 63.
6 *Rollo* (EB No. 2716), pp. 36 to 40.

PARTIALLY GRANTED. Accordingly, the dispositive portion of the Decision dated October 14, 2021 is hereby **MODIFIED** as follows:

> "**WHEREFORE**, in light of the foregoing, the Petition for Review filed by United International Pictures Aktiebolag on October 13, 2017 is hereby **PARTIALLY GRANTED**. The assessments issued by the Bureau of Internal Revenue against [UIP] for taxable year 2010 covering deficiency VAT and FWT are **CANCELLED AND SET ASIDE**. On the other hand, the deficiency Income Tax and Expanded Withholding Tax assessments are **AFFIRMED with MODIFICATIONS**.
>
> Accordingly, United International Pictures Aktiebolag is **ORDERED TO PAY** the Bureau of Internal Revenue the amount of **₱30,713,823.43** and **₱5,741,316.32** representing deficiency Income Tax and Expanded Withholding Tax, respectively, or the total amount of **₱36,455,139.76**, inclusive of twenty-five percent (25%) surcharge, twenty percent (20%) deficiency interest, and twenty percent (20%) delinquency interest imposed on deficiency Income Tax and Expanded Withholding Tax under Sections 248 (A) (3), and 249 (B) and (C) of the NIRC of 1997, as amended, respectively, computed until December 31, 2017, detailed below:

		Income Tax	EWT	TOTAL
Basic Tax Due	₱	7,929,132.66	1,452,126.36	9,381,259.02
Add: 25% Surcharge		1,982,283.16	363,031.59	2,345,314.75
Deficiency Interest from **April 16, 2011** to September 08, 2014 (₱7,929,132.66 x 20% x 1,242/365 days)		5,396,154.94		5,396,154.94
Deficiency Interest from **January 18, 2011** to September 08, 2014 (₱1,452,126.36 x 20% x 1,330/365 days)			1,058,261.95	1,058,261.95
Total Amount Due, September 08, 2014	₱	15,307,570.76	2,873,419.90	18,180,990.66
Deficiency Interest from September 09, 2014 to December 31, 2017	₱			
(₱7,929,132.66 x 20% x 1,210/365 days)		5,257,123.57		5,257,123.57
(₱1,452,126.36 x 20% x 1,210/365 days)			962,779.67	962,779.67
Delinquency Interest from September 09, 2014 to December 31, 2017				
(₱15,307,570.76 x 20% x 1,210/365 days)	₱	10,149,129.11		10,149,129.11
(₱2,873,419.90 x 20% x 1,210/365 days)			1,905,116.76	1,905,116.76
Total Amount Due, December 31, 2017	**₱**	**30,713,823.44**	**5,741,316.33**	**36,455,139.77**

> In addition, United International Pictures Aktiebolag is **ORDERED TO PAY** delinquency interest at the rate of twelve percent (12%) computed from January 1, 2018 until full payment thereof, pursuant to Section 249 (C) of the NIRC of 1997, as amended by Republic Act No. 10693, also known as the Tax Reform for Acceleration and Inclusion (TRAIN) and as implemented by RR No. 21-2018, on the following amounts:

TAX	AMOUNT
Income Tax	₱ 15,307,570.76
Value-added Tax[7]	2,873,419.90

> The Commissioner of Internal Revenue, his authorized representatives, or any person acting on his behalf are hereby **ENJOINED** from enforcing the collection of the deficiency Value-

[7] Corresponding amount actually pertains to the "Total Amount Due, September 08, 2014" for EWT.

> Added Tax and Final Withholding Tax for taxable year 2010. This order of suspension is **IMMEDIATELY EXECUTORY** consistent with Section 4, Rule 39 of the Rules of Court.
>
> **SO ORDERED."**

SO ORDERED.

Assailed Resolution

> **WHEREFORE**, premises considered, [the CIR's] *Motion for Partial Reconsideration (Re: Amended Decision dated 16 June 2022)* is hereby **DENIED** for lack of merit.
>
> **SO ORDERED.**

THE PARTIES

UIP is a duly-registered Philippine branch of United International Pictures Aktiebolag (UIP AB Head Office), a corporation duly organized and existing under the laws of Sweden. UIP AB Head Office is duly authorized to do business in the Philippines as evidenced by its Securities and Exchange Commission License No. 576. It has its present principal office in the Philippines at 40th Floor Regus PBCom Tower, 6795 Ayala Ave. cor. Rufino St., Salcedo Village, Bel-Air, Makati City 1226. It is also a registered taxpayer with Tax Identification Number 358-892-000.[8]

The CIR is the head of the BIR, the government agency officially responsible for the assessment and collection of all national revenue taxes, fees, and charges. He may be served with notices and other court processes at the Legal Division of Revenue Region No. 8A -Makati City located at the 36th Floor, Export Bank Plaza Building, Sen. Gil Puyat corner Chino Roces Avenues, Makati City.[9]

THE ANTECEDENT FACTS

As found by the Court in Division, the facts are as follows:[10]

> [UIP] is engaged in the business of acquiring and leasing motion pictures.
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> [UIP] and United International Pictures B.V. (UIP BV) entered into a Licensing Agreement where the latter granted [UIP] exclusive license to distribute in the Philippines feature motion pictures including trailers solely

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8 *Parties, Petition for Review, Rollo* (EB No. 2650), p. 3.
9 *The Parties, Petition for Review, Rollo* (EB No. 2716), p. 14.
10 *The Facts,* Original Decision dated October 14, 2021, *Id.* at pp. 66 to 68; citations omitted.

for theatrical and non-theatrical exhibition in exchange for a license fee paid by [UIP] computed at a percentage of the revenue generated.

By virtue of the Licensing Agreement, [UIP] entered into a Distribution Agreement with Solar Entertainment Corporation (Solar) where it granted the latter an exclusive license to exhibit and distribute in the Philippines, feature motion pictures and related trailers designated by [UIP] in exchange for Solar to deduct and retain as distribution fee an amount equal to six and a half percent (6 1/2%) of gross receipts inclusive of Value-Added Tax (VAT).

On September 12, 2012, Electronic Letter of Authority No. SN: eLA2010000078629 dated September 10, 2012 was issued by Nestor S. Valeroso, Revenue Regional Director of Revenue Region No. 8-Makati City, authorizing Revenue Officer (RO) Jumaimah Bagul, under the supervision of Group Supervisor Josephine Elarmo, of Revenue District Office No. 50-South Makati, to examine [UIP's] books of accounts and other accounting records for all internal revenue taxes for the period January 1, 2010 to December 31, 2010.

As a result of the audit and examination of [UIP's] records, [the CIR] issued on September 16, 2013, a Preliminary Assessment Notice (PAN), with attached Details of Discrepancies, which proposed to assess [UIP] for Income Tax, VAT, Expanded Withholding Tax (EWT), and Final Withholding Tax (FWT) in the total amount of Fifty-One Million Nine Hundred Twenty Thousand Two Hundred Seventy-Eight Pesos and 81/100 (₱51,920,278.81) for taxable year 2010. [UIP] received the PAN on even date.

On October 1, 2013, [UIP] filed with the Revenue Region No. 8, Office of the Regional Director, a response to the PAN dated October 1, 2013, summarizing its objections to the PAN.

On October 24, 2013, [UIP] and [the CIR] executed a Waiver of the Defense of Prescription under the Statute of Limitations of the National Internal Revenue Code, extending the BIR's period to assess [UIP] for deficiency internal revenue taxes for taxable year 2010 until October 15, 2014.

On August 11, 2014, [UIP] received a Formal Notice of Assessment (FAN), with attached Details of Discrepancies, and Assessment Notices, all dated August 6, 2014, which demanded from [UIP] the payment of the alleged Income Tax, VAT, EWT, and FWT for taxable year 2010, in the aggregate amount of Thirty-Three Million Five Hundred Eight[sic]-Five Thousand Nine Hundred Eighty-One Pesos and 35/100 (₱33,585,981.35), exclusive of interest, broken down as follows:

Basic Tax Type	Amount
Income Tax	₱ 8,724,476.45
VAT	₱ 4,687.55
EWT	₱ 1,452,126.36
FWT	₱ 23,404,690.99
Total:	**₱ 33,585,981.35**

On September 10, 2014, [UIP] filed a Request for Reconsideration, contesting the alleged deficiency income tax, VAT, EWT, and FWT for taxable year 2010.

On September 14, 2017, [UIP] received a Final Decision on Disputed Assessment (FDDA) with attached Details of Discrepancies for Income Tax, VAT, EWT, FWT, all dated July 19, 2017.

THE PROCEEDINGS BEFORE THE COURT IN DIVISION

As detailed by the Court in Division in the Decision dated October 14, 2021 (Original Decision), the proceedings before the Court are as follows:

Aggrieved, [UIP] filed the present Petition for Review on October 13, 2017.

On January 18, 2018, [the CIR] filed his Answer through registered mail, setting forth special and affirmative defenses.

On June 18, 2018, [the CIR] filed his Pre-Trial Brief through registered mail; while [UIP] filed its Pre-Trial Brief on June 22, 2018.

The Pre-Trial Conference was held on December 6, 2018. The Pre-Trial Order was issued on January 15, 2019. The Court also terminated the Pre-Trial Conference in the same Order.

During trial, [UIP] presented documentary and testimonial evidence. It presented the following witnesses: Irene Jose, who testified by way of her Judicial Affidavit, and Nita Dhumal, who testified by way of a Deposition. [UIP's] formally offered exhibits, as contained in its Formal Offer of Documentary Exhibits filed on July 15, 2019, were admitted in evidence in the Resolution dated September 25, 2019.

[The CIR] also presented his documentary and testimonial evidence. [The CIR] offered the testimony of RO Jumaimah Bagul, who testified by way of her Judicial Affidavit. [The CIR's] formally offered exhibits, as contained in his Formal Offer of Evidence posted on March 16, 2020 *via* registered mail and received by the Court on June 2, 2020, were admitted in the Resolution dated July 30, 2020. In the same Resolution, the Court ordered the parties to file their respective memoranda within thirty (30) days from receipt thereof.

On September 25, 2020, [UIP] filed via electronic mail (email) and in Court a Motion for Time to File Memorandum, which the Court expunged from the records of the case in the Resolution dated October 23, 2020 for being a prohibited pleading.

On November 5, 2020, [UIP] filed via email a Motion for Reconsideration and to Admit the attached Memorandum. The Court denied [UIP's] Motion for Reconsideration in the Resolution dated November 26, 2020.

Despite the given period, both parties failed to file their respective memoranda. The case was submitted for decision on October 23, 2020.

On October 14, 2021, the Court in Division rendered the Original Decision partially granting UIP's *Petition*. In the Original Decision, the Court held that UIP's right to due process was not violated, albeit the non-issuance of an amended *Preliminary Assessment Notice (PAN)*, as there is nothing in Section 228 of the National Internal Revenue Code (NIRC) of 1997, as amended, and in Revenue Regulations (RR) No. 12-99, as amended, which requires the issuance of an amended PAN. As to the substantive aspects of the assessments against UIP, the Court held, in part, as follows:

(1) The distribution fees paid to Solar Entertainment Corporation (Solar) are subject to 5% Expanded Withholding Tax (EWT) as payments to a cinematographic film distributor which fall under Section 2.57.2 (D) of RR No. 2-98.[11] For failure to withhold the EWT, the Court found that the CIR correctly disallowed the distribution fees, in the amount of ₱29,042,527.19, as allowable deduction from its gross income in accordance with Section 34 (K) of the NIRC of 1997, as amended;

(2) The disallowance by the CIR of the *Excess Tax Credits Carried Over to Succeeding Period* amounting to ₱783,625.00 reported in UIP's Income Tax Return (ITR) for taxable year (TY) 2010 was cancelled for the CIR's failure to provide the factual and legal bases thereof. Moreover, disallowance was improper considering that any tax benefit derived by UIP from the carry-over of said amount redounds to the succeeding TY 2011;

(3) Items of assessment pertaining to deficiency income tax and value-added tax (VAT) amounting to ₱19,700.41 and ₱10,844.29, respectively, which have already been paid by UIP, should be cancelled; and,

(4) UIP is entitled to avail of the benefits under the Republic of the Philippines (RP)-Netherlands Tax Treaty and RP-Sweden Tax Treaty, albeit its non-filing of tax treaty relief applications (TTRAs) with the BIR pursuant to *Deutsche Bank AG Manila Branch vs. Commissioner of Internal Revenue*[12] *(Deutsche Bank)*; thus, its royalty payments and

[11] SUBJECT : Implementing Republic Act No. 8424, "An Act Amending the National Internal Revenue Code, as Amended" Relative to the Withholding on Income Subject to the Expanded Withholding Tax and Final Withholding Tax, Withholding of Income Tax on Compensation, Withholding of Creditable Value-Added Tax and Other Percentage Taxes.

[12] G.R. No. 188550, August 19, 2013.

> branch profit remittance were properly subjected to preferential rates under the applicable Tax Treaty.

In view of the foregoing, the Court in Division ordered UIP to pay the deficiency income tax and EWT, as adjusted based on the findings of the Court, in the total amount of ₱39,578,018.68, inclusive of surcharge and interests.

Aggrieved, both parties filed their respective *Motions for Reconsideration* seeking the reversal of the Original Decision.[13]

On June 16, 2022, the Court in Division promulgated the assailed Amended Decision denying the CIR's *Motion for Reconsideration* but partially granting UIP's *Motion for Partial Reconsideration* resulting in the reduction of the total amount due from ₱39,578,018.68 to ₱36,455,139.76.[14] In the assailed Amended Decision, the Court in Division addressed the parties' arguments as follows:

> (1) The doctrine in *Deutsche Bank,*[15] while promulgated in 2013, can be applied retroactively, as the interpretation of the law by the Supreme Court attaches from the time when the law took effect; thus, the same applies to UIP's income payments made in 2010;
>
> (2) Payment of distribution fees to cinematographic distributors is subject to five percent (5%) EWT under Section 2.57.2 of RR No. 2-98; and,
>
> (3) UIP is considered the proper withholding agent for the distribution fees it paid to Solar pursuant to Section 2.57.3 of RR No. 2-98.

In light of the assailed Amended Decision, UIP proceeded to file its *Petition for Review* on July 7, 2022 before the Court *En Banc*, while the CIR filed his *Motion for Partial Reconsideration* on July 21, 2022.

The Court in Division denied the CIR's *Motion for Reconsideration* in the assailed Resolution issued on November 3, 2022.

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[13] UIP AB's *Motion for Partial Reconsideration* filed via registered mail on November 29, 2021, Division Docket – Vol. III, pp. 1485 to 1501; CIR's *Motion for Reconsideration (Re: Decision dated 14 October 2021)* filed via registered mail on November 15, 2021, Division Docket – Vol. III, pp. 1469 to 1480.

[14] *Supra*, at note 3.

[15] G.R. No. 188550, August 19, 2013.

Hence, the instant *Petitions for Review*.

THE PROCEEDINGS BEFORE THE COURT *EN BANC*

On July 7, 2022, UIP filed its *Petition for Review*, docketed as CTA EB No. 2650.

Thereafter, in the Resolution dated August 23, 2022,[16] the Court *En Banc* required UIP to submit a fully-compliant *Verification and Certification Against Forum Shopping*, to which UIP complied with on August 31, 2022.[17]

On September 22, 2022, the Court directed the CIR to file his comment on UIP's *Petition*.[18]

Subsequently, the CIR filed his Comment/Opposition (Re: Petition for Review dated July 7, 2022) on October 10, 2022.[19]

The CIR then filed his *Motion for Extension of Time To File a Petition for Review (Re: Resolution promulgated on November 3, 2022)*, seeking an additional 15 days from November 8, 2022, or until December 8, 2022, to file a Petition for Review.[20] The Court *En Banc* granted the same on November 28, 2022.[21]

Thereafter, the CIR filed via registered mail his *Petition for Review* on December 9, 2022, which was received by this Court on December 20, 2022.[22] The case was docketed as CTA EB No. 2716.

In the Minute Resolution dated January 6, 2023, the Court ordered the consolidation of CTA EB No. 2716 with CTA EB No. 2650 (Consolidated Cases) pursuant to Section 1, Rule 31 of the Rules of Court, as amended.[23]

The Court then directed UIP to file its comment on the CIR's *Petition for Review* on February 15, 2023.[24]

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16 *Rollo* (EB No. 2650), pp. 100 to 101.
17 *Id.* at 102 to 125.
18 *Id.* at 127 to 128.
19 *Id.* at 129 to 144.
20 *Rollo* (EB No. 2716), pp. 1 to 3.
21 Minute Resolution dated November 28, 2022; *Id.* at p. 11.
22 *Id.* at pp. 12 to 27.
23 *Rollo* (EB No. 2650), p. 148.
24 Resolution dated February 15, 2023, *Id.* at 150 to 152.

On March 2, 2023, UIP filed its Comment on the Petition for Review dated December 7, 2022.[25]

Subsequently, UIP moved for the case to be referred to mediation on March 28, 2023.[26]

In the Resolution dated May 29, 2023, the Court directed the parties to proceed to the Philippine Mediation Center – Court of Tax Appeals (PMC-CTA) for mediation.[27] The parties, however, failed to reach an agreement,[28] despite the extension[29] granted by the Court for the continuation of the mediation proceedings.

On February 21, 2024, the case was submitted for decision.[30]

THE ISSUES

In CTA EB No. 2650, UIP assigned the following errors:

I.

> With due respect, the Court in Division erred when it ruled that UIP is liable for EWT on the Distribution Fees it paid to Solar and for Income Tax arising from its disallowance as deduction.

II.

> With due respect, the Court in Division erred when it ruled that the CIR did not violate its right to due process.

On the other hand, in CTA EB No. 2716, the CIR raised that the Court in Division:

i. Erred in cancelling the income tax assessment on UIP's excess tax credit carried over to the succeeding year in the amount of ₱783,625.00;

ii. Erred in holding the *Deutsche Bank* case applies to UIP's royalty and branch profit remittances in TY 2010 based on the

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[25] *Id.* at pp. 153 to 159.
[26] *Id.* at pp. 161 to 166.
[27] *Id.* at pp. 168 to 170.
[28] *PMC-CTA Form 5 (Mediator's Report)* dated January 3, 2024, *Id.* at pp. 177 to 181.
[29] Resolution dated October 5, 2023, *Id.* at pp. 174 to 176.
[30] *Id.* at p. 182.

interpretation that its application retroacts to the date when the RP-Netherlands Tax Treaty and RP-Sweden Tax Treaty entered into force; and,

iii. Erred in re-computing the deficiency and delinquency interest on the EWT assessment.

THE ARGUMENTS

CTA EB No. 2650

In support of its *Petition*, UIP argues that it should not be required to withhold EWT on Solar's distribution fee under Section 2.57.2(D) [now Section 2.57.2(B)(5)] of RR No. 2-98, which, by statutory construction, and, as consistently applied in the CIR's rulings involving sub-distribution agreements, covers the respective shares of the distributor and sub-distributor in the film rentals which constitute the "gross payments" subject to the 5% EWT in the hands of the theater/exhibitor and the sub-distributor, respectively. UIP maintains that, in any event, as confirmed in a ruling issued to it, it is the local film distributor (here, Solar), which had receipt, custody, and control of the funds under the distribution agreement with UIP, that is constituted as the withholding agent, and not UIP. Finally, UIP posits that its right to due process was violated when the CIR did not issue an amended PAN despite invoking an entirely new supposed legal basis for its assessment, allegedly making the assessment null and void.

On the other hand, the CIR opposes UIP's *Petition* averring that the same is violative of the rules on forum shopping as the assailed Amended Decision is not yet final and still pending before the Court in Division with respect to the CIR's *Motion for Reconsideration* at the time UIP filed its *Petition* before the Court *En Banc*. The CIR likewise argues that UIP's *Petition* before this Court should be dismissed for lack of jurisdiction due to UIP's failure to file a motion for reconsideration relative to the assailed Amended Decision. Even assuming that this Court has jurisdiction to act on the *Petition*, the CIR submits that its assessments for TY 2010 are valid. He maintains that the Court in Division was correct in holding that UIP's right to due process was not violated despite the non-issuance of an amended PAN, in not considering the BIR Rulings cited by UIP, and in retaining its EWT assessment on the distribution fees and the corresponding income tax assessment on the disallowance of said expenses due to non-withholding.

CTA EB No. 2716

In the CIR's *Petition*, he argues that the Court in Division erred when it cancelled the CIR's disallowance of the *Excess Tax Credit* carried over to the succeeding year of ₱783,625.00. The CIR invokes Article 22 of the New Civil Code which provides for the principle of unjust enrichment such that, since UIP already applied the excess credits carried over in the succeeding years, the government received far less taxes from UIP, effectively benefitting on the same at the expense of the government. With regard to the FWT assessment, the CIR insists that the correct FWT rate should be 25% for income payment to cinematographic film owner/royalty and 15% for branch profit remittances, or the rates provided in the NIRC of 1997, as amended, and Section 2.57.1 of RR No. 2-98. The CIR alleges that UIP cannot avail of the benefits of the RP-Netherlands and RP-Sweden Tax Treaties as no proof was presented that UIP complied with the conditions for such availment. As to the re-computation of the deficiency interest on the EWT assessment, the CIR explains that the interest should be reckoned from February 18, 2010 inasmuch as the transaction which gave rise to the EWT assessment occurred in January of TY 2010.

On the other hand, UIP counters that the CIR's *Motion for Reconsideration* relative to the assailed Amended Decision was in the nature of a second motion for reconsideration, a prohibited pleading that did not have any legal effect and did not toll the running of the appeal period. As such, the CIR should have timely filed a petition for review before the Court *En Banc*. Instead, the CIR belatedly filed his *Petition for Review* before the Court *En Banc* raising for the first time its argument on the computation of deficiency interest on the EWT assessment. UIP also argues that (1) the CIR improperly disallowed its excess tax credits of ₱783,625.00; (2) the CIR improperly assessed deficiency FWT; and, (3) the deficiency interest on the deficiency EWT assessment properly accrued from January 18, 2011.

THE RULING OF THE COURT *EN BANC*

For an orderly disposition of the case, the Court shall first rule on the timeliness of both Petitions for Review.

Timeliness of the Petitions for Review

Sections 1 and 3(b) of Rule 8 of the Revised Rules of the Court of Tax Appeals (CTA), or the RRCTA, provide:

RULE 8
PROCEDURE IN CIVIL CASES

> Sec. 1. Review in cases in the Court *en banc*.— In cases falling under the exclusive appellate jurisdiction of the Court *en banc*, **the petition for review of a decision or resolution of the Court in Division must be preceded by the filing of a timely motion for reconsideration or new trial with the Division.**
>
> xxx xxx xxx
>
> Sec. 3. Who may appeal; period to file petition. — xxx xxx xxx
>
> (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. *(Emphasis and underscoring supplied)*

Based on the foregoing, an appeal of a decision of the Court in Division before the Court *En Banc* must be preceded by the filing of a timely motion for reconsideration or new trial before the Court in Division. The parties then have 15 days from receipt of the assailed Resolution on the motion for reconsideration within which to file their respective Petitions for Review.

Inasmuch as the Decision being assailed by both parties in the instant case is an Amended Decision, the case of *Asiatrust Development Bank, Inc. vs. Commissioner of Internal Revenue (Asiatrust)*[31] becomes relevant. In the said case, the Supreme Court, citing Section 1, Rule 8 of the RRCTA, held that a party's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA *En Banc*. We quote:

> **An appeal to the CTA En Banc must be preceded by the filing of a timely motion for reconsideration or new trial with the CTA Division.**
>
> Section 1, Rule 8 of the Revised Rules of the CTA states:
>
> xxx xxx xxx

[31] G.R. Nos. 201530 & 201680-81, April 19, 2017.

> **Thus, in order for the CTA *En Banc* to take cognizance of an appeal *via* a petition for review, a timely motion for reconsideration or new trial must first be filed with the CTA Division that issued the assailed decision or resolution. Failure to do so is a ground for the dismissal of the appeal as the word "must" indicates that the filing of a prior motion is mandatory, and not merely directory.**
>
> The same is true in the case of an amended decision. Section 3, Rule 14 of the same rules defines an amended decision as "[a]ny action modifying or reversing a decision of the Court *en banc* or in Division." As explained in *CE Luzon Geothermal Power Company, Inc. v. Commissioner of Internal Revenue*, **an amended decision is a different decision, and thus, is a proper subject of a motion for reconsideration.**
>
> In this case, the CIR's failure to move for a reconsideration of the Amended Decision of the CTA Division is a ground for the dismissal of its Petition for Review before the CTA *En Banc*. Thus, the CTA *En Banc* did not err in denying the CIR's appeal on procedural grounds.
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> **Due to this procedural lapse, the Amended Decision has attained finality insofar as the CIR is concerned.** The CIR, therefore, may no longer question the merits of the case before this Court. Accordingly, there is no reason for the Court to discuss the other issues raised by the CIR.
>
> As the Court has often held, procedural rules exist to be followed, not to be trifled with, and thus, may be relaxed only for the most persuasive reasons. *(Emphasis supplied; footnotes omitted)*

In the more recent case of *Commissioner of Internal Revenue vs. Commission on Elections (COMELEC)*,[32] the Supreme Court clarified the principle in *Asiatrust*, to wit:

> In *Asiatrust*, the CTA Division canceled certain tax assessment notices against Asiatrust Development Bank, Inc. (Asiatrust Bank) on the ground of prescription, and maintained the documentary stamp tax and final withholding tax (FWT) deficiency assessments. The CTA Division denied the CIR's motion for reconsideration, but it partly granted Asiatrust Bank's motion and set the case for hearing the reception of the originals of the documents attached to the motion. On March 16, 2010, the CTA Division issued an **Amended Decision modifying its original decision**. It canceled the DST assessment after finding that Asiatrust Bank is entitled to the immunities and privileges granted in the Tax Amnesty Law and limited Asiatrust Bank's liability to the deficiency FWT. Only Asiatrust Bank moved for reconsideration of the Amended Decision, and both parties filed a petition for review before the CTA *En Banc*. When the case reached this Court, we upheld the CTA *En Banc* in denying the CIR's appeal on procedural grounds because the CIR **failed to secure reconsideration of the Amended Decision of the CTA Division**, in violation of Section 1, Rule 8 of the RRCTA.

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[32] G.R. Nos. 244155 & 247508, May 11, 2021.

> The Court, in *Asiatrust*, cited the case of *CE Luzon Geothermal Power Co., Inc. v. Commissioner of Internal Revenue* (*CE Luzon*). In *CE Luzon*, we held that the CIR correctly filed a motion for reconsideration of the CTA Division's Amended Decision because it was a **different decision**. The amended decision **modified and increased** CE Luzon Geothermal Power Co., Inc.'s (CELG) entitlement to a refund or tax credit certificate from P14,879,312.65 to P17,277,938.47; hence, the proper subject of a motion for reconsideration anew on the part of the CIR. Notably, while the CIR moved for reconsideration of the CTA Division's Amended Decision, CELG did not. Nevertheless, the Court did not rule on CELG's non-filing of a motion for reconsideration of the amended decision and proceeded to discuss the merits of the case.
>
> It will be observed in *Asiatrust* and *CE Luzon* that the amended decision of the CTA Division is entirely new. The amended decision is based on a re-evaluation of the parties' allegations or reconsideration of new and/or existing evidence that were not considered and/or previously rejected in the original decision. In *Asiatrust*, the case was set for hearing, and the Court allowed Asiatrust Bank to submit **additional evidence**, which became the foundation of the amended decision. In *CE Luzon*, the Court **re-evaluated** the pieces of documentary evidence supporting CELG's claim for refund of unutilized input Value-Added Tax and found it meritorious, thereby increasing the amount it granted CELG for refund. In both cases, we held that the amended decisions are proper subjects of motions for reconsideration.

Also in *COMELEC*, the Supreme Court reconciled the rule on the motion for reconsideration as a pre-requisite vis-à-vis as a prohibited pleading:

> In *Cristobal v. Philippine Airlines, Inc.*, albeit a labor case, we distinguished a decision or disposition that is the proper subject of a reconsideration. We elucidated the propriety of filing a motion for reconsideration as a requisite pleading *vis-à-vis* when it is prohibited:
>
> > The National Labor Relations Commission Rules of Procedure prohibits a party from questioning a decision, resolution, or order, twice. **In other words, this rule prohibits the same party from assailing the same judgment. However, a decision substantially reversing a determination in a prior decision is a discrete decision from the earlier one**. Thus, in *Poliand Industrial Ltd. v. National Development Co.*, this Court held:
> >
> > > Ordinarily, no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. Essentially, however, **the instant motion is not second motion for reconsideration since the viable relief it seeks calls for the review, not of the Decision dated August 22, 2005, but the November 23, 2005 Resolution which**

> **delved for the first time on the issue of the reckoning date of the computation of interest** [x x x.]

This Court ruled similarly in *Solidbank Corp. v. Court of Appeals*, where the Labor Arbiter dismissed a labor complaint but awarded the employee separation pay, compensatory benefit, Christmas bonus, and moral and exemplary damages. This was appealed to the National Labor Relations Commission by both parties. The National Labor Relations Commission rendered a Decision affirming the Labor Arbiter Decision but modifying it by deleting the award of moral and exemplary damages. On appeal, the Court of Appeals ruled that the employee had been illegally dismissed and, considering the cessation of the employer's operations, awarded the employee separation pay, backwages, compensatory benefit, Christmas bonus, unpaid salary, moral and exemplary damages, and [attorney's] fees. Then, the employer bank filed a Motion for Reconsideration and a Supplemental Motion for Reconsideration, while the employee filed a Motion for Clarification and/or Partial Motion for Reconsideration. The Court of Appeals then issued an Amended Decision, modifying the amount awarded as separation pay, backwages, and unpaid salary. Afterwards, the employee filed another Motion for Reconsideration/Clarification, and the Court of Appeals again corrected the amounts awarded as separation pay, backwages, and unpaid salary. In its petition assailing the Court of Appeals Resolution, the employer bank claimed that the Court of Appeals erred in granting the employee's second motion for reconsideration, a prohibited pleading. This Court held:

> **The Amended Decision is an entirely new decision which supersedes the original decision, for which a new motion for reconsideration may be filed again.**
>
> Anent the issue of Lazaro's "second" motion for reconsideration, we disagree with the bank's contention that it is disallowed by the Rules of Court. Upon thorough examination of the procedural history of this case, **the "second" motion does not partake the nature of a prohibited pleading because the Amended Decision is an entirely new decision which supersedes the original, for which a new motion for reconsideration may be filed again**.

In ***Barba v. Liceo De Cagayan University***, where the Court of Appeals denied a motion for reconsideration from

an amended decision on the ground that it was a prohibited second motion for reconsideration, this Court held that the prohibition against a second motion for reconsideration contemplates the same party assailing the same judgment:

> Prefatorily, we first discuss the procedural matter raised by respondent that the present petition is filed out of time. Respondent claims that petitioner's motion for reconsideration from the Amended Decision is a second motion for reconsideration which is a prohibited pleading. Respondent's assertion, however, is misplaced for it should be noted that **the CA's Amended Decision totally reversed and set aside its previous ruling. Section 2, Rule 52 of the 1997 Rules of Civil Procedure, as amended, provides that no second motion for reconsideration of a judgment or final resolution by the same party shall be entertained. This contemplates a situation where a second motion for reconsideration is filed by the same party assailing the same judgment or final resolution. Here, the motion for reconsideration of petitioner was filed after the appellate court rendered an Amended Decision totally reversing and setting aside its previous ruling.** Hence, petitioner is not precluded from filing another motion for reconsideration from the Amended Decision which held that the labor tribunals lacked jurisdiction over petitioner's complaint for constructive dismissal. The period to file an appeal should be reckoned not from the denial of her motion for reconsideration of the original decision, but from the date of petitioner's receipt of the notice of denial of her motion for reconsideration from Amended Decision. And as petitioner received notice of the denial of her motion for reconsideration from the Amended Decision on September 23, 2010 and filed her petition on November 8, 2010, or within the extension period granted by the Court to file the petition, her petition was filed on time.

Here, the National Labor Relations Commission['s] May 31, 2011 Decision **substantially modified** its September 30, 2010 Decision. Thus, petitioner was not precluded from seeking reconsideration of the new decision of the National Labor Relations Commission, and it was clearly an error for the Court of Appeals to find that

> petitioner's petition for [*certiorari*] was filed out of time on that ground. (Emphases supplied; citations omitted.)

The Court allowed the aggrieved party to seek a reconsideration of the new decision, resolution, or order because it substantially modified, altered, or reversed the previous ruling of the Court. Corollary, a new ruling that is a mere iteration of the previous one may not be reconsidered anew. We explained in *Systra Philippines, Inc. v. Commissioner of Internal Revenue*, that:

> [T]he denial of a motion for reconsideration is final. It means that the Court will no longer entertain and consider further arguments or submissions from the parties respecting the correctness of its decision or resolution. It signifies that, **in the Court's considered view, nothing more is left to be discussed, clarified or done in the case since all issues raised have been passed upon and definitely resolved. Any other issue which could and should have been raised is deemed waived and is no longer available as ground for a second motion**. A denial with finality underscores that the case is considered closed. Thus, as a rule, a second motion for reconsideration is a prohibited pleading. (Emphasis supplied)

Thus, we have prohibited the filing of a second motion for reconsideration. Under Section 7, Rule 15 of the RRCTA, in relation to Section 2, Rule 52 of the Revised Rules of Court, a second motion for reconsideration is a prohibited pleading, and therefore, does not have any legal effect. It will not toll the running of the period to appeal.

In the instant case, the Amended Decision of the CTA Division is not a "new" decision, but a reiteration of the Decision dated August 2, 2016. It was not based on a re-evaluation or re-examination of documentary exhibits presented by the parties. The CTA Division, without any modification, repeated *in toto* its discussion and ruling in the original decision that: (1) the COMELEC is liable for the deficiency basic EWT for its failure to withhold EWT on lease contract payments to Smartmatic and Avante; and (2) the COMELEC is not liable for deficiency interest since the liability is imposed on the responsible officer charged with the withholding and remittance of the tax. However, since the *dispositive portion* of the decision ordered the COMELEC to pay the entire amount of P49,082,867.69 (deficiency basic EWT plus deficiency interest), the CTA Division reflected in the Amended Decision the COMELEC's correct liability of P30,645,542.62 without the deficiency interest as discussed in the body of the original Decision. Indeed, **the Amended Decision is a mere clarification, a correction at best, of the amount due from the COMELEC**. *(Emphasis in original text; footnotes omitted)*

Guided by the parameters set in *Asiatrust* and *COMELEC*, the Court shall determine the propriety of filing a motion for reconsideration before filing a Petition for Review before the Court *En Banc*.

CTA EB No. 2650 – UIP's Petition for Review was not preceded by a Motion for Reconsideration; thus, the Court has no jurisdiction over its Petition.

To recall, UIP received the Original Decision on November 15, 2021, which only partially granted its *Petition*.[33] Aggrieved, on November 29, 2021, it filed via registered mail its *Motion for Partial Reconsideration*, which was within the 15-day period from its receipt of the Original Decision.[34] Thereafter, the Court in Division issued the assailed Amended Decision, which UIP received on June 22, 2022. Still unsatisfied, it proceeded to file the present *Petition for Review* before the Court *En Banc* primarily assailing the Amended Decision on July 7, 2022.

An issue now arises whether it was proper for UIP to proceed directly to the Court *En Banc* without first filing a motion for reconsideration relative to the Amended Decision.

Taking our cue from *Asiatrust* and *COMELEC*, We find that the assailed Amended Decision is a different decision from the Original Decision for the following reasons:

1. The assailed Amended Decision is not merely a reiteration of the Original Decision as it addressed new issues raised on the retroactive application of the *Deutsche* case relative to the FWT assessment, the EWT assessment on UIP's distribution fees, and the excessive and improper computation of deficiency interest;

2. In arriving at the assailed Amended Decision, the Court in Division re-evaluated the parties' allegations and documentary exhibits; and,

3. The assailed Amended Decision is only partly favorable to UIP due to the decrease of its deficiency tax liability; however, the Court in Division ruled negatively on the new issues raised by UIP on the EWT assessment (i.e., that the distribution fees are not subject to EWT and that, even assuming the fees are subject to EWT, UIP is not the proper withholding agent thereof).

Clearly, the assailed Amended Decision is a different decision which is a proper subject of a motion for reconsideration; hence, UIP should have first filed a motion for reconsideration before proceeding with the filing of a Petition for Review before the Court *En Banc*.

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[33] Notice of Decision dated October 28, 2021, Division Docket – Vol. III, p. 1440.
[34] *Id.* at pp. 1485 to 1500.

Considering that UIP did not file a motion for reconsideration on the assailed Amended Decision, the same has already attained finality insofar as UIP is concerned; thus, the assailed Amended Decision can no longer be questioned on appeal. Consequently, the Court *En Banc* cannot take cognizance of UIP's *Petition*.

In view of the foregoing, We find it unnecessary to discuss the issues raised by UIP.

At any rate, even if We find justification in relaxing the technical rules, this Court finds that the issues raised by UIP in its *Petition* have been exhaustively discussed in the assailed Amended Decision. We quote, with approbation, the disquisitions of the Court in Division:

> ***The payment of distribution fees to cinematographic distributors is subject to five percent (5%) EWT under Section 2.57.2 of RR No. 2-98***
>
> Section 2.57.2(D) of RR No. 2-98, as amended, provides that gross payments to corporate cinematographic film owners, lessors or distributors are subject to five percent (5%) EWT, thus:
>
> > "Section 2.57.2. *Income Payment Subject to Creditable Withholding Tax and Rates Prescribed Thereon.* – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:
> >
> > XXX XXX XXX
> >
> > **(D)** ***Cinematographic film rentals and other payments*** **– On gross payments to resident individuals and corporate cinematographic film owners, lessors or distributors – Five percent (5%).**" *(Boldfacing and underscoring supplied)*
>
> [UIP] insists that the term "other payments" as used in Section 2.57.2(D) of RR No. 2-98 should be construed as payments relating to cinematographic film rentals or similar payments for the use and/or possession of cinematographic films that are paid to resident individuals and corporate cinematographic film owners, lessors, or distributors.
>
> A plain reading of the Section 2.57.2(D) of RR No. 2-98 shows that payments other than cinematographic film rentals paid to resident individuals and corporate cinematographic film owners, lessors, or distributors are subject to withholding tax provided that such payments deal with cinematographic films. This is evident in the usage of the words "other

payments" to encompass any payments other than film rentals made in connection with cinematographic films.

Moreover, if the intention of the provision was to limit the same to rental payments, then it could have simply used the phrase "on gross rentals to resident individuals and corporate cinematographic lessors" instead of employing the words "gross payments", "film owners", and "distributors". Clearly, the broader term of "gross payments" as read in conjunction with "film owners" and/or "distributors" implies that payments other than rentals fees are likewise covered by the provision, provided that "other payments" are connected to the business of cinematographic film leasing or distribution.

Sections 2.57.2(C) and 2.57.2(D) being titled as "Rentals"; and "Cinematographic film rentals and other payments", respectively, reveal that the latter provision was intended to cover a broader scope to include not only rental fees but also other payments made to cinematographic film owners, lessors, or distributors.

[UIP] also claims that in BIR Rulings Nos. 227-81, 044-90, and 069-91 involving sub-distribution agreements, [the CIR] had consistently ruled that the respective shares of the distributor and sub-distributor in the film rentals constitute the "gross payments subject to the five percent (5%) EWT in the hands of the theater owners and exhibitors and the sub-distributor, respectively.

The Court notes that the afore-cited BIR Rulings were not offered in evidence by [UIP]. The Court shall consider no evidence which has not been formally offered.

Assuming *arguendo* that the Court can take judicial notice of the said BIR Rulings, nowhere was the taxability of the distribution fee discussed. The primary purpose of a BIR Ruling is simply to determine whether a certain transaction, under the law, is taxable or not based on the circumstances provided by the taxpayer. A BIR Ruling is dependent on the representations made by the taxpayer. A careful scrutiny of the afore-cited BIR Rulings shows that no representation was made by [UIP] with regard to the taxability of the distribution fee being paid by [UIP] to Solar. Thus, the said BIR Rulings are inapplicable to the case at bar.

As explained herein below, the five percent (5%) EWT is imposed on the entire amount of rental fees, which is separate and distinct from the five percent (5%) EWT imposed on the distribution fees.

With regard to UIP's argument that Solar is the proper withholding agent as it has receipt, custody and control of the funds under the *Distribution Agreement*, relying on BIR Ruling [DA-479-06] dated August 8, 2006 issued by the CIR to UIP, this Court likewise finds the same bereft of merit, as already discussed in detail in the assailed Amended Decision, to wit:

xxx xxx xxx

Since the distribution fee paid by [UIP] is subject to five percent (5%) EWT under Section 2.57.2(D) of RR No. 2-98, as amended, [UIP] is deemed constituted as the withholding agent with respect to such income payment, as provided for under Section 2.57.3 of RR No. 2-98, as amended, to wit:

> "Sec. 2.57.3. *Persons required to deduct and withhold* - **The following persons are hereby constituted as withholding agents** for purposes of the creditable tax required to be withheld **on income payments enumerated in Section 2.57.2:**
>
> xxx xxx xxx
>
> (B) **An individual, with respect to payments made in connection with his trade or business.** However, insofar as taxable sale, exchange or transfer of real property is concerned, individual buyers who are not engaged in trade or business are also constituted as withholding agents[.]" (Boldfacing supplied)

[UIP], as withholding agent with respect to the distribution fee, is liable insofar as it failed to perform its duty to withhold and remit the tax to the government. Likewise, [UIP] cannot benefit and deduct its income payment under Section 34(K) of the NIRC of 1997, as amended from its failure to withhold the applicable tax for this income payment.

In an attempt to establish that it is not a proper withholding agent, [UIP] posits that since the Distribution Fee was actually retained and deducted by Solar when it remitted to [UIP] the film rental they were paid by the film exhibitors and theaters, [UIP] should not be burdened to withhold any tax against the Distribution Fee on account that it had no control over the payment.

While it is true that Solar has custody and control of the rental payments made by theatre owners and exhibitors, for which Solar is appropriately considered the withholding agent for such payments, the same does not hold true for the Distribution Fee. In effect, the Distribution Fee is [UIP]'s payment for the services rendered by Solar, and [UIP], as the payor, is constituted by law to be the withholding agent.

[UIP] further claims that it is a distributor and that Solar is a sub-distributor. As such, all payments remitted by Solar, as sub-distributor, to [UIP] are subject to withholding tax, with the duty to withhold not falling upon [UIP] but upon Solar. [UIP] claims that the six and a half percent (6.5%) share of Solar was subjected by the theater owners and exhibitors to five percent (5%) EWT and that the ninety-three and a half percent (93.5%) share of [UIP] was subjected by Solar to five percent (5%) EWT. In summary, [UIP] effectively claims that Solar is a lessee, and that Solar does not simply remit to [UIP] the latter's ninety-three and a half percent (93.5%) share in the rental fees, but that Solar pays rental fees to [UIP].

> A careful reading of the Distribution Agreement reveals that Solar is not a lessee as it does not pay rental fees to [UIP]. The Distribution Agreement is clear that Solar simply remits the ninety-three and a half percent (93.5%) share of [UIP] in the rental fees, after deducting all allowed deductions. Under Clause 10.2.5 of the Distribution Agreement, it states that "Solar will remit to UIP any gross receipts remaining after the deduction under clause 10.2.1 [5% EWT withheld by theater owners and exhibitors] and recoupments under clauses 10.2.2 [distribution fee to Solar], 10.2.3 [distribution costs for the picture], and 10.2.4 [distribution costs for other pictures not yet recouped]."
>
> In view of the foregoing, the Court finds [UIP] to be the withholding agent that is liable for the five percent (5%) EWT on the distribution fees it paid to Solar.

In addition, it bears to emphasize that the *Distribution Agreement* provided that "[...] Solar will recoup from the Gross Receipts for the relevant Picture an amount equal to its **Distribution Fee, inclusive of VAT but net of corresponding tax withheld thereon**". Evidently, since the Distribution Fee withheld by Solar was net of the withholding tax, then the receipts remitted to UIP included the withholding tax component, specifically the 5% EWT, and, therefore, the same was under UIP's control and custody. In view whereof, UIP's argument still fails.

That having been settled, We now proceed with the CIR's *Petition*.

CTA EB No. 2716 – The CIR's Petition was timely filed and preceded by a Motion for Reconsideration; thus, the Court has jurisdiction over his Petition.

Upon perusal of the records, the Court notes that the CIR received the assailed Resolution of the Court in Division (relative to the assailed Amended Decision) on November 8, 2022;[35] hence, the CIR had 15 days therefrom, or until **November 23, 2022**, to file his Petition for Review.

On November 23, 2022, the CIR filed his *Motion for Extension of Time To File a Petition for Review*[36] seeking an additional period of 15 days from November 23, 2022, or until **December 8, 2022**, which was granted by this Court.[37] Since December 8, 2022 fell on a holiday, the CIR had until **December 9, 2022**, the next working day, to file his Petition for Review.

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[35] Notice of Resolution dated November 4, 2022; *Id.* at p. 1840.
[36] *Rollo* (EB No. 2716), pp. 1 to 4.
[37] Minute Resolution dated November 28, 2022; *Id.* at p. 11.

Clearly, the CIR's *Petition for Review*[38] was timely filed on **December 9, 2022**. As such, the Court has jurisdiction over the CIR's *Petition.*

The Court will therefore rule on the issues raised in the CIR's *Petition.*

The Court in Division did not err in cancelling the CIR's disallowance of the Excess Tax Credit carried over to the succeeding year of ₱783,625.00.

The CIR argues that the adding back of the amount of excess tax credits carried over to the succeeding period was proper as to do otherwise would result in unjust enrichment on the part of UIP at the expense of the government.

We are not convinced.

At the onset, this issue has already been exhaustively discussed in the Court in Division's Original Decision. At the risk of sounding repetitive, the Court emphasizes that the related assessment on the *Excess Tax Credit* is indeed void for the CIR's failure to indicate the factual and legal bases of such disallowance. It must be noted that Section 228 of the NIRC of 1997, as amended, provides as follows:

> **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: xxx
>
> xxx xxx xxx
>
> 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. *(Emphasis supplied)*

The Court notes that, in disallowing the said credits in computing UIP's deficiency income tax liability, the CIR merely invoked Section 76 of the NIRC of 1997, as amended, which reads:

> 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:

[38] *Id.* at pp. 12 to 27.

> (A) Pay the balance of the 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. *(Emphasis supplied)*

A reading of the aforecited provision, however, would reveal that the same does not provide for the disallowance of excess tax credits for the reason that such excess was carried over and applied in the succeeding years. Section 76 of the NIRC of 1997, as amended, merely provided, for the option to carry-over excess credit to the succeeding year and the irrevocability of such option. Rather, what is evident therefrom is that the tax benefit of the carry-over of the excess credit redounds to the succeeding years rather than the year when it accrued.

In this case, the tax benefit of the excess credit of ₱783,625.00 redounded to TY 2011. Thus, it is but proper for the Court in Division to cancel such disallowance in the TY 2010 assessment. We quote, with approval, the pertinent discussion in the Original Decision:

> [The CIR] failed to provide the factual and legal bases for the disallowance of the stated amount as he only alleged, as stated in the Details of Discrepancy attached to the FDDA, that [UIP] carried over the tax credits sourced from TY 2010 and prior years. There is nothing in Section 76 of the NIRC of 1997, as amended that disallows the availment of excess tax credits in succeeding years, as it, in fact, allows such carry-over. The requirement to state in writing the factual and legal bases of an assessment is part of a taxpayer's right to due process. Failure to observe such requirement renders the assessment void.
>
> Moreover, it was likewise improper for [the CIR] to disallow the said excess tax credits because any tax benefit derived by [UIP] from the carry-over of said amount redounds to the succeeding TY 2011. Since the tax benefit is in the succeeding year, which is outside the scope of the present assessment covering TY 2010, [UIP] may, at most, only be assessed in the said succeeding year.

In view of the foregoing, the Court finds no reversible error in the Court in Division's cancellation of the disallowance of UIP's Excess Tax Credit carried over to the succeeding year of ₱783,625.00.

The Court in Division properly applied the Deutsche Bank case on UIP's TY 2010 royalty payments and branch profit remittance.

To recall, UIP made the following payments/remittance which it subjected to FWT at the preferential tax rates provided under the applicable tax treaties:

Nature of Payment	Payee	Tax Base	Tax Treaty Rate	Tax Treaty
Royalties	United International Pictures B.V. (UIP B.V.)	223,886,754.81	15%	RP-Netherlands[39]
Branch Profit Remittance	UIP AB Head Office	29,411,983.20	10%	RP-Sweden [40]

In the subject assessment, the CIR assessed UIP deficiency FWT and interest amounting to ₱54,273,234.12, representing the difference between the FWT computed using the rates provided under the NIRC of 1997, as amended, and the FWT withheld and remitted by UIP based on the preferential tax rates under the applicable tax treaties.

The Court in Division, however, found for UIP and cancelled the FWT assessment holding that the conditions for the availment of tax treaty relief were met and that the failure to file any tax treaty relief application does not *ipso facto* deprive UIP of its entitlement to tax treaty relief as held in the *Deutsche Bank* case.

The CIR thus assigns error in the application by the Court in Division of *Deutsche Bank* and the use of the preferential tax rates under the RP-Netherlands and RP-Sweden Tax Treaties despite the non-filing of TTRAs with the BIR.

We resolve.

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[39] Convention Between the Kingdom of the Netherlands and the Republic of the Philippines for the Avoidance of Douhle Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, September 20, 1991.

[40] The Convention between the Republic of the Philippines and the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, November 1, 2003.

Deutsche Bank case may be applied retroactively.

In the early case of *Senarillos vs. Hermosisima* (*Senarillos*),[41] it was held that the Supreme Court's interpretation of a statute constitutes part of the law as of the date it was originally passed since it merely establishes the contemporaneous legislative intent that the interpreted law carried into effect. Such doctrine has since been reiterated and consistently applied by the Supreme Court in subsequent jurisprudence.[42] In the more recent case of *San Miguel Corp. vs. Commissioner of Internal Revenue*,[43] the Supreme Court, citing *Senarillos*, expounded on the effectivity of judicial interpretations of statutes, to wit:

> Applying the foregoing to the present case, the Court finds that the application of *Filinvest* to SMC's case is not violative of the principle of non-retroactivity of laws and rulings. The CTA *En Banc* was correct in adopting the doctrine laid down in *Visayas Geothermal Power Company v. CIR*, where the Court held:
>
> > Article 8 of the Civil Code provides that "judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines and shall have the force of law." The interpretation placed upon a law by a competent court establishes the contemporaneous legislative intent of the law. Thus, such interpretation constitutes a part of the law as of the date the statute is enacted. It is only when a prior ruling of the Court is overruled, and a different view adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith.
>
> The above principle was first pronounced in the early case of *Senarillos v. Hermosisima*, where the Court held:
>
> > That the decision of the Municipal Council of Sibonga was issued before the decision in *Festejo v. Mayor of Nabua* was rendered, would be, at the most, proof of good faith on the part of the police committee, but can not sustain the validity of their action. **It is elementary that the interpretation placed by this Court upon Republic Act 557 constitutes part of the law as of the date it was originally passed, since this Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect**. (Emphasis and underscoring supplied; citations omitted)

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[41] G.R. No. L-10662, December 14, 1956.
[42] *Victorias Milling Co. Inc. vs. Intermediate Appellate Court*, G.R. No. 66880, August 2, 1991; Columbia Pictures, Inc. vs. Court of Appeals, G.R. No. 110318, August 28, 1996; *Accenture, Inc. vs. Commissioner of Internal Revenue*, G.R. No. 190102, July 11, 2012.
[43] G.R. Nos. 257697 & 259446, April 12, 2023.

The Court further expounded on this principle in the subsequent case of *Columbia Pictures, Inc. v. Court of Appeals*:

> Article 4 of the Civil Code provides that "(l)aws shall have no retroactive effect, unless the contrary is provided." Correlatively, Article 8 of the same Code declares that "(j)udicial decisions applying the laws or the Constitution shall form part of the legal system of the Philippines."
>
> Jurisprudence, in our system of government, cannot be considered as an independent source of law; it cannot create law. While it is true that judicial decisions which apply or interpret the Constitution or the laws are part of the legal system of the Philippines, still they are not laws. Judicial decisions, though not laws, are nonetheless evidence of what the laws mean, and it is for this reason that they are part of the legal system of the Philippines. Judicial decisions of the Supreme Court assume the same authority as the statute itself.
>
> Interpreting the aforequoted correlated provisions of the Civil Code and in light of the above disquisition, this Court emphatically declared in *Co v. Court of Appeals, et al.*, that the principle of prospectivity applies not only to original or amendatory statutes and administrative rulings and circulars, but also, and properly so, to judicial decisions. Our holding in the earlier case of *People v. Jabinal* echoes the rationale for this judicial declaration, *viz.*:
>
> > Decisions of this Court, although in themselves not laws, are nevertheless evidence of what the laws mean, and this is the reason why under Article 8 of the New Civil Code, "Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system." **The interpretation upon a law by this Court constitutes, in a way, a part of the law as of the date that the law was originally passed, since this Court's construction merely establishes the contemporaneous legislative intent that the law thus construed intends to effectuate.** The settled rule supported by numerous authorities is a restatement of the legal maxim *"legis interpretatio legis vim obtinet"* — the interpretation placed upon the written law by a competent court has the force of law . . . but when a doctrine of this Court is overruled and a different view is adopted, the new doctrine should be applied prospectively, and should not apply to parties who had relied on the old doctrine and acted on the faith thereof.

This was forcefully reiterated in *Spouses Benzonan v. Court of Appeals, et al.*, where the Court expounded:

> . . . But while our decisions form part of the law of the land, they are also subject to Article 4 of the Civil Code which provides that "laws shall have no retroactive effect unless the contrary is provided." This is expressed in the familiar legal maxim *lex prospicit, non respicit*, the law looks forward not backward. The rationale against retroactivity is easy to perceive. The retroactive application of a law usually divests rights that have already become vested or impairs the obligations of contract and hence, is unconstitutional. The same consideration underlies our rulings giving only prospective effect to decisions enunciating new doctrines.
>
> The reasoning behind *Senarillos v. Hermosisima* that judicial interpretation of a statute constitutes part of the law as of the date it was originally passed, since the Court's construction merely establishes the contemporaneous legislative intent that the interpreted law carried into effect, is all too familiar. Such judicial doctrine does not amount to the passage of a new law but consists merely of a construction or interpretation of a pre-existing one, and that is precisely the situation obtaining in this case.
>
> It is consequently clear that a judicial interpretation becomes a part of the law as of the date that law was originally passed, subject only to the qualification that when a doctrine of this Court is overruled and a different view is adopted, and more so when there is a reversal thereof, the new doctrine should be applied prospectively and should not apply to parties who relied on the old doctrine and acted in good faith. To hold otherwise would be to deprive the law of its quality of fairness and justice then, if there is no recognition of what had transpired prior to such adjudication. xxx xxx xxx *(Emphasis in original text, footnotes omitted)*

In the present case, as aptly pointed out by the Court in Division, while *Deutsche Bank* was promulgated on August 19, 2013, the interpretation of the Supreme Court retroacts to the date when the RP-Netherlands Tax Treaty and RP-Sweden Tax Treaty entered into force on September 20, 1991[44] and November 1, 2003,[45] respectively. Consequently, *Deutsche Bank* applies to UIP's royalty payments and branch profit remittance in 2010.

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[44] *Supra*, at note 39.
[45] *Supra*, at note 40.

UIP complied with the conditions for the availment of the preferential tax treaty rates on its royalty payments and branch profit remittance.

The CIR argues that a tax relief claimant can only avail of such benefits when the claimant is entitled to it. He insists that UIP presented no proof of its compliance with the conditions of the tax treaty relief; thus, he maintains that the deficiency FWT assessment is proper.

With regard to the **royalties**, since the payee thereof is UIP B.V., a nonresident foreign corporation (NRFC) incorporated under the laws of Netherlands, the RP-Netherlands Tax Treaty applies. Article 12 thereof provides:

> **Article 12**
> **ROYALTIES**
>
> xxx xxx xxx
>
> 2. However, such royalties may also be taxed in the State in which they arise, and according to the laws of that State, but **if the recipient is the beneficial owner of the royalties** the tax so charged shall not exceed:
>
> a) 10 per cent of the gross amount of the royalties where the royalties are paid by an enterprise registered, and engaged in preferred areas of activities in that State; and
>
> b) **15 per cent of the gross amount of the royalties in all other cases**. (*Emphasis supplied*)

Based on the foregoing, to avail of the relief under Article 12 of the RP-Netherlands Tax Treaty, UIP must establish that the recipient of the royalties is: *(1)* a resident of Netherlands; and, *(2)* the beneficial owner thereof.

There is no dispute that UIP was able to prove that UIP B.V., the recipient of the royalties, is a corporation duly formed and organized in the Netherlands.[46]

The CIR, however, argues that UIP failed to prove that UIP B.V. is the "beneficial owner" of the royalties.

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[46] *See (1)* UIP B.V.'s duly authenticated Deed of Incorporation dated July 13, 1982, Exhibit "P-16", Division Docket - Vol. III, pp. 1156 to 1176; *(2)* UIP B.V.'s duly authenticated tax residency certificate for TY 2010 dated October 9, 2017, Exhibit "P-17", Division Docket -Vol. III, pp. 1177 to 1178; *(3)* UIP B.V.'s Certificate of Non-Registration of Company dated October 18, 2007 issued by the Securities and Exchange Commission (SEC), Exhibit "P-18", Division Docket - Vol. III, p. 1179.

As discussed by the Court in Division, beneficial ownership has been defined as ownership recognized by law and capable of being enforced in the courts at the suit of the beneficial owner. It is usually distinguished from naked ownership, which is the enjoyment of all the benefits and privileges of ownership, as against possession of the bare title to property.

In addition thereto, the 2010 Commentaries on the Model Tax Convention on Income and Capital, or the Organisation for Economic Co-operation and Development (OECD) Commentaries, is helpful as it expounds on the rationale behind the "beneficial ownership" requirement under Article 12 (Royalties), to wit:[47]

> COMMENTARY ON ARTICLE 12
> CONCERNING THE TAXATION OF ROYALTIES
>
> xxx xxx xxx
>
> II. Commentary on the provisions of the Article
>
> *Paragraph 1*
> 3. Paragraph 1 lays down the principle of exclusive taxation of royalties in the State of the beneficial owner's residence. The only exception to this principle is that made in the cases dealt with in paragraph 3.
>
> 4. The requirement of beneficial ownership was introduced in paragraph 1 of Article 12 to clarify how the Article applies in relation to payments made to intermediaries. It makes plain that the State of source is not obliged to give up taxing rights over royalty income merely because that income was immediately received by a resident of a State with which the State of source had concluded a convention. The term "beneficial owner" is not used in a narrow technical sense, rather, it should be understood in its context and in light of the object and purposes of the Convention, including avoiding double taxation and the prevention of fiscal evasion and avoidance.
>
> 4.1 Relief or exemption in respect of an item of income is granted by the State of source to a resident of the other Contracting State to avoid in whole or in part the double taxation that would otherwise arise from the concurrent taxation of that income by the State of residence. **Where an item of income is received by a resident of a Contracting State acting in the capacity of agent or nominee it would be inconsistent with the object and purpose of the Convention for the State of source to grant relief or exemption merely on account of the status of the immediate recipient of the income as a resident of the other Contracting State. The immediate recipient of the income in this situation qualifies as a resident but no potential double**

[47] OECD (2010), *Model Tax Convention on Income and on Capital: Condensed Version 2010*, OECD Publishing, Paris, https://doi.org/10.1787/mtc_cond-2010-en, (last accessed on February 25, 2025).

> **taxation arises as a consequence of that status since the recipient is not treated as the owner of the income for tax purposes in the State of residence. It would be equally inconsistent with the object and purpose of the Convention for the State of source to grant relief or exemption where a resident of a Contracting State, otherwise than through an agency or nominee relationship, simply acts as a conduit for another person who in fact receives the benefit of the income concerned.** For these reasons, the report from the Committee on Fiscal Affairs entitled "Double Taxation Conventions and the Use of Conduit Companies" concludes that a conduit company cannot normally be regarded as the beneficial owner if, though the formal owner, it has, as a practical matter, very narrow powers which render it, in relation to the income concerned, a mere fiduciary or administrator acting on account of the interested parties. *(Emphasis supplied; footnotes omitted)*

In the more recent *2017 OECD Commentaries*, it was further clarified that "[i]n these various examples (agent, nominee, conduit company acting as a fiduciary or administrator), the direct recipient of the royalties is not the "beneficial owner" because that recipient's right to use and enjoy the royalties is constrained by a contractual or legal obligation to pass on the payment received to another person. Such an obligation will normally derive from relevant legal documents but may also be found to exist on the basis of facts and circumstances showing that, in substance, the recipient clearly does not have the right to use and enjoy the royalties unconstrained by a contractual or legal obligation to pass on the payment received to another person."[48]

In sum, when the recipient of the royalties, although a resident of the Contracting State, is not the beneficial owner thereof, such as when it is merely acting as an agent or nominee, no potential double taxation arises as a consequence of that status since the recipient is not treated as the owner of the income for tax purposes in the State of residence. From the aforecited *Commentaries,* it can be gleaned that the beneficial owner of the royalties is the one who has the right to use and enjoy the royalties without any contractual or legal obligation to pass on such payment to another person.

A reading of the *Licensing Agreement* between UIP and UIP B.V. would show that the beneficial owner of the royalties is UIP B.V. The provisions on the payment of royalties read as follows:[49]

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[48] Par. 4.3, Commentary on Article 12, Concerning the Taxation of Royalties, OECD (2017), *Model Tax Convention on Income and on Capital: Condensed Version 2017*, OECD Publishing, Paris, https://doi.org/10.1787/mtc_cond-2017-en, (last accessed on February 25, 2025).

[49] In the Licensing Agreement, UIP is referred to as the "DISTRIBUTOR" and UIP B.V. as "UIP"; Exhibit "P-19", Division Docket – Vol. III, pp. 1180 to 1193.

9. **GROSS RENTALS**

(a) "Gross Rentals" as the term is used herein, with respect to each PICTURE hereunder, shall mean all film rentals (exclusive of any consumption, goods and services, entertainment, value added or similar taxes) including amounts received in consequence of any legal claims in respect of the rights licensed hereunder, that are should be billed by DISTRIBUTOR and any other gross revenues derived by DISTRIBUTOR from the PICTURE, including its trailers, but excluding the proceeds (if any) derived from advertising accessories. Where DISTRIBUTOR appoints sub-distributors for the purposes of non-theatrical exhibition, Gross Rentals as that term is used herein shall consist of all rentals actually due to DISTRIBUTOR under the terms of DISTRIBUTOR's agreements with such sub-distributors.

xxx xxx xxx

11. **CONSIDERATION**

(a) The Gross Rentals derived from the distribution of each PICTURE shall be apportioned as follows:

(i) DISTRIBUTOR shall first deduct the Direct Costs specified in sub-clauses 10(a)(i) and 10(a)(ii) above.

(ii) Except in the case of "Specials" (as defined in 11(b) below), thirty five percent (35%) of the remaining balance of Gross rentals shall be apportioned to DISTRIBUTOR as its distribution fee.

(iii) The then remaining balance of the Gross Rentals is UIP's share and shall be paid to UIP as provided in Clause 12 below.

xxx xxx xxx

Clearly, there is nothing in the *Licensing Agreement* which indicates that UIP B.V. is receiving the gross rentals or the royalties in a different capacity other than as owner thereof. There is likewise no showing that UIP B.V. is under any legal or contractual obligation to pass on the royalties it received to another person. Finally, as aptly pointed out by the Court in Division, the royalties paid to UIP B.V. are sourced from the rental payments made to UIP for the exhibition and distribution in the Philippines of motion pictures owned by UIP B.V. As such, it can be said that UIP B.V. has beneficial ownership of the royalties paid by UIP since the royalty payments are compensation for the use by UIP of the films owned by UIP B.V.

Inasmuch as UIP has already proven that UIP B.V. is a corporation duly formed and organized in the Netherlands and that it is indeed the beneficial owner of the royalties, We find that the Court in Division correctly applied the preferential tax rate provided under the RP-Netherlands Tax Treaty.

Consequently, the deficiency FWT assessment on the royalty payments must be cancelled.

As to the **branch profit remittance**, since the payee is UIP AB Head Office, an NRFC incorporated under the laws of Sweden, the RP-Sweden Tax Treaty applies. Article 10 (6) thereof provides.:

> **Article 10**
> **DIVIDENDS**
>
> xxx xxx xxx
>
> 6. **Nothing in this Convention shall prevent either Contracting State from imposing, apart from the corporate income tax, a tax on remittance of profits by a branch to its head office provided that the tax so imposed shall not exceed 10 per cent of the amount remitted**. If any Convention for the avoidance of double taxation concluded by the Philippines with a third State after the date of signature of this Convention any provision which excludes any item of income covered by Article 8 (Shipping and Air Transport) of this Convention from the tax mentioned in this paragraph or reduces the rate to a rate which is lower than 10 percent, such exclusion or lower rate shall automatically apply between Sweden and the Philippines. (*Emphasis and underscoring supplied*)

The CIR alleges that the above relief may only be availed of when the parties involved are residents of both contracting states. According to the CIR, such fact was not established by UIP.

We are not convinced.

A perusal of the records would readily reveal that UIP presented sufficient proof to establish its residency and that of UIP AB Head Office's. Particularly, UIP offered in evidence the following: (1) *Articles of Association* (in Swedish language) of UIP AB Head Office;[50] (2) duly authenticated English translation of the *Articles of Association* of UIP AB Head Office;[51] and, (3) duly authenticated tax residency certificate for TY 2010 of UIP AB Head Office.[52]

Hence, this Court finds the availment of the preferential tax rate provided under the RP-Sweden Tax Treaty to be proper. Resultantly, the cancellation of the deficiency FWT assessment on the branch profit remittance was in order.

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[50] Exhibit "P-21", Division Docket - Vol. III, pp. 1214 to 1220.
[51] Exhibit "P-21-A", *Id.* at pp. 1221 to 1230.
[52] Exhibit "P-22", Division Docket - Vol. III, pp. 1231 to 1233.

The Court in Division did not err in the re-computation of the deficiency and delinquency interest on the EWT assessment.

The CIR insists that the computation of the deficiency interest should be reckoned from February 18, 2010, which is the due date of the first monthly EWT return for TY 2010, and not from January 18, 2011, the due date for the last monthly EWT for TY 2010.

The Court notes that, other than the CIR's allegation that the taxable event which gave rise to the transaction occurred in the first month of TY 2010 or in January 2010, there is nothing in the records that would support such allegation. The CIR points out that the distribution fee is allegedly settled within 30 days from the issuance of the invoice. However, no such invoices were presented which would show that the transaction did occur in the first month of TY 2010. Moreover, We observe that the CIR itself had been consistently computing the deficiency interest on its EWT assessment from January 16, 2011 (i.e., due date of the December 2010 EWT return).[53]

Absent any convincing evidence, the Court *En Banc* finds no error in the Court in Division's computation of deficiency interest.

All told, the Court finds no compelling reason to reverse or modify the assailed Amended Decision and Assailed Resolution of the Court in Division.

WHEREFORE, premises considered, the *Petition for Review* filed by United International Pictures Aktiebolag in CTA EB No. 2650 is **DISMISSED** for lack of jurisdiction. On the other hand, the *Petition for Review* filed by the Commissioner of Internal Revenue in CTA EB No. 2716 is **DENIED** for lack of merit.

Accordingly, the Amended Decision dated June 16, 2022 and the Resolution dated November 3, 2022 in CTA Case No. 9699 are **AFFIRMED**.

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[53] *PAN* dated September 16, 2013, Exhibit "P-4", *Id.* at pp. 1050 to 1051; *Formal Assessment Notice* dated August 6, 2014, Exhibit "P-7", *Id.* at pp. 1081 to 1086. *Final Decision on Disputed Assessment* dated July 19, 2017, Exhibit "P-9", *Id.* at pp. 1137 to 1138.

Furthermore, United International Pictures Aktiebolag's *Manifestation and Urgent Motion to Defer Proceedings* filed on October 11, 2024 is **DENIED** for lack of merit.

SO ORDERED.

CORAZON G. FERRER-FLORES
Associate Justice

WE CONCUR:

ROMAN G. DEL ROSARIO
Presiding Justice

MA. BELEN M. RINGPIS-LIBAN
Associate Justice

CATHERINE T. MANAHAN
Associate Justice

JEAN MARIE A. BACORRO-VILLENA
Associate Justice

MARIA ROWENA MODESTO-SAN PEDRO
Associate Justice

MARIAN IVY F. REYES-FAJARDO
Associate Justice

LANEE S. CUI-DAVID
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 consolidated cases were assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice